TD 1999/D8 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - for the purposes of the third public offer test in paragraph 128F(3)(c)(a) what is required to establish that a debenture has been offered for issue as a result of being accepted for listing? (b) does the issue of a debenture satisfy the public offer test if the listing of the debenture by a stock exchange takes place following the issue where an agreement exists with the dealer, manager or underwriter requiring listing to take place?

This cover sheet is provided for information only. It does not form part of *TD 1999/D8 - Income tax: interest withholding tax exemption under section 128F of the Income Tax Assessment Act 1936 - for the purposes of the third public offer test in paragraph 128F(3)(c)(a) what is required to establish that a debenture has been offered for issue as a result of being accepted for listing? (b) does the issue of a debenture satisfy the public offer test if the listing of the debenture by a stock exchange takes place following the issue where an agreement exists with the dealer, manager or underwriter requiring listing to take place?*

This document has been finalised by TD 1999/15.

Australian Taxation Office

Draft Taxation Determination

TD 1999/D8

Draft Taxation Determination

Income tax: interest withholding tax exemption under section 128F of the *Income Tax Assessment Act 1936* – for the purposes of the third public offer test in paragraph 128F(3)(c)

(a) what is required to establish that a debenture has been offered for issue *as a result of being accepted for listing*?

(b) does the issue of a debenture satisfy the public offer test if the listing of the debenture by a stock exchange takes place following the issue where an agreement exists with the dealer, manager or underwriter requiring listing to take place?

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. It is accepted that a debenture has been *offered for issue as a result of being accepted for listing* where:

   (i) an application is made for the debenture, or a tranche or series of debentures that includes the debenture, or the programme under the debenture or such tranche or series is issued, to be admitted to, or accepted for, listing on a stock exchange whether or not subject to conditions; and

   (ii) the company has previously entered into an agreement with its dealer, manager or underwriter that requires the company to seek such a listing and to endeavour to maintain the listing.

2. It is expected an application would be made and the debenture be admitted to, or accepted for, listing as soon as practicable after the issue of the debenture.

3. No further evidence is generally required to establish the debenture is offered for issue as a result of and it being accepted for listing.

4. It is accepted that debentures would satisfy the third public offer test where the company has agreed with its dealers, managers, or underwriters to have the debentures listed on a stock exchange following issue, and the debentures are so listed following the issue.

Your comments

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

Contact officer: George Montanez
Email: George.Montanez@ato.gov.au
Telephone: (02) 6216 1582
Facsimile: (02) 6216 1509
Address: Mr George Montanez
International Tax Division
Australian Taxation Office
P O Box 900
Civic Square ACT 2608.

Commissioner of Taxation
27 January 1999

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/D9; TD 1999/D10; TD 1999/D11; TD 1999/D12; TD 1999/D13; TD 1999/D14; TD 1999/D15; TD 1999/D16; TD 1999/D17; TD 1999/D18; TD 1999/D19

Subject references:

Legislative references:

ITAA 128F; ITAA 128F(3)(c)

Case references:

ATO References:
NO 97/6464-0; 99/658-1
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