


TD 92/D228 - Income tax: is a premium received on the issue of bonds assessable income?

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Draft Taxation Determination

Income tax: is a premium received on the issue of bonds assessable income?

1. A premium (being the amount received in excess of the face value of a bond on issue) is assessable under subsection 25(1) of the *Income Tax Assessment Act 1936* if:
 - (i) a taxpayer raises funds through the issue of bonds;
 - (ii) a premium is received by the issuer;
 - (iii) the premium is non-refundable; and
 - (iv) the issuer's right to the premium is not dependent upon any subsequent event.
2. In the case of banks, finance companies and finance subsidiaries of corporate groups, the receipt of the premium is assessable income derived in the ordinary course of the business of borrowing and lending money (see *Avco Financial Services v. FC of T* 82 ATC 4246; (1982) 13 ATR 63 and *Mutual Acceptance Limited v. FC of T* 84 ATC 4831; (1984) 15 ATR 1238).
3. If a taxpayer's ordinary course of business is other than the borrowing and lending of money, the receipt of the premium is still assessable income. In this situation the premium represents an isolated gain from a commercial transaction that has the necessary profit making purpose to categorise it as assessable income (see *FC of T v. The Myer Emporium Ltd* 87 ATC 4363; (1987) 18 ATR 693; *FC of T v. Cooling* 90 ATC 4472; (1990) 21 ATR 13 and *Westfield Ltd v. FC of T* 91 ATC 4234; (1991) 21 ATR 1398). A detailed discussion of gains from isolated transactions can be found in *Taxation Ruling TR 92/3*.
4. This principle may also apply to premiums on the issue of other forms of debt securities.

Example:

Australian Holding Company (AHC) issues Eurobonds at an issue price of 101.5%. The face value of the issue is \$A50,000,000 with a coupon rate (interest) of 9.5%. AHC receives \$A50,000,000 principal plus a non-refundable premium of \$A750,000 (ie. \$A50,000,000 @ 1.5%). The premium is assessable under subsection 25(1) of the ITAA on receipt by AHC.

Commissioner of Taxation

10/12/92

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Related Rulings: TR 92/3

Subject Ref: assessable income, issue of bonds, premium

Legislative Ref: ITAA 25(1)

Case Ref: *Avco Financial Services v. FC of T* 82 ATC 4246; (1982) 13 ATR 63, *Mutual Acceptance Limited v. FC of T* 84 ATC 4831; (1984) 15 ATR 1238, *FC of T v. The Myer Emporium Limited* 87 ATC 4363; (1987) 18 ATR 693, *FC of T v. Cooling* 90 ATC 4472; (1990) 21 ATR 13 and *Westfield Limited v. FC of T* 91 ATC 4234; (1991) 21 ATR 1398.

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