


TD 2012/D11W - Withdrawal - Income tax: does subsection 820-39(3) of the Income Tax Assessment Act 1997 only apply to special purpose entities that have been established for the purpose of carrying on securitisation activity?

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Notice of Withdrawal

Taxation Determination

Income tax: does subsection 820-39(3) of the *Income Tax Assessment Act 1997* only apply to special purpose entities that have been established for the purpose of carrying on securitisation activity?

Taxation Determination TD 2012/D11 is withdrawn with effect from today.

1. TD 2012/D11 concerns whether subsection 820-39(3) of the *Income Tax Assessment Act 1997* applies only to special purpose entities that have been established for the purpose of carrying on securitisation activity.
2. Following comments received as part of the public consultation process for TD 2012/D11, the Commissioner considers that the subsection is not limited to securitisation in the way suggested in the draft Determination. The concept of 'insolvency remoteness' can apply in other contexts. Moreover, it is not possible to imply an absolute restriction to securitisation by reference to the context and purpose of the section.
3. The Commissioner is giving further consideration to whether or not subsection 820-39(3) applies in circumstances like those illustrated in Example 2 of the draft Determination.
4. The Commissioner will engage in consultation before publishing a revised ATO view.

Commissioner of Taxation

8 May 2013

ATO references

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ATOlaw topic: Income Tax ~~ Tax integrity measures ~~ thin capitalisation