


# ***PR 2025/16 - Tax consequences for a borrower being charged an 'Indexed Loan Rate' under a loan***

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Status: **legally binding**

## Product Ruling

# Tax consequences for a borrower being charged an 'Indexed Loan Rate' under a loan

### **❗ Relying on this Ruling**

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

#### **Terms of use of this Ruling**

This Ruling has been given on the basis that the entity who applied for the Ruling, and their associates, will abide by strict terms of use. Any failure to comply with the terms of use may lead to the withdrawal of this Ruling.

#### **Changes in the law**

Product Rulings were introduced for the purpose of providing certainty about tax consequences for entities in schemes such as this. In keeping with that intention, the Commissioner suggests promoters and advisers ensure that participants are fully informed of any legislative changes after the Ruling has issued. Similarly, entities that are considering participating in the Scheme are advised to confirm with their tax adviser that changes in the law have not affected this Ruling since it was issued.

#### **No guarantee of commercial success**

The Commissioner does not sanction or guarantee this product. Further, the Commissioner gives no assurance that the product is commercially viable, that charges are reasonable, appropriate or represent industry norms, or that projected returns will be achieved or are reasonably based.

Potential participants must form their own view about the commercial and financial viability of the product. The Commissioner recommends a financial (or other) adviser be consulted for such information.

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### **What this Ruling is about**

1. This Ruling sets out the income tax consequences for Borrowers in relation to a scheme involving the application of software licensed to Findexia Limited (Findexia) which, in part, calculates a variable interest rate that is charged by a Credit Provider on the Loan of a Borrower by reference to movements in the measure of one or more Reference Indexes.
2. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated. Terms which are defined in the documents listed in paragraph 10 of this Ruling have been capitalised.
3. This Ruling does not address:
  - the treatment of any costs, fees and expenses (other than interest) payable by the Borrower in respect of their Loan
  - the deductibility of interest incurred by the Borrower under their Loan in respect of any loan funds drawn down for a purpose other than for a Permitted Purpose (as defined in paragraph 13 of this Ruling)
  - the Borrower's tax obligations and benefits in relation to the acquisition, holding and sale of their principal place of residence or any other personal use asset funded by a Loan, and
  - whether this scheme constitutes a financial arrangement for the purposes of Division 230 (taxation of financial arrangements).

### **Who this Ruling applies to**

4. This Ruling applies to you if you are an individual who, as the Borrower, enter into the scheme described in paragraphs 10 to 26 of this Ruling on or after 10 December 2025 and on or before 30 June 2028.
5. This Ruling does not apply to you if you are an individual who enters into this scheme before 10 December 2025 or after 30 June 2028.

### **Date of effect**

6. This Ruling applies from 10 December 2025, the date it was published, to the Borrowers specified in paragraph 4 of this Ruling who enter into the scheme from 10 December 2025 until 30 June 2028.
7. However, the Ruling only applies and may be relied on to the extent that there is no change in the scheme or in the entity's involvement in the scheme. If the scheme carried out is materially different from the scheme described at paragraphs 10 to 26 of this Ruling, this Ruling cannot be relied upon and may be withdrawn or modified.

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## **Ruling**

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8. Subject to paragraph 3 of this Ruling and the assumptions in paragraph 9 of this Ruling:

- (a) Interest will not be deductible under section 8-1 where it is incurred by the Borrower at the Standard Loan Rate under a Loan procured for a Permitted Purpose.
- (b) The extent to which interest incurred by the Borrower at the Indexed Loan Rate under a Loan procured for a Permitted Purpose exceeds the amount of interest which they would have incurred at the Standard Loan Rate, and results in a debit to the Borrower's Loan Account (via a Loan Account Adjustment), will not be deductible under section 8-1.
- (c) The extent to which interest incurred by the Borrower at the Indexed Loan Rate under a Loan procured for a Permitted Purpose is less than the amount of interest which they would have incurred at the Standard Loan Rate, and results in a credit to the Borrower's Loan Account (via a Loan Account Adjustment), will not be assessable income of the Borrower under section 6-5.
- (d) Provided the scheme ruled on is entered into and carried out as described in this Ruling, the anti-avoidance provisions in Part IVA of the *Income Tax Assessment Act 1936* will not apply to the Borrower in connection with the scheme.

