

# Guide to Taxation of Westpac Vanilla Instalment Equity Warrants





# 1. Taxation of capital protected borrowings

Division 247 applies to certain capital protected borrowings entered into on or after 1 July 2007.

Division 247 operates to ensure that part of the cost of a capital protected product that is attributable to the capital protection feature is not deductible as interest or otherwise (but instead forms part of the capital gains tax cost base of the relevant asset). It effectively caps an investor's interest deductions by reference to a benchmark rate of interest. To the extent that the interest paid by the investor on a capital protected loan exceeds what would have been incurred if the benchmark rate had applied, the excess is not deductible.

The benchmark interest rate is the Reserve Bank of Australia's (**RBA**) Indicator Lending Rate for Standard Variable Housing Loans – Investor, plus 100 basis points (1%).

| Month          | Benchmark Rate |
|----------------|----------------|
| July 2021      | 6.098%         |
| August 2021    | 6.098%         |
| September 2021 | 6.098%         |
| October 2021   | 6.098%         |
| November 2021  | 6.098%         |
| December 2021  | 6.098%         |

On 11 September 2015 the Reserve Bank of Australia published, for the first time, two indicator lending rates for standard variable housing loans – one for Owner-occupier and one for Investor loans. These indicator lending rates replaced the Standard Variable Housing Loans indicator rate that is referred to in the capital protected borrowing rules. The Australian Taxation Office released Taxation Determination TD 2016/10 (the **Determination**) on 22 June 2016 which expresses the Commissioner of Taxation's view that the indicator lending rate that should be used for the purpose of the capital protected borrowing rules is the RBA's Indicator Lending Rate for Standard Variable Housing Loans – Investor. The Determination applies from 11 September 2015. The table above reflects the Commissioner's view in the Determination.

## 2. Purchasing Westpac Vanilla Instalment Equity Warrants during the 2021–2022 financial year

Your Westpac Tax Statement shows the amount of prepaid interest and (notional) put option cost you are treated as having incurred as a result of the application of Division 247 at the time of purchasing your Westpac Vanilla Instalment Equity Warrants. The following table sets out the income tax treatment of the amounts in your Westpac Tax Statement.

|   |  |
|---|--|
| <b>Interest (less any (notional) put option cost)</b> | Deductible*  |
| <b>(Notional) put option cost</b>                     | Non-deductible, but is added to the cost base of your (notional) put option. |

\* All Westpac Vanilla Instalment Equity Warrants matured during 2022 financial year and therefore all remaining prepaid interest is deductible in the 2021-2022 financial year.

The allocation of amounts incurred between interest and (notional) put option cost on the Tax Statement has been determined by the application of Division 247 as follows:

## Primary market purchases.

For primary market purchasers, Westpac Vanilla Instalment Equity Warrants have a separately identifiable Initial Interest Amount.

Primary market purchases of those Westpac Vanilla Instalment Equity Warrants are likely to have an amount of the Initial Interest Amount attributed to the cost of the capital protection as determined by the application of Division 247. Where this is the case, the interest deductions shown on the Tax Statement have been appropriately reduced and the reduction amounts are disclosed as (notional) put option cost.

## Secondary market purchases.

If you acquire your Westpac Vanilla Instalment Equity Warrants on the secondary market, there is no itemised cost associated with the payment of an Initial Interest Amount.

Broadly, the purchase price paid by the investor to acquire their Westpac Vanilla Instalment Equity Warrants in the secondary market includes an amount that is attributable to the Initial Interest Amount. The Initial Interest Amount is calculated as the purchase consideration for the warrant plus the Loan Amount less the market price of the Underlying Security.

The amount of the Initial Interest Amount (if any) attributable to the cost of capital protection will be determined by the application of Division 247. Division 247 will treat any amount above what would have been paid if the benchmark interest rate had applied as attributable to the cost of capital protection. The amounts shown as deductible prepaid interest and (notional) put option cost in your Tax Statement have been determined by the application of Division 247.

