

# ***PR 2008/55A1 - Addendum - Income tax: deductibility of interest incurred on borrowings related to the Merrill Lynch Structured Equity Loan***

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## Addendum

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### Product Ruling

#### Income tax: deductibility of interest incurred on borrowings related to the Merrill Lynch Structured Equity Loan

This Addendum amends Product Ruling PR 2008/55 to incorporate and reflect amendment to Division 247 of the *Income Tax Assessment 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 2008/55 is amended as follows:**

**1. Paragraph 14**

Omit the paragraph; substitute:

14. Entities who are considering participating in the scheme are advised to confirm with their taxation adviser that changes in the law have not affected this Product Ruling since it was issued.

**2. Paragraph 15**

Omit the paragraph.

### 3. Subparagraph 17(b)

Omit the subparagraph; substitute:

- (b) under subsection 247-20(3) of the ITAA 1997, the amount reasonably attributable to the cost of capital protection in an income year is the amount by which the interest incurred on the Loan in the income year exceeds an amount representing the interest that would have been incurred for the income year on the Loan if the following interest rates applied:
- where the interest rate incurred on the Loan is at a fixed rate for all or part of the term of the Loan and that fixed rate is applicable to the Loan for all or part of the income year, the relevant rate is the sum of the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans and 100 basis points (the 'adjusted loan rate') at the time the first of the amounts of interest on the Loan is incurred during the term of the Loan, or the relevant part of the term of the Loan (subsections 247-20(4) and (5)); and
  - where the interest rate incurred on the Loan is at a variable rate for all or part of the term of the Loan and a variable rate is applicable to the Loan for all or part of the income year, the relevant rate is the average of the adjusted loan rates applicable during those parts of the income year when the Loan is at a variable rate (subsections 247-20(5) and (5A));

### 4. References

Insert the legislative references:

- ITAA 1997 247-20(4)
- ITAA 1997 247-20(5)
- ITAA 1997 247-20(5A)

This Addendum applies on and from 4 June 2008.

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**Commissioner of Taxation**

7 September 2011

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ATO references

NO: 1-3CCE2SK

ISSN: 1441-1172

ATOlaw topic: Income tax ~~ Product ~~ finance