## **Assumptions**

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9. This Ruling is made on the basis of the following necessary assumptions:

- (a) The Borrower is an Australian resident for tax purposes.
- (b) The Borrower does not use their principal place of residence, or any other asset funded with their Loan, for business or any other income-producing purpose.
- (c) The scheme will be executed in the manner described in the scheme documentation referred to in paragraph 10 of this Ruling and in the Scheme section of this Ruling.
- (d) All dealings between the Credit Provider, Findexia, The Index Mortgage Company Limited and the Borrower will be at arm's length.

## **Scheme**

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10. The scheme is identified and described in the following:

- (a) application for a product ruling as constituted by documents and information received on 31 October 2025
- (b) draft Letter of Offer between The Index Mortgage Company Limited (on behalf of the Facility Providers) and a Borrower dated 27 October 2025
- (c) draft Standard Loan Terms dated 27 October 2025
- (d) draft Loan Rate Indexation Terms dated 27 October 2025, and

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- (e) Rate Indexation: Calculations and Methods (Methods Paper) dated 28 October 2025.<sup>1</sup>

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under freedom of information legislation.

11. For the purposes of describing the scheme, and aside from any security documentation to be executed between the Borrower and the Credit Provider, there are no other agreements (whether formal or informal and whether or not legally enforceable) which the Borrower, or any associate of the Borrower, will be a party to which are a part of the scheme.

12. All Australian Securities and Investments Commission requirements are, or will be, complied with for the term of the agreements.

### Overview of scheme

13. As the exclusive Australian licensee of software that enables the computation of a loan interest rate in the manner described in paragraph 15 of this Ruling, Findexia will perform the functions (of Calculation Agent and Index Manager) specified in the Loan Documents in respect of any Loan that is:

- offered, negotiated, documented, maintained and enforced by a Credit Provider on the Standard Loan Terms, or on the Credit Provider's own standard terms, as amended or supplemented by clauses in or substantially in the form set out in the Loan Rate Indexation Terms and the Methods Paper, and
- used for a Permitted Purpose, defined in the Standard Loan Terms to mean to use a Loan to
  - finance the acquisition, improvement or renovation of the Borrower's principal place of residence
  - finance the acquisition of assets for the Borrower's personal use
  - finance expenditure that is not related to a business or an investment, and is not incurred in the pursuit of income, or
  - refinance a loan that was used for a Permitted Purpose.

14. The Credit Provider will be an existing mortgage lender or a special purpose trust established to fund loans referred to in paragraph 13 of this Ruling by way of warehouse funding, a forward-flow arrangement or a residential mortgage-backed securities issue.

15. Pursuant to the Loan Documents and during a period over which the rate of interest under the Loan will be defined by, or computed in accordance with, the Standard Loan Terms or the Credit Provider's own standard terms (in each case, the Standard Loan Rate), the Borrower (an individual) may, but need not, elect via a Link On Request to have the interest under the Loan calculated at an Indexed Loan Rate, being a rate computed in part by reference to movements in the measure of one or more Reference Indexes.

16. An Indexed Loan Rate is defined in the Methods Paper to mean, in respect of an Indexed Period, a realised rate of interest derived by adjusting the Base Rate by applying the Discount or Premium solved for by Findexia using the relevant Method detailed in the Methods Paper. The Base Rate is the Standard Loan Rate after conversion to equivalent annual effected rates of interest. The Method engaged by Findexia to calculate an Indexed

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<sup>1</sup> The documents listed in subparagraphs 10(b) to (e) of this Ruling are referred to as Loan Documents.

