


IT 2239 - Income tax : petroleum mining companies : shareholder rebate scheme short-term investments

 This cover sheet is provided for information only. It does not form part of *IT 2239 - Income tax : petroleum mining companies : shareholder rebate scheme short-term investments*

This document has been Withdrawn.

There is a [Withdrawal notice](#) for this document.

TAXATION RULING NO. IT 2239

INCOME TAX : PETROLEUM MINING COMPANIES : SHAREHOLDER
REBATE SCHEME SHORT-TERM INVESTMENTS

F.O.I. EMBARGO: May be released

REF N.O. REF: 85/6289-0 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED: 16.10.85

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1205790	PETROLEUM MINING COMPANIES SHAREHOLDER REBATE SCHEME BANK BILLS NEGOTIABLE CERTIFICATES INTEREST RATE SWAPS	160ACA

OTHER RULINGS ON TOPIC: IT 111, IT 120

PREAMBLE In Taxation Ruling No. IT 120 it was ruled that Bank Bills accepted by a trading bank and Negotiable Certificates of Deposit issued by a trading bank would generally qualify as "short-term investments" for the purposes of subsection 160ACA(1) of the Income Tax Assessment Act. Acceptance was conditional on the date of maturity of the investment being no further than three months from the date on which the investment was made and the further condition that, should the investing company wish to dispose of the bill or certificate prior to maturity, the disposal must be for an amount that is not less than the amount for which the particular bill or certificate was acquired or, where appropriate, the amount deposited.

2. The acceptance of the particular Bank Bills and Negotiable Certificates of Deposit was pursuant to paragraph (d) of the definition of "short-term investments" contained in subsection 160ACA(1). The paragraph confers on the Commissioner a discretion to accept particular investments, adequately secured and readily realizable, for the purposes of the shareholder rebate scheme.

FACTS 3. A petroleum mining company recently asked whether a variation on an investment in Bank Accepted Bills or Negotiable Certificates of Deposit would be approved by the Commissioner. The variation involved what was described as "interest rate swaps".

4. The petroleum mining company would lodge money with a bank for the bank to purchase on the company's behalf Bank Accepted Bills accepted by a trading bank and/or Negotiable Certificates of Deposit issued by a trading bank. The company would then enter into an agreement with the bank whereby, for a certain period of time, it would give the bank custody of the securities

and authority to swap them for other securities of the same type.

5. The bank will treat the transaction as a managed investment with a fixed maturity date and a fixed rate of interest, usually at a margin in excess of the Bank Accepted Bill rate for a similar term. At all times during the course of the investment the bank will hold, on the company's behalf, securities of the same type and face value as those originally purchased by the company. However, the original securities will be swapped for others from time to time provided that the terms of the investment with respect to type of securities, face value, yield and date of final maturity are complied with.

6. To enable swaps to be made the company must agree to sell the maturing securities (except those maturing on the final maturity date) to the bank on the replacement dates for the original settlement price and to purchase the replacement securities from the bank for the same original price. To secure these obligations the company agrees to pledge to the bank the original securities together with all replacement securities purchased prior to the last replacement date.

7. On the final transaction maturity date the bank will either collect for the company the proceeds of the securities held on its behalf which mature on that day or purchase from the company, at face value, any securities which do not mature on that day.

8. The company may terminate the transaction at any time by the giving of twenty-four hours notice. Early termination will not result in any loss of capital of the company.

RULING

9. As all the securities are purchased in the investing company's name and for the bank's own purposes are treated as managed investments, the transaction does not qualify as a "deposit with a bank" for the purpose of paragraph (a) of the definition of "short-term investments" contained in subsection 160ACA(1). For the reason that the securities do not fit within the relevant descriptions, paragraphs (b) and (c) are also not satisfied.

10. However, the company was advised that in the circumstances outlined, the investments would be approved as short-term investments provided that the original and all replacement Bank Accepted Bills or Negotiable Certificates of deposit were accepted or issued by a trading bank. The Commissioner was prepared to exercise his discretion contained in paragraph (d) because of the kind of securities involved and the fact that the investment could be terminated by the giving of twenty-four hours notice and without any loss of capital. In other words the investments were secure and the moneys invested repayable on demand.

11. This ruling may be applied in comparable fact situations. However, as it involves the exercise of a discretion, details of each investment will need to be provided and each investment considered on a case by case basis.

COMMISSIONER OF TAXATION
24 January 1986