


***TD 2009/21A1 - Addendum - Income tax: to obtain a deduction under section 25-90 of the Income Tax Assessment Act 1997 for a cost in relation to a debt interest does the taxpayer have to actually derive a dividend to which section 23AJ of the Income Tax Assessment Act 1936 applies in the same income year as that in which the cost is incurred?***

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## Addendum

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### Taxation Determination

Income tax: to obtain a deduction under section 25-90 of the *Income Tax Assessment Act 1997* for a cost in relation to a debt interest does the taxpayer have to actually derive a dividend to which section 23AJ of the *Income Tax Assessment Act 1936* applies in the same income year as that in which the cost is incurred?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends footnote 3 in Taxation Determination TD 2009/21 following the Full Federal Court decision in *Federal Commissioner of Taxation v. Noza Holdings Pty Ltd* [2012] FCAFC 43.

#### TD 2009/21 is amended as follows:

##### 1. Footnote 3

At the end of the first sentence in footnote 3, insert:

'but see *Commissioner of Taxation v. Noza Holdings Pty Ltd* [2012] FCAFC 43 at [42] and [44]'.

##### 2. Case references

Insert

- *Commissioner of Taxation v. Noza Holdings Pty Ltd* [2012] FCAFC 43; (2012) 201 FCR 445; 2012 ATC 20-313; (2012) 82 ATR 567.

This Addendum amends TD 2009/21 to state the Commissioner's view of the law both before and after its date of issue.

# TD 2009/21

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## ATO references

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ATOlaw topic: Income Tax ~~ Deductions ~~ miscellaneous expenses  
Income Tax ~~ Tax integrity measures ~~ thin capitalisation