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Loan Rate incorporates, among other things and in addition to changes in the measure of the relevant Reference Index, the Base Rate, Benchmark Rate and Participation Factor.

17. A Link On Request provided by the Borrower to the Credit Provider must specify the Reference Index or Reference Indexes by reference to which the Borrower wishes the Indexed Loan Rate to be calculated (being any Reference Index identified by the Credit Provider as available for selection by the Borrower for this purpose), and the Initial Link Sum.

18. Acceptance (or the extent of acceptance) of a Link On Request is at the discretion of the Credit Provider.

19. The right of the Borrower and the obligation of the Credit Provider to have changes in the measure of a Reference Index taken into account in the calculation of interest charges under the Loan is referred to by Findexia as Linking or a Link.

20. In the course of an Indexed Period, the Borrower may remove exposure to the Reference Index by terminating the Link via a Link Off Instruction. Where all prevailing Links are removed from the Loan, the Standard Loan Rate will apply when calculating interest under the Loan.

21. A Link involves the calculation of the Indexed Loan Rate according to a series of equations which impute 'sufficiently positive' results to the Borrower by way of a reduction in the Standard Loan Rate, enabling the Loan to be amortised faster than would otherwise be the case. In this context 'sufficiently positive' means the performance of the Reference Index exceeds a Benchmark Rate (for example, the standard mortgage rate) nominated by the Credit Provider.

22. Conversely, if the Reference Index performance isn't 'sufficiently positive' by virtue of it being below the Benchmark Rate nominated by the Credit Provider, the Indexed Loan Rate charged to the Borrower under the Loan will be higher than it would otherwise have been at the Standard Loan Rate.

23. Where a Loan is Linked, interest is provisionally charged at Standard Loan Rates and debited to the Borrower's Loan Account on that basis. At the end of an Indexed Period the Indexed Loan Rate for that Indexed Period is calculated and any variance is debited or credited to the Loan Account via a Loan Account Adjustment. This calculation is undertaken in accordance with the Methods specified in the Methods Paper.

24. Loan Account Adjustments revise interest charges debited to the Loan Account during an Indexed Period and reflect the economic effect of the Loan having been Linked over that Indexed Period. A Loan Account Adjustment is reported as a debit to the Loan Account (thereby increasing the Loan Balance as at the end of that Indexed Period) when the Indexed Loan Rate is struck at a Premium to the corresponding Standard Loan Rate, and reported as a credit to the Loan Account (thereby decreasing the Loan Balance as at the end of that Indexed Period) when the Indexed Loan Rate is struck at a Discount to the corresponding Standard Loan Rate.

25. Pursuant to the Loan Documents, the Borrower acknowledges that:

- their right to have the Indexed Loan Rate calculated and any resulting Loan Account Adjustment applied in the manner contemplated by the Loan Rate Indexation Terms (as conferred by Linking) is a contractual right exercisable against the Credit Provider personally, and incapable of assignment
- Linking does not confer upon the Borrower any entitlement to money or property, and

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- the Borrower has no proprietary or other legal or beneficial interest in the assets (if any) that correspond to the Reference Index to which it has Linked.

26. The Borrower's Loan will not be part of:

- a linked or split loan facility as described in paragraphs 3 to 6 of Taxation Ruling TR 98/22 *Income tax: the taxation consequences for taxpayers entering into certain linked or split loan facilities*, or
- an 'investment loan interest payment arrangement' as described in Taxation Determination TD 2012/1 *Income tax: can Part IVA of the Income Tax Assessment Act 1936 apply to deny a deduction for some, or all, of the interest expense incurred in respect of an 'investment loan interest payment arrangement' of the type described in this Determination?*

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**Commissioner of Taxation**

10 December 2025

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## Appendix – Explanation

**❶** *This Explanation is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

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### **Section 8-1 – interest not deductible**

27. Expenditure, including interest on money borrowed, is deductible under section 8-1 if its essential character is that of expenditure that has a sufficient connection with the operations or activities which more directly gain or produce a taxpayer's assessable income, provided that the expenditure is not of a capital, private or domestic nature.

