


# ***TD 94/D2 - Income tax: can convertible notes qualify as infrastructure borrowings under Division 16L of Part III of the Income Tax Assessment Act 1936 ?***

 This cover sheet is provided for information only. It does not form part of *TD 94/D2 - Income tax: can convertible notes qualify as infrastructure borrowings under Division 16L of Part III of the Income Tax Assessment Act 1936 ?*

This document has been finalised by TD 94/49.

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

---

## Draft Taxation Determination

---

### **Income tax: can convertible notes qualify as infrastructure borrowings under Division 16L of Part III of the *Income Tax Assessment Act 1936*?**

1. Yes. Borrowings that are issued in the form of notes convertible into shares may constitute infrastructure borrowings. The income exemption period would terminate when the notes are converted into shares. On conversion, the shares will not be infrastructure borrowings.
2. The income exemption applies only to interest or amounts in the nature of interest. Other payments which are not interest or in the nature of interest made on the notes would not qualify for exemption.

**Commissioner of Taxation**  
13/1/94

---

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: exemption period; infrastructure borrowings

Legislative Ref: ITAA 159GZZZU; ITAA Pt III Div 16L

Case Ref:

ATO Ref: Public Infrastructure Unit DTD/14

---

ISSN 1038 - 8982