IT 2205 - Income tax : exemption from interest withholding tax - application of section 128f of the income tax assessment act

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TAXATION RULING NO. IT 2205

INCOME TAX : EXEMPTION FROM INTEREST WITHHOLDING TAX - APPLICATION OF SECTION 128F OF THE INCOME TAX ASSESSMENT ACT

F.O.I. EMBARGO: May be released

REF H.O. REF: 85/6251-2 DATE OF EFFECT:

B.O. REF: DATE ORIG. MEMO ISSUED: 19/09/85

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1199633	EXEMPTION FROM INTEREST WITHHOLDING TAX INTEREST ON WIDELY DISTRIBUTED BEARER DEBENTURES	128F

PREAMBLE Advice was recently sought from this office whether exemption from withholding tax conferred by section 128F of the Income Tax Assessment Act in respect of the interest paid by a company on debentures issued and widely distributed overseas would continue to apply to a company associated with the issuer company if, at some time in the future, the associated company assumed liability for the payment of interest on the debentures.

RULING 2. The response from this office stated that the exemption given by 128F would not extend to interest paid on the debentures by the associated company - the exemption is limited to interest paid by a resident company on debentures issued by the company.

3. The basis of the official response emerges from the terms of the relevant provisions of the Income Tax Assessment Act. Exemption from withholding tax under section 128F is dependent upon the requirements of sub-section 128F(1) being met. Paragraph 128F(1)(b) specifically requires that the debentures must be issued by the company which pays the interest. Paragraph 128F(1)(e) requires the issue of a certificate in respect of the loan. The conditions for the issue of a certificate are set out in sub-section 128F(4) and paragraph 128F(4)(b) states that the borrowing must be undertaken by the company issuing the debentures.

COMMISSIONER OF TAXATION
15 October 1985

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