28. The essential character of interest on money borrowed is a question of fact to be determined by reference to the objective circumstances of the use to which the borrowed funds are put by the borrower (*Federal Commissioner of Taxation v Munro* [1926] HCA 58).

29. Interest paid on a borrowing used to acquire an asset or fund expenditure is generally not treated as deductible under section 8-1 where it is not expected that assessable income would be derived from the asset or the expenditure, or where the funded expenditure is of a private nature.

### ***Standard Loan Rate***

30. Interest incurred by a Borrower at the Standard Loan Rate under a Loan used for a Permitted Purpose does not have sufficient connection with the gaining of assessable income to be deductible under section 8-1, nor can it be deducted under section 8-1 pursuant to paragraph 8-1(2)(b).

### ***Indexed Loan Rate***

31. A Link merely confers a right to have the rate of interest under the Loan computed in part by reference to relative movements in the measure of a Reference Index (that is, at the Indexed Loan Rate). Any increase or decrease in the interest rate attributable to a change in the measure of that Reference Index in turn results in a Loan Account Adjustment, but the character of the expenditure incurred by the Borrower nevertheless does not change.

32. Therefore, for the reason set out in paragraph 29 of this Ruling, any amount debited to the Borrower's Loan Account as a result of an increase in the amount of interest incurred by the Borrower at the Indexed Loan Rate as compared to that which would have been incurred by them at the Standard Loan Rate is also not deductible under section 8-1.



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***Refinancing an original loan***

33. The interest expense on a new loan will be deductible if the new loan is used to repay an existing loan which, at the time of the second borrowing, was being used in an assessable income-producing activity (see paragraph 42 of Taxation Ruling TR 95/25 *Income tax: deductions for interest under section 8-1 of the Income Tax Assessment Act 1997 following FC of T v. Roberts; FC of T v. Smith*, referring to *Commissioner of Taxation v Roberts, J.D. Commissioner of Taxation v Smith, V.R. [1992] FCA 543*).

34. Alternatively, the interest expense on a new loan will not be deductible if the new loan is used to repay an existing loan which, at the time of the second borrowing, was not being used in an assessable income-producing activity. It follows that interest incurred on any refinanced Loan of the Borrower used to repay an existing loan procured for a Permitted Purpose (irrespective of whether that interest accrues at the Standard Loan Rate or Indexed Loan Rate) will also not be deductible under section 8-1.

**Section 6-5 – reduction of interest not assessable as ordinary income**

35. Section 6-5 includes income according to ordinary concepts (ordinary income) in assessable income. Whether or not a particular amount is income according to ordinary concepts depends on the nature and character of the receipt in the hands of the taxpayer.

36. Ordinary income may be said to be derived pursuant to subsection 6-5(4) which provides that an amount of ordinary income will be taken to be received as soon as it has been applied or dealt with in any way on behalf of or as directed by the taxpayer.

37. Any amount credited to a Borrower's Loan Account as a result of a decrease in the amount of interest incurred by the Borrower at the Indexed Loan Rate as compared to that which would have been incurred by them at the Standard Loan Rate is not ordinary income and therefore not assessable under section 6-5.

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## References

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### *Related rulings and determinations:*

TR 95/25; TR 98/22; TD 2012/1

### *Legislative references:*

- ITAA 1936 Pt IVA
- ITAA 1997 6-5
- ITAA 1997 6-5(4)
- ITAA 1997 8-1
- ITAA 1997 8-1(2)(b)
- ITAA 1997 Div 230

### *Cases relied on:*

- Federal Commissioner of Taxation v Munro [1926] HCA 58; 38 CLR 153; (1926) 32 ALR 339
- Commissioner of Taxation v Roberts, J.D.  
Commissioner of Taxation v Smith, V.R.  
[1992] FCA 543; 37 FCR 246; 92 ATC 4380; 23 ATR 494; (1992)108 ALR 385

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### ATO references

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