TD 2001/D1 - Income tax: which benchmark interest rate does a private company with a substituted accounting period in lieu of the year of income ending on 30 June use for the purposes of Division 7A of Part III of the Income Tax Assessment Act 1936 ('the Act')?

This cover sheet is provided for information only. It does not form part of *TD 2001/D1 - Income tax: which benchmark interest rate does a private company with a substituted accounting period in lieu of the year of income ending on 30 June use for the purposes of Division 7A of Part III of the Income Tax Assessment Act 1936 ('the Act')?*

This document has been finalised by TD 2001/18.

Draft Taxation Determination

Income tax: which benchmark interest rate does a private company with a substituted accounting period in lieu of the year of income ending on 30 June use for the purposes of Division 7A of Part III of the *Income Tax Assessment Act 1936* ('the Act')?

Preamble

Draft Taxation Rulings (DTRs) represent the preliminary, though considered, views of the Australian Taxation Office. DTRs may not be relied on by taxation officers, taxpayers and practitioners. It is only final Taxation Rulings that represent authoritative statements by the Australian Taxation Office of its stance on the particular matters covered in the Ruling.

1. The benchmark interest rate for the purposes of sections 109N and 109E of the Act for a private company with a substituted accounting period in lieu of the year of income ending on 30 June is the Indicator Lending Rates - Bank variable housing loans interest rate last published by the Reserve Bank of Australia before the start of the private company's substituted accounting period.

2. A private company may, with the leave of the Commissioner, adopt an accounting period ending on some date other than 30 June, i.e., a 'substituted accounting period'.

3. Where the Commissioner has granted such leave to a private company, that substituted accounting period becomes the private company's year of income.

4. In the case of a private company with a substituted accounting period, references in sections 109E and 109N to a 'year of income' refer to that substituted accounting period.

5. The applicable benchmark interest rates will be available on the ATOassist website (www.ato.gov.au).

6. Determinations have been issued which set out the benchmark interest rates applicable for years of income commencing on 1 July 1998 and 1 July 1999. The actual benchmark interest rate applicable in relation to private companies with substituted accounting periods may have differed from the rates set out in these determinations.

7. These determinations only apply to income years commencing on 1 July. However, they may have contributed to taxpayers adopting the stated rate in relation to private companies with substituted accounting periods. As a consequence, the rates stated in these determinations will be accepted as the applicable benchmark interest rate in relation to private companies with substituted accounting periods for the period in lieu of the year of income commencing on 1 July where it is more favourable to taxpayers to do so.

Examples

8. For a company with a substituted accounting period commencing on 1 October in lieu of the preceding 1 July, the benchmark interest rate for the purposes of sections 109N and 109E of the Act is the rate last published before 1 October.

9. For a company which adopts a substituted accounting period commencing on 1 April in lieu of the succeeding 1 July, the benchmark interest rate for the purposes of sections 109N and 109E of the Act is the rate last published before 1 April.

Your comments

10. We invite you to comment on this Draft Taxation Determination. We are allowing 4 weeks for comments before we finalise the Determination. If you want your comments considered, please provide them to us within this period.

Comments Date: **9 Feburary 2001**
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Commissioner of Taxation
10 January 2001

Previous draft:
Not previously issued in draft form.

Related Rulings:
TR 92/20; TD 1998/22; TD 1999/39; TD 2001/1

Subject references:
- deemed dividends
- benchmark interest rate
- private company distributions
- substituted accounting period

Legislative references:
- ITAA 1936 Part III Division 7A
- ITAA 1936 109E
- ITAA 1936 109N

ATO references:
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