TD 1999/D16 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - does section 128F apply to debentures under which the yield is determined by a variable indexation factor rather than by being fixed?

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This document has been finalised by TD 1999/23.

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Draft Taxation Determination

Income tax: interest withholding tax exemption under section 128F of the *Income Tax Assessment Act 1936* - does section 128F apply to debentures under which the yield is determined by a variable indexation factor rather than by being fixed?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs may not be relied on; only final TDs are authoritative statements of the ATO.

1. Yes. Section 128F applies to any debenture as defined in subsection 128F(9). For the purposes of this section, 'debenture' is given a wider meaning than under subsection 6(1). It includes a promissory note or bill of exchange, in addition to common securities such as debenture stocks, bonds and notes, or any other securities of a company.

2. Accordingly, provided the requirements of 128F are otherwise satisfied, the section applies to structured or indexed notes under which the yield (but not the principal amount) is determined by a variable factor and which may vary by an amount greater than or equal to zero.

Your comments

3. If you wish to comment on this draft Determination, please send your comments promptly by Friday 26 February 1999 to:

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Commissioner of Taxation
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Previous draft:
Not previously issued in draft form

Related Rulings/Determinations:

TD 1999/D1; TD 1999/D2; TD 1999/D3; TD 1999/D4; TD 1999/D5; TD 1999/D6; TD 1999/D7; TD 1999/D8; TD 1999/D9; TD 1999/D10; TD 1999/D11; TD 1999/D12; TD 1999/D13; TD 1999/D14; TD 1999/D15; TD 1999/D17; TD 1999/D18; TD 1999/D19

Subject references:

Legislative references:

ITAA 6(1); ITAA 128F; ITAA 128F(9)

Case references:

ATO References:
NO 97/6464-0; 99/658-1
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