


PR 2020/2A2 - Income tax: taxation consequences of investing in C2 Gateway Deferred Purchase Agreement

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Addendum

Product Ruling

Income tax: taxation consequences of investing in C2 Gateway Deferred Purchase Agreement

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Product Ruling PR 2020/2 to incorporate the application of subsections 82KZM(1A) and 82KZMA(2A) of the *Income Tax Assessment Act 1936*.

PR 2020/2 is amended as follows:

1. Paragraph 15

- (a) In sub-subparagraph (g)(iv), after 'small business entity', insert ', or an entity covered by subsection 82KZMA(2A) of the ITAA 1936²,'.
- (b) After the first instance of 'ITAA 1936' in sub-subparagraph (g)(iv), insert new footnote 2:

² On 1 January 2021, subsection 82KZMA(2A) was inserted into the ITAA 1936, applicable in relation to expenditure incurred on or after 1 July 2020. All references in this Product Ruling to 'an entity covered by subsection 82KZMA(2A) of the ITAA 1936' or to 'a medium business entity' only apply from 1 July 2020.

- (c) In sub-subparagraph (h)(iv), after 'small business entity', insert ', or an entity covered by subsection 82KZM(1A) of the ITAA 1936³,'.
- (d) After the first instance of 'ITAA 1936' in sub-subparagraph (h)(iv), insert new footnote 3:

³ On 1 January 2021, subsection 82KZM(1A) was inserted into the ITAA 1936, applicable in relation to expenditure incurred on or after 1 July 2020. All references in this Product Ruling to 'an entity covered by subsection 82KZM(1A) of the ITAA 1936' only apply from 1 July 2020.

2. Paragraph 26

After 'whether the Investor is a small', insert 'or medium'.

3. Paragraph 33

- (a) In the heading, after 'incurred by non-individual and non-small', insert 'and medium'.
- (b) Omit the first sentence; substitute:

Sections 82KZMA and 82KZMD of the ITAA 1936 set the amount and timing of deductions for expenditure incurred by an Investor (other than a small business entity or an entity covered by subsection 82KZMA(2A) of the ITAA 1936⁴, for the

year of income that has not chosen to apply section 82KZMD of the ITAA 1936 to the expenditure) that is not an individual and does not incur the expenditure in carrying on a business.

- (c) After the second instance of 'ITAA 1936', insert new footnote 4:

⁴ An entity is covered by subsection 82KZMA(2A) of the ITAA 1936 for the expenditure year if the entity is not a small business entity for that year but would be a small business entity for that year if each reference in section 328-110 to \$10 million (as noted in paragraph 27 of this Product Ruling) were instead a reference to \$50 million.

4. Paragraph 35

- (a) In the heading, after 'incurred by certain small', insert 'and medium'.

- (b) Omit the wording of the first dot point; substitute:

- a small business entity, or an entity covered by subsection 82KZM(1A) of the ITAA 1936⁵, for the year of income that has not chosen to apply section 82KZMD of the ITAA 1936 to the expenditure, or

- (c) After the first instance of 'ITAA 1936' in the first dot point, insert new footnote 5:

⁵ An entity is covered by subsection 82KZM(1A) of the ITAA 1936 for the expenditure year if the entity is not a small business entity for that year but would be a small business entity for that year if each reference in section 328-110 to \$10 million (as noted in paragraph 27 of this Product Ruling) were instead a reference to \$50 million.

5. Paragraph 37

Omit the wording of the paragraph; substitute:

Where the Prepaid Interest is not excluded expenditure and the eligible service period in relation to the deductible Prepaid Interest under the Investment Loan is more than 12 months, section 82KZM of the ITAA 1936 will have application to Investors referred to in paragraph 35 of this Product Ruling.

6. Paragraph 53

Omit:

<i>Sections 82KZMA and 82KZMD – prepaid non-business expenditure incurred by non-individual and non-small business entities</i>	33
<i>Section 82KZM – prepaid expenditure incurred by certain small business entities and individuals incurring non-business expenditure</i>	35

Substitute:

<i>Sections 82KZMA and 82KZMD – prepaid non-business expenditure incurred by non-individual and non-small and medium business entities</i>	33
<i>Section 82KZM – prepaid expenditure incurred by certain small and medium business entities and individuals incurring non-business expenditure</i>	35

This Addendum applies before and after its date of issue.

Commissioner of Taxation

8 November 2023

ATO references

NO:	1-Z17L0TC
ISSN:	2205-6114
BSL:	PW

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