# *TD 1999/D16 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - does section 128F apply to debentures under which the yield is determined by a variable indexation factor rather than by being fixed?*

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This document has been finalised by TD 1999/23.

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# Draft Taxation Determination

## Income tax: interest withholding tax exemption under section 128F of the *Income Tax Assessment Act 1936* - does section 128F apply to debentures under which the yield is determined by a variable indexation factor rather than by being fixed?

***Preamble***

*Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs may not be relied on; only final TDs are authoritative statements of the ATO.*

1. Yes. Section 128F applies to any debenture as defined in subsection 128F(9). For the purposes of this section, 'debenture' is given a wider meaning than under subsection 6(1). It includes a promissory note or bill of exchange, in addition to common securities such as debenture stocks, bonds and notes, or any other securities of a company.

2. Accordingly, provided the requirements of 128F are otherwise satisfied, the section applies to structured or indexed notes under which the yield (but not the principal amount) is determined by a variable factor and which may vary by an amount greater than or equal to zero.

**Your comments**

3. If you wish to comment on this draft Determination, please send your comments promptly by Friday 26 February 1999 to:

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**Commissioner of Taxation**
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*Previous draft:*
Not previously issued in draft form

*Related Rulings/Determinations:*

TD 1999/D1; TD 1999/D2; TD 1999/D3; TD 1999/D4; TD 1999/D5; TD 1999/D6; TD 1999/D7; TD 1999/D8; TD 1999/D9; TD 1999/D10; TD 1999/D11; TD 1999/D12; TD 1999/D13; TD 1999/D14; TD 1999/D15; TD 1999/D17; TD 1999/D18; TD 1999/D19

*Subject references:*

*Legislative references:*

ITAA 6(1); ITAA 128F; ITAA 128F(9)

*Case references:*

ATO References:
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