Australian Government
Australian Taxation Office

Taxation Determination
TD 2005/31

Taxation Determination

Income tax: what is the benchmark interest rate applicable for the year of income that commenced on 1 July 2005 for the purposes of Division 7A of Part III of the *Income Tax Assessment Act 1936* and how is it used?

Preamble

The number, subject heading, date of effect and paragraph 1 to paragraph 3 of this document are a 'public ruling' for the purposes of Part IVAAA of the ***Taxation Administration Act 1953*** *and are legally binding on the Commissioner.*

1. For the income year that commenced on 1 July 2005, the benchmark interest rate for the purposes of sections 109N and 109E of the *Income Tax Assessment Act 1936* (ITAA 1936) is **7.30%** per annum.

2. This benchmark interest rate is relevant to private company loans made or deemed to have been made after 3 December 1997 and before 1 July 2005; and to trustee loans made after 11 December 2002 and before 1 July 2005. It is used to:

- determine if a loan made in the 2004-05 income year is taken to be a dividend (paragraph 109N(1)(b) and as applicable, subsection 109D(1) or section 109XB); and
- calculate the amount of the minimum yearly repayment for the 2005-06 income year on an amalgamated loan taken to have been made prior to 1 July 2005 (subsection 109E(5)).

3. This Determination only applies where a private company or trustee, which either made the loan or is taken to have made the amalgamated loan, has an income year that commenced on 1 July 2005. (Taxation Determination TD 2001/18 explains how to find the benchmark interest rate for private companies with substituted accounting periods.)

Example

4. *A private company makes an unsecured loan to a shareholder on 1 July 2004. The loan is made under a written agreement which specifies that the rate of interest payable for all future years must equal or exceed that required by paragraph 109N(1)(b) of the ITAA 1936. The term of the loan is 5 years. For the year ended 30 June 2005, as all the requirements of section 109N are met, the loan is not treated as a dividend under Division 7A. If the amount of the loan not repaid by the 'lodgment day' is $100,000, the minimum yearly repayment required for the 2005-2006 year of income is calculated as follows:*

$$\frac{\text{Amount of loan not repaid by the end of the previous year of income} \times \text{Current year's benchmark interest rate}}{1 - \left[\dfrac{1}{1 + \text{Current year's benchmark interest rate}}\right]^{\text{remaining term}}}$$

$$\frac{100{,}000 \times 0.0730}{1 - \left[\dfrac{1}{1 + 0.0730}\right]^{5}}$$

$$= \$24{,}585.30$$

5. If repayments made in the 2005-2006 year of income equal or exceed the minimum yearly repayment, the amount of the loan not repaid at the end of the year of income is not taken to be a dividend for the purposes of subsection 109E(1).

6. The 'lodgment day' is the earlier of the due date for lodgment and date of lodgment of the lender's income tax return for the income year in which the loan is made. The 'lender' is the private company or trustee which made the loan that is subject to Division 7A.

Date of effect

7. This Determination applies to the income year commencing on 1 July 2005.

Commissioner of Taxation
29 June 2005

Previous draft:
Not previously issued as a draft

Related Rulings/Determinations:
TD 2001/18

Previous Rulings/Determinations:

TD 1998/21; TD 1999/39; TD 2001/1; TD 2001/20; TD 2002/15; TD 2003/19; TD 2004/28

Subject references:

- benchmark interest rate
- deemed dividends
- private company distributions

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1936 Pt III Div 7A
- ITAA 1936 109D(1)
- ITAA 1936 109E
- ITAA 1936 109E(1)
- ITAA 1936 109E(5)
- ITAA 1936 109N
- ITAA 1936 109N(1)(b)
- ITAA 1936 109XB

ATO references

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