



TD 2003/19 - Income tax: what is the benchmark interest rate applicable for the year of income that commenced on 1 July 2003 for the purposes of Division 7A of Part III of the Income Tax Assessment Act 1936 and how is it used?

 This cover sheet is provided for information only. It does not form part of *TD 2003/19 - Income tax: what is the benchmark interest rate applicable for the year of income that commenced on 1 July 2003 for the purposes of Division 7A of Part III of the Income Tax Assessment Act 1936 and how is it used?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *2 July 2003*

Taxation Determination

Income tax: what is the benchmark interest rate applicable for the year of income that commenced on 1 July 2003 for the purposes of Division 7A of Part III of the *Income Tax Assessment Act 1936* and how is it used?

Preamble

The number, subject heading, date of effect and paragraphs 1 to paragraphs 6 of this document are a 'public ruling' for the purposes of Part IVAAA of the Taxation Administration Act 1953 and are legally binding on the Commissioner. The remainder of this Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a 'public ruling' and how it is binding on the Commissioner.

1. For the income year that commenced on 1 July 2003, the benchmark interest rate for the purposes of sections 109N and 109E of the *Income Tax Assessment Act 1936* (the Act) is 6.55% per annum.
2. This benchmark interest rate is relevant to loans made or deemed to have been made after 3 December 1997 and before 1 July 2003. It is used to:
 - determine if a loan made in the 2002-2003 income year is taken to be a dividend (paragraph 109N(1)(b) and subsection 109D(1)); and
 - calculate the amount of the minimum yearly repayment for the 2003-2004 income year on an amalgamated loan taken to have been made prior to 1 July 2003 (subsection 109E(5)).
3. This determination only applies where a private company, which either made the loan or is taken to have made the amalgamated loan, has an income year that commenced on 1 July 2003.

Example

4. A private company makes an unsecured loan to a shareholder on 1 July 2002. The loan is made under a written agreement which specifies that the rate of interest payable for all future years must equal or exceed that required by paragraph 109N(1)(b) of the Act. The term of the loan is 5 years. For the year ended 30 June 2003, as all the requirements of section 109N are met, the loan is not treated as a dividend under Division 7A. If the amount of the loan not repaid at 30 June 2003 is \$100,000, the minimum yearly repayment required for the 2003-2004 year of income is calculated as follows:

TD 2003/19

$$\frac{\text{Amount of the loan not repaid by the end of the previous year of income} \times \text{Current year's benchmark interest rate}}{1 - \left(\frac{1}{1 + \text{Current year's benchmark interest rate}} \right)^{\text{Remaining term}}}$$

$$\frac{100,000 \times 0.0655}{1 - \left(\frac{1}{1 + 0.0655} \right)^5}$$

= \$24,095.93

5. If repayments made in the 2003-2004 year of income equal or exceed the minimum yearly repayment, the amount of the loan not repaid at the end of the year of income is not taken to be a dividend for the purposes of subsection 109E(1).

Date of effect

6. This Determination applies to years commencing both before and after its date of issue. However, it does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Commissioner of Taxation

2 July 2003

Previous draft:

Not previously issued in draft form

Related Rulings/Determinations:

TR 92/1; TR 92/20; TR 97/16; TD 98/22; TD 1999/39; TD 2001/1; TD 2001/18; TD 2001/20; TD 2002/15

Subject references:

- deemed dividends
- benchmark interest rate
- private company distributions

Legislative references:

- ITAA 1936 Pt III Div 7A
- ITAA 1936 109D(1)
- ITAA 1936 109E
- ITAA 1936 109E(1)
- ITAA 1936 109E(5)
- ITAA 1936 109N
- ITAA 1936 109N(1)(b)

ATO References

NO 98/10780-1
ISSN 1038-8982