

# ***PR 2009/21A2 - Addendum - Income tax: tax consequences of investing in ANZ Protected Equity Leveraged Solutions II***

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## Addendum

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### Product Ruling

### Income tax: tax consequences of investing in ANZ Protected Equity Leveraged Solutions II

This Addendum amends Product Ruling PR 2009/21 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 2009/21 is amended as follows:**

##### **1. Paragraph 11**

Omit the paragraph; substitute:

11. Although this Product Ruling deals with the income tax laws enacted at the time it was issued, later amendments may impact on this Product Ruling. Any such changes will take precedence over the application of this Product Ruling and, to that extent, this Product Ruling will have no effect.

##### **2. Paragraph 12**

Omit the paragraph; substitute:

12. 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.

### 3. Subparagraph 14(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 charge under the Loan exceeds:
- where interest is charged on the Loan from ANZ 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 amount of the Loan 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 rate') at the time when the interest charge is first incurred during the term of the Loan, or the relevant part of the term (subsections 247-20(4) and (5)); and
  - where interest is charged on the Loan from ANZ 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 amount of the Loan multiplied by 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. Paragraph 24

Omit the subparagraph; substitute:

24. There is a cost of capital protection in an income year if the aggregate of the interest on the amount borrowed exceeds the total interest that would have been incurred for the year if the interest rate on the amount borrowed had been the adjusted loan rate (as determined when the interest rate is fixed or, if the interest rate is variable, the average of the adjusted loan rates during the variable interest rate period).

### 5. 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 29 April 2009.

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**Commissioner of Taxation**

21 September 2011

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ATO references

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