


PR 2007/67A - Addendum - Income tax: tax consequences of investing in the Commonwealth Bank Protected Portfolio Loan

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Addendum

Product Ruling

Income tax: tax consequences of investing in the Commonwealth Bank Protected Portfolio Loan

This Addendum amends Product Ruling PR 2007/67 to incorporate and reflect amendment to Division 247 of the *Income Tax Assessment Act 1997* and Division 247 of the *Income Tax (Transitional Provisions) Act 1997*, to adjust the benchmark interest rate used to determine the cost of capital protection on a capital protected borrowing from the Reserve Bank of Australia's (RBA's) Indicator Lending Rate for Personal Unsecured Loans to the RBA's Indicator Lending Rate for Standard Variable Housing Loans plus 100 basis points.

PR 2007/67 is amended as follows:

1. Subparagraph 17(a)

Omit the subparagraph; substitute:

- (a) The PPL interest charge reduced by an amount reasonably attributable to the cost of capital protection worked out under step 3 of the method statement in subsection 247-20(3) of the *Income Tax Assessment Act 1997* (ITAA 1997) or subsection 247-75(1) of the *Income Tax (Transitional Provisions) Act 1997* (IT(TP)A 1997), as applicable, will be deductible under section 8-1 of the ITAA 1997.
- (i) Where the Investor enters into the PPL on or after 1 July 2007 but at or before 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008, under subsection 247-75(1) of the IT(TP)A 1997 the amount reasonably attributable to the cost of capital protection under Division 247 of the IT(TP)A 1997 in an income year is the amount by which the PPL interest charge exceeds:

- where interest is charged on the PPL from the Bank at a fixed rate for all or part of the term of the PPL and that fixed rate is applicable to the PPL for all or part of the income year, the amount of the PPL multiplied by the Reserve Bank of Australia's Indicator Rate for Personal Unsecured Loans – Variable Rate (the 'personal unsecured loan rate') at the time when the PPL interest charge is first incurred during the term of the PPL, or the relevant part of the term (subsection 247-75(2) of the IT(TP)A 1997); and
 - where interest is charged on the PPL from the Bank at a variable rate for all or part of the term of the PPL and a variable rate is applicable to the PPL for all or part of the income year, the amount of the PPL multiplied by the average of the personal unsecured loan rates published by the Reserve Bank of Australia during the term of the PPL, or the relevant part of the term (subsection 247-75(3) of the IT(TP)A 1997).
- (ii) Where the Investor enters into the PPL after 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008 and on or before 30 June 2008, under subsection 247-20(3) of the ITAA 1997, the amount reasonably attributable to the cost of capital protection under Division 247 of the ITAA 1997 in an income year is the amount by which the PPL interest charge exceeds:
- where interest is charged on the PPL from the Bank at a fixed rate for all or part of the term of the PPL and that fixed rate is applicable to the PPL for all or part of the income year, the amount of the PPL multiplied by the sum of the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans and 100 basis points (the 'adjusted loan rates') at the time when the PPL interest charge is first incurred during the term of the PPL, or the relevant part of the term (subsections 247-20(4) and (5)); and

- where interest is charged on the PPL from the Bank at a variable rate for all or part of the term of the PPL and a variable rate is applicable to the PPL for all or part of the income year, the amount of the PPL multiplied by the average of the adjusted loan rates published by the Reserve Bank of Australia during those parts of the income year when the PPL is at a variable rate (subsection 247-20(5) and (5A)).

2. Paragraph 26

Omit the paragraph; substitute:

26. Division 247 of the IT(TP)A 1997 sets out a methodology for reasonably attributing the cost of capital protection incurred by a borrower under a capital protected borrowing entered into on or after 1 July 2007 but at or before 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008 (section 247-75). Division 247 of the IT(TP)A 1997 ignores any amount which is not in substance for capital protection or interest in calculating the cost of capital protection, pursuant to subsection 247-75(1) of the IT(TP)A 1997.

26A. Division 247 of the ITAA 1997 sets out a methodology for reasonably attributing the cost of capital protection incurred by a borrower under a capital protected borrowing entered into after 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008 (section 247-20). Division 247 of the ITAA 1997 ignores any amount which is not in substance for capital protection or interest in calculating the cost of capital protection, pursuant to subsection 247-20(3) of the ITAA 1997.

3. Paragraph 27

Omit the paragraph; substitute:

27. Where an Investor enters into a PPL on or after 1 July 2007 but at or before 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008, the amount reasonably attributable to the cost of capital protection is worked out under the method statement in subsection 247-75(1) of the IT(TP)A 1997, as set out in paragraph 17(a)(i) of this Ruling.

27A. Where an Investor enters into a PPL after 7.30 pm by legal time in the Australian Capital Territory on 13 May 2008 and on or before 30 June 2008, the amount reasonably attributable to the cost of capital protection is worked out under the method statement in subsection 247-20(3) of the ITAA 1997, as set out in paragraph 17(a)(ii) of this Ruling.

4. Paragraph 28

Omit the paragraph; substitute:

28. As there is no separate charge payable by an Investor in a PPL for the Put Option, the cost of capital protection is only that amount worked out under subsection 247-75(1) of the IT(TP)A 1997 or subsection 247-20(3) of the ITAA 1997, as applicable and as set out in paragraphs 17(a)(i) and 17(a)(ii) of this Ruling respectively.

5. References

Insert:

- ITAA 1997 8-1
- ITAA 1997 Div 247
- ITAA 1997 247-20
- ITAA 1997 247-20(3)
- ITAA 1997 247-20(4)
- ITAA 1997 247-20(5)
- ITAA 1997 247-20(5A)
- IT(TP)A 1997 Div 247
- IT(TP)A 1997 247-75
- IT(TP)A 1997 247-75(1)
- IT(TP)A 1997 247-75(2)
- IT(TP)A 1997 247-75(3)

This Addendum applies on and from 27 June 2007.

Commissioner of Taxation
2 November 2011

ATO references

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