

PR 2010/17A1 - Addendum - Income tax: deductibility of interest in relation to investment in Macquarie Flexi 100 Trust June 2010 Offer (Class H to P Units) - limited recourse borrowings

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Addendum

Product Ruling

Income tax: deductibility of interest in relation to investment in Macquarie Flexi 100 Trust June 2010 Offer (Class H to P Units) – limited recourse borrowings

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Product Ruling PR 2010/17 to:

- incorporate amendment to Division 247 of the *Income Tax Assessment Act 1997* (ITAA 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; and
- reflect the ATO view with respect to the application of Division 247 of the ITAA 1997 to interest incurred on the Interest Loan, as set out in Taxation Determination TD 2013/1.

PR 2010/17 is amended as follows:

1. Paragraphs 15 and 16

Omit the paragraphs and associated heading.

2. Paragraph 18

(a) Omit subparagraph 18(c); substitute:

- (c) under subsection 247-20(3), the amount reasonably attributable to the cost of capital protection under Division 247 in an income year is the amount by which the expense incurred for interest on the Limited Recourse Investment Loan exceeds:

- where the interest rate charged by the Loan Provider is a fixed rate for all or part of the term of the loan and that fixed rate is applicable to the loan for all or part of the income year, the amount of the loan 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 when the interest charge is first incurred during the term of the loan, or the relevant part of the term (subsections 247-20(4) and (5); and
 - where the interest rate charged by the Loan Provider is a variable rate for all or part of the term of the loan and a variable rate is applicable to the loan for all or part of the income year, the amount of the loan multiplied by the average of the adjusted loan rates applicable during those parts of the income year when the loan is at a variable rate (subsections 247-20(5) and (5A));
- (b) Omit subparagraph 18(f); substitute:
- (f) Division 247 will not apply to the Interest Loan. An amount equal to the expense incurred for interest on the Interest Loan will be deductible under section 8-1.
- (c) Omit subparagraph 18(m).

3. Paragraph 43

Omit paragraph 43; substitute:

43. There is no element of capital protection connected with the Interest Loan.

4. Paragraph 63

Omit paragraph 63.

5. Detailed contents list

Omit:

Proposed amendments to Division 247

15

6. Legislative references

Insert:

- ITAA 1997 247-20(5A)

This Addendum applies on and from 30 June 2010.

Commissioner of Taxation

27 February 2013

ATO references

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