TD 1999/D18 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - what conditions need to be satisfied before a resident company can raise finance by the issue of debentures through a 'non-resident borrowing subsidiary' in another country?

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This document has been finalised by TD 1999/25.

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Draft Taxation Determination

Income tax: interest withholding tax exemption under section 128F of the *Income Tax Assessment Act 1936* - what conditions need to be satisfied before a resident company can raise finance by the issue of debentures through a 'non-resident borrowing subsidiary' in another country?

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. Subsection 128F(8) sets out the conditions that must be met before a relevant issue of debentures can qualify for the interest withholding tax exemption.

2. It is clear the most important condition is the particular country must be specified in the Income Tax Regulations.

3. At the date of issue of this Determination, the Government has only specified the United States of America in the relevant regulation (Regulation 14AA).

4. Taxpayers who wish to nominate further countries for specification in the Regulations should, in the first instance, forward an application to the Commissioner of Taxation. The application should set out the country or countries nominated and fully state the reasons why such a country or countries should be included in the Regulations. The decision to promulgate regulations, of course, rests with the Government. However, the Commissioner will examine any applications and advise the Government accordingly.

Your comments

5. 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
27 January 1999

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/D16; TD 1999/D17; TD 1999/D19

Subject references:

Legislative references:

ITAA 128F; ITAA 128F(8); ITR 14AA

Case references:

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