


PR 2019/5A1 - Addendum - Income tax: taxation consequences of investing in the Westpac Protected Equity Loan

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Addendum

Product Ruling

Income tax: taxation consequences of investing in the Westpac Protected Equity Loan

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Product Ruling PR 2019/5 to incorporate the application of subsections 82KZM(1A) and 82KZMA(2A) of the *Income Tax Assessment Act 1936*.

PR 2019/5 is amended as follows:

1. Paragraph 15

(a) In sub-subparagraph (g)(i), after 'a small business entity (as defined in subsection 328-110(1))', insert ', or an entity covered by subsection 82KZM(1A) of the ITAA 1936²,'.

(b) After the first instance of 'ITAA 1936' in sub-subparagraph (g)(i), insert new footnote 2:

² On 1 January 2021, subsection 82KZM(1A) was inserted into the ITAA 1936, applicable in relation to expenditure incurred on or after 1 July 2020. All references in this Product Ruling to 'an entity covered by subsection 82KZM(1A) of the ITAA 1936' or to 'a medium business entity' only apply from 1 July 2020.

(c) In subparagraph (h), after 'small business entity', insert ', or an entity covered by subsection 82KZMA(2A) of the ITAA 1936³,'.

(d) After the second instance of 'ITAA 1936' in subparagraph (h), insert new footnote 3:

³ On 1 January 2021, subsection 82KZMA(2A) was inserted into the ITAA 1936, applicable in relation to expenditure incurred on or after 1 July 2020. All references in this Product Ruling to 'an entity covered by subsection 82KZMA(2A) of the ITAA 1936' only apply from 1 July 2020.

2. Paragraph 31

After 'whether the investor is a small', insert 'or medium'.

3. Paragraph 38

(a) In the heading, after 'incurred by certain small', insert 'and medium'.

(b) Omit the wording of the first dot point; substitute:

- a small business entity, or an entity covered by subsection 82KZM(1A) of the ITAA 1936⁴, for the year of income that has not chosen to apply section 82KZMD of the ITAA 1936 to the expenditure, or

- (c) After the first instance of 'ITAA 1936' in the first dot point, insert new footnote 4:

⁴ An entity is covered by subsection 82KZM(1A) of the ITAA 1936 for the expenditure year if the entity is not a small business entity for that year but would be a small business entity for that year if each reference in section 328-110 to \$10 million (as noted in paragraph 32 of this Product Ruling) were instead a reference to \$50 million.

4. Paragraph 40

Omit the wording of the paragraph; substitute:

As the eligible service period in relation to the deductible interest payment under the Loan and Interest Loan is not more than 12 months and does not end after the last day of the year of income after the one in which the expenditure was incurred, section 82KZM of the ITAA 1936 will have no application to investors referred to in paragraph 38 of this Product Ruling. Such investors will be able to claim an immediate deduction allowable under section 8-1 for the interest incurred under the Loan and Interest Loan.

5. Paragraph 41

- (a) In the heading, after 'incurred by non-individual and non-small', insert 'and medium'.

- (b) Omit the wording of the paragraph; substitute:

Sections 82KZMA and 82KZMD of the ITAA 1936 set the amount and timing of deductions for expenditure incurred by an investor (other than a small business entity or an entity covered by subsection 82KZMA(2A) of the ITAA 1936⁵, for the year of income that has not chosen to apply section 82KZMD to the expenditure) that is not an individual and does not incur the expenditure in carrying on a business.

- (c) After the second instance of 'ITAA 1936', insert new footnote 5:

⁵ An entity is covered by subsection 82KZMA(2A) of the ITAA 1936 for the expenditure year if the entity is not a small business entity for that year but would be a small business entity for that year if each reference in section 328-110 to \$10 million (as noted in paragraph 32 of this Product Ruling) were instead a reference to \$50 million.

6. Paragraph 59

Omit:

Section 82KZM – prepaid expenditure incurred by certain small business entities and individuals incurring non-business expenditure 38

Sections 82KZMA and 82KZMD – prepaid non-business expenditure incurred by non-individual and non-small business entities 41

Substitute:

Section 82KZM – prepaid expenditure incurred by certain small and medium business entities and individuals incurring non-business expenditure 38

Sections 82KZMA and 82KZMD – prepaid non-business expenditure incurred by non-individual and non-small and medium business entities 41

This Addendum applies before and after its date of issue.

Commissioner of Taxation

22 November 2023

ATO references

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