

PR 2010/25A1 - Addendum - Income tax: deductibility of interest in relation to investment in units in the Macquarie Flexi 100 Trust offered under the PDS dated 13 September 2010 and issued on or before 30 June 2011 - limited recourse borrowings

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Addendum

Product Ruling

Income tax: deductibility of interest in relation to investment in units in the Macquarie Flexi 100 Trust offered under the PDS dated 13 September 2010 and issued on or before 30 June 2011 – limited recourse borrowings

This Addendum amends Product Ruling PR 2010/25 to incorporate:

- 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; and
- the Supplementary Product Disclosure Statement dated 6 April 2011 as a scheme document.

PR 2010/25 is amended as follows:

1. Paragraphs 15 and 16

Omit the paragraphs and associated heading.

2. Paragraph 18

(a) Omit subparagraph 18(c); substitute:

- (c) under subsection 247-20(3), the amount reasonably attributable to the cost of capital protection under Division 247 in an income year is the amount by which the expense incurred for interest on the Limited Recourse Investment Loan exceeds:

- where the interest rate charged by the Loan Provider is 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 the interest rate charged by the Loan Provider is 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));

(b) Insert:

- (na) Investors are deemed under subsection 272-5(3) of Schedule 2F to the ITAA 1936 to have fixed entitlements to all of the income and capital of the Fund.

3. Paragraph 19

(a) Omit the first dot point; substitute:

- Application for a Product Ruling as constituted by documents and correspondence received on 27 July 2010, 6 August 2010, 13 August 2010, 24 August 2010, 10 September 2010, 23 September 2010, 27 October 2010, 29 October 2010, 3 November 2010, 29 March 2011 and 11 April 2011;

(b) In the second dot point, omit:

Supplementary Product Disclosure Statement
(SPDS) dated 2 November 2010

substitute:

Supplementary Product Disclosure Statements
(SPDS) dated 2 November 2010 and 6 April 2011

4. Paragraph 22

At the end of the table; insert:

Australian Concentrated Equity	a fixed basket of 13 shares with large market capitalisation listed on the ASX
Commodities Select	an equally weighted basket of 5 commodities which will be reviewed and reset annually
US Equity	the S&P 500 Index
BRIC Equity	an equally weighted basket comprising the iShares MSCI Brazil Index Fund, Market Vectors Russia ETF, S&P CNX Nifty Index and the Hang Seng H-Share Index ETF

5. Paragraph 32

Delete subparagraph 32(c).

6. Detailed contents list

Omit:

Proposed amendments to Division 247

15

7. References

Insert the legislative references:

- ITAA 1936 272-5(3)
- ITAA 1997 247-20(5A)

This Addendum applies on and from 17 November 2010.

Commissioner of Taxation

30 November 2011

ATO references:

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