The following table sets out how the interest and notional put option amounts in your Westpac Tax Statement have been determined:

|                                      | Deductible Interest*   | Notional Put Option  |
|--------------------------------------|--|--|
| <b>Primary market acquisitions</b>   | Is the lesser of: <ul style="list-style-type: none"> <li>the actual amount of Initial Interest Amount charged by Westpac; and</li> <li>the amount of interest that would have been incurred if the applicable benchmark interest rate had applied to the loan.</li> </ul>          | Is the excess (if any) of the actual Initial Interest Amount over the amount of interest that would have been incurred if the benchmark interest rate had applied to the loan.                                       |
| <b>Secondary market applications</b> | Is the lesser of: <ul style="list-style-type: none"> <li>the actual acquisition price attributable to the Initial Interest Amount; and</li> <li>the amount of interest that would have been incurred if the applicable benchmark interest rate had applied to the loan.</li> </ul> | Is the excess (if any) of the actual acquisition price attributable to the Initial Interest Amount over the amount of interest that would have been incurred if the benchmark interest rate had applied to the loan. |

\* Deductible Interest – we have assumed that you expect to derive assessable income other than capital gains from the investment acquired using the loan. Refer to the Tax Section of the Westpac Vanilla Instalment Equity Warrants Product Disclosure Statement for more details.

## Timing of deduction for interest.

The deduction for the interest will generally be required to be spread over the period to which the interest relates.

As the Completion Dates for all Westpac Vanilla Instalment Equity Warrants were in the 2021-2022 financial year, the remaining prepaid interest is fully deductible in the 2021-2022 financial year.

## Cost Base of Underlying Securities.

Cash applicants and on-market purchasers will, for CGT purposes, be considered to have acquired a beneficial interest in the respective Underlying Securities of their Westpac Vanilla Instalment Equity Warrants although the legal title to the Underlying Securities will be held by the Security Trustee.

Your cost base in the Underlying Securities depends on how you acquired your Westpac Vanilla Instalment Equity Warrants:

| Cash applicant  | Securityholder applicant  | Rollover   | On-market purchase   |
|---|---|--|--|
| The acquisition price of the Underlying Security is stated in your investment confirmation and in your Westpac Tax Statement. | Your cost base in the Underlying Securities prior to converting them to Westpac Vanilla Instalment Equity Warrants. | Your cost base in the Underlying Securities from your previous series of Westpac Vanilla Instalment Equity Warrants. | Market Value of the Underlying Securities at the time of acquisition of your Westpac Vanilla Instalment Equity Warrants. As an estimate we provide you with the closing Market Value of the Underlying Securities in your Westpac Tax Statement. |

## 3. Disposal

### Sell Instalment on the ASX.

If you dispose of your Westpac Vanilla Instalment Equity Warrants on the ASX, you will receive a refund of prepaid interest as set out on your Westpac Tax Statement. The interest refund is assessable to you in the year you sell your Westpac Vanilla Instalment Equity Warrants to the extent that the interest was previously claimed as an allowable deduction. You must also determine the capital gains tax consequences for both the Underlying Securities and your (notional) put option.

### Underlying Securities.

|                         |   |
|-------------------------|---|
| <b>Capital proceeds</b> | Instalment sale price<br>+ Completion Payment<br>- interest refund<br>- proceeds allocated to the (notional) put option (see below) |
| <b>Cost base</b>        | See section 2 above   |
| <b>Capital gain</b>     | Where the capital proceeds > the cost base, you will make a capital gain, if not, a capital loss may arise                          |

### (Notional) put option.

|                         | If Market Value of Underlying Securities   | Capital Proceeds on (notional) put option   |
|-------------------------|--|---|
| <b>Capital proceeds</b> | > Completion Payment   | Instalment sale price<br>+ Completion Payment<br>- Interest refund<br>- Market value of underlying security |
|                         | < Completion Payment   | Instalment sale price<br>- Interest refund  |
| <b>Cost base</b>        | See section 2 above.   |   |
| <b>Capital gain</b>     | Where the capital proceeds > the cost base, you will make a capital gain, if not a capital loss may arise. |   |

Please note that for Westpac Vanilla Instalment Equity Warrants which do not have an explicit put option, any notional put option expires when the instalment is sold on the ASX. This may result in a capital loss equal to the cost base in the notional put option.

However, the capital proceeds received for the disposal of the Underlying Securities must be increased by an amount equal to the capital proceeds on the notional put option as shown in your statement.

If you are an individual or trustee, you should be entitled to the capital gains tax discount (50% for individuals and trusts, 33% for complying superannuation funds) if you have held your Westpac Vanilla Instalment Equity Warrants (or in the case of a Securityholder Applicant, the underlying shares) for at least 12 months.

