

TD 94/49 - Income tax: can convertible notes qualify as infrastructure borrowings?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *16 June 1994*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: can convertible notes qualify as infrastructure borrowings?

1. Yes. Borrowings that are raised or issued in the form of notes convertible into shares may constitute infrastructure borrowings. The income exemption period would terminate when the notes are converted into shares. On conversion, the shares will not be infrastructure borrowings.
2. The income and deduction 'exemption' referred to in section 159GZZZZE applies to payments, gains or losses during the period that the note is current.

Commissioner of Taxation

16/6/94

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Previously issued as Draft TD 94/D2

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Subject Ref: convertible note; exemption period; infrastructure borrowing

Legislative Ref: ITAA 159GZZZU; ITAA 159GZZZZE(1); ITAA Pt III Div 16L

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