

# ***PR 2007/101A1 - Addendum - Income tax: deductibility of interest incurred on borrowings under the Leveraged Equities Share Protection Plan***

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## Addendum

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### Product Ruling

#### Income tax: deductibility of interest incurred on borrowings under the Leveraged Equities Share Protection Plan

This Addendum amends Product Ruling PR 2007/101 to incorporate and reflect amendment to Division 247 of the *Income Tax Assessment Act 1997* and Division 247 of the *Income Tax (Transitional Provisions) Act 1997* to adjust the benchmark interest rate used to determine the cost of capital protection on a capital protected borrowing from the Reserve Bank of Australia's (RBA's) Indicator Lending Rate for Personal Unsecured Loans to the RBA's Indicator Lending Rate for Standard Variable Housing Loans plus 100 basis points.

#### **PR 2007/101 is amended as follows:**

##### **1. Subparagraph 17(a)**

Omit the subparagraph; substitute:

- (a) the SPP interest amount reduced by an amount reasonably attributable to the cost of capital protection (Put Option Premium) under step 3 of the method statement in subsection 247-20(3) of the *Income Tax Assessment Act 1997* (ITAA 1997) or subsection 247-75(1) of the *Income Tax (Transitional Provisions) Act 1997* (IT(TP)A 1997), as applicable, will be deductible under section 8-1 of the ITAA 1997;

##### **2. Subparagraph 17(b)**

Omit the subparagraph; substitute:

- (b) where the Investor enters into the SPP on or after 19 December 2007 but at or before 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008, under subsection 247-75(1) of the IT(TP)A 1997 the amount reasonably attributable to the Put Option Premium under Division 247 of the IT(TP)A 1997 in an income year is the amount by which the SPP interest amount exceeds the loan amount multiplied by the

Reserve Bank of Australia's Indicator Rate for Personal Unsecured Loans – Variable Rate (the 'personal unsecured loan rate') at the time the first of the SPP interest amount is paid during the term of the loan (subsection 247-75(2) of the IT(TP)A 1997);

- (ba) where the Investor enters into the SPP after 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008 and on or before 30 June 2010, under subsection 247-20(3) of the ITAA 1997 the amount reasonably attributable to Put Option Premium under Division 247 of the ITAA 1997 in an income year is the amount by which the SPP interest amount exceeds the loan amount multiplied by the sum of the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans and 100 basis points (the 'adjusted loan rate') at the time the first of the SPP interest amount is paid during the term of the loan (subsections 247-20(4) and (5) of the ITAA 1997);

### 3. Subparagraph 19(j)

Omit the subparagraph; substitute:

- (j) a portion of the interest payable under the SPP is referable to the Put Option Premium. This is the amount as calculated in paragraph 17(b) or 17(ba) of this Ruling. The Put Option Premium varies depending on the Securities selected, the market at the time and the term of the loan;

### 4. Paragraph 23

Omit the paragraph; substitute:

23. Division 247 of the IT(TP)A 1997 sets out a methodology for reasonably attributing the cost of capital protection incurred by a borrower under a CPB entered into on or after 19 December 2007 but at or before 7.30 pm by legal time in the Australian Capital Territory on 13 \ May 2008 (section 247-75). Division 247 of the IT(TP)A 1997 ignores any amount which is not in substance for capital protection or interest, in calculating the cost of capital protection (subsection 247-75(1)).

23A. Division 247 of the ITAA 1997 sets out a methodology for reasonably attributing the cost of capital protection incurred by a borrower under a CPB entered into after 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008 (section 247-20). Division 247 of the ITAA 1997 ignores any amount which is not in substance for capital protection or interest, in calculating the cost of capital protection (subsection 247-20(3)).

## **5. Paragraph 24**

Omit the paragraph; substitute:

24. Under the SPP, the amount reasonably attributable to the cost of capital protection, being the Put Option Premium, is worked out under the method statement in subsection 247-75(1) of the IT(TP)A 1997 or subsection 247-20(3) of the ITAA 1997, as applicable and as set out in paragraphs 17(b) and 17(ba) respectively.

## **6. References**

Insert the legislative references:

- ITAA 1997 247-20(4)
- ITAA 1997 247-20(5)
- IT(TP)A 1997 Div 247
- IT(TP)A 1997 247-75
- IT(TP)A 1997 247-75(1)
- IT(TP)A 1997 247-75(2)

This Addendum applies on and from 19 December 2007.

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**Commissioner of Taxation**

12 October 2011

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ATO references

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