## Make Completion Payment.

If you provided Westpac with a valid Completion Payment Notice by 5pm on the Completion Date, you would have received legal title to one underlying share per warrant. This should not have given rise to the disposal of the Underlying Parcel for the purposes of the CGT provisions. On making the Completion Payment however, you would have realised a capital loss on the lapsing of the (Notional) Put Option for an amount equal to its reduced cost base.

Capital losses can generally be offset against other capital gains derived during the income year or against future year capital gains.

*Note: In the event that an acquisition or disposal occurs at a time when the underlying security price is less than the Completion Payment, investors should seek independent taxation advice specific to their circumstances as the taxation consequences set out in Sections 2 and 3 above may require modification.*

## 4. Dividends, Distributions and Attributions

Dividends and trust distributions paid by the Underlying Securities are assessable to you. Income attributed by an Underlying Security that is an Attribution Managed Investment Trust (**AMIT**) is also assessable to you even if part or all of it is not paid in cash.

Where dividends are wholly or partially “franked” and you are a “qualified person” in relation to the dividends, you are required to include an additional amount (representing the franking credits) in your assessable income and are entitled to a tax offset equal to this additional amount. The tax offset will reduce your tax liability and, in certain circumstances, an individual, superannuation fund or tax exempt entity may be entitled to a tax refund.

Where a trust distribution/attribution includes an amount on which the trustee has paid foreign income tax, you may be entitled to the foreign income tax offset (**FITO**) if the foreign income tax is paid in respect of an amount that is included in your assessable income. Where only a portion of the amount in respect of which foreign income tax has been paid is included in your assessable income (e.g. due to the operation of the CGT discount), only that portion of the foreign income tax may count towards the FITO.

From 1 July 2019, the new component of Non-concessional MIT income (**NCMI**) and Excluded from Non-concessional MIT income (**ENCMI**) are introduced. This impacts foreign investors’ access to tax concessions by increasing Managed Investment Trust (**MIT**) withholding tax rate on NCMI to 30%. The withholding tax rate on ENCMI and other MIT income remain the same at 15% for most foreign investors in an Exchange of Information country or 30% for foreign investors in a non-Exchange of Information country. The amount that is attributable to NCMI and ENCMI, if any are disclosed in your Investor Annual Income Summary. Trusts and partnerships must disclose these components in their income tax return.

If the Underlying Securities are or include units in an AMIT, listed trust, exchange traded fund (**ETF**) or stapled security (e.g. STW), attributions from the AMIT and distributions from the trust, ETF or stapled security should have the same character as the amounts derived by the AMIT, trust, ETF or stapled security (e.g. they may include capital gains, foreign tax credits or franked dividends). The tax composition of attributions from AMITs, distributions from trusts, ETFs or stapled securities is contained in the Annual Distribution and Attribution Statement for the relevant AMIT, trust, ETF or stapled security. This statement will be issued by Westpac once the underlying issuer has released these details. You should refer to the Tax section of the relevant PDS for further details on the tax treatment of these attributions or distributions.

## Things you should know

This Guide is provided for information purposes only and does not constitute taxation advice. Westpac Banking Corporation does not provide taxation advice and we recommend that you speak to your professional taxation adviser when preparing your income tax return. This Guide is based on current taxation laws and interpretations and has been prepared with the assistance of KPMG. The information contained in this Guide is current as at 8 August 2022.





**Things you should know:** Westpac Banking Corporation ABN 33 007 457 141, AFSL 233714 ("Westpac") is the issuer of the Westpac Vanilla Instalment Equity Warrants Product Disclosure Statement ('PDS'). You should consider the PDS before making any decision to invest. Westpac has not taken into consideration the financial situation, investment objectives or particular needs of any particular investor and recommends that investors consider its appropriateness and seek independent advice before acting on this information. The information contained in this document is current at the date of publication but remains subject to change. Neither Westpac nor any related body corporate, director, officer or employee, warrants or represents that this information is free from error or omission, or is suitable for your intended use. Subject to any terms implied by law and which cannot be excluded, Westpac accepts no responsibility for any loss, damage, cost or expense (whether direct or indirect) incurred by you as a result of any error, omission or misrepresentation in any information in this document. Capitalised terms used in this document have the same meaning given to them in the PDS unless the context otherwise requires.

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