



New thin capitalisation rules: web guidance available

Use our updated web guidance to understand how to apply the thin capitalisation rules.

Last updated 7 August 2024

Following royal assent of the *Treasury Laws Amendment (Making Multinationals Pay Their Fair Share-Integrity and Transparency) Act 2024*, we've now updated our Thin capitalisation web guidance to assist entities who need to apply the new thin capitalisation rules.

The amendments to Australia's thin capitalisation rules introduce new earnings-based tests (including a third party debt test) for certain classes of entities to replace the existing asset-based rules for those entities.

The amendments also provide a new integrity provision (also known as 'debt deduction creation rules') that will apply to debt creation schemes.

These changes aim to strengthen Australia's thin capitalisation rules by aligning them with the Organisation for Economic Co-operation and Development's best practice approach.

The new thin capitalisation rules apply to tax assessments for income years commencing on or after 1 July 2023, while the debt deduction creation rules will apply to assessments for income years starting from 1 July 2024.

If you're a 'general class investor', you'll be subject to one of 3 new tests:

- Fixed ratio test – which limits net debt deductions to 30% of earnings before interest, taxes, depreciation, and amortisation (EBITDA) measured on a tax basis

- Group ratio test – based on the proportion of group net third party interest expense to group (EBITDA)
- Third-party debt test – which replaces the arm's length debt test and limits debt deductions other than those relating to third party debt interests that meet certain conditions.

If you're a 'financial entity', you'll continue to be subject to the existing safe harbour test and worldwide gearing test. Or, you may choose the new third party debt test.

Entities excluded from the new rules

If you're one of the following entity types, you're excluded from the new debt deduction creation rules:

- authorised deposit-taking institutions (ADIs)
- securitisation vehicles
- Australian plantation forestry entities.

The previous rules will continue to apply to you.

Using the feedback we received from the community during the consultation period, we're developing further public advice and guidance. We'll let you know when it's available.

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