

# Guide to Taxation.

**For the Westpac Protected Equity  
Loan facility (Westpac PEL).**

For the financial year ended 30 June 2020.



## General.

This guide is designed to provide investors with a general outline of the likely tax consequences in relation to interest paid and dividends, attributions and distributions derived from investing in a Westpac PEL. Investors should be aware that the actual tax consequences may differ depending on their individual circumstances. This guide should not be interpreted as tax advice to any investor, and has been prepared without taking account of your objectives, financial situation or needs. Because of this, before acting on this information, consider its appropriateness, and seek independent advice as necessary.

This guide is only relevant for a person who:

- is an Australian resident taxpayer including individuals, companies, trusts and complying superannuation funds who is not subject to the TOFA regime in Division 230 of the *Income Tax Assessment Act 1997 (1997 Act)*;
- holds their interest in the Securities on capital account and does not, for example, consider an investor who holds their interest in the Securities in the course of a business that involves trading in financial instruments or securities;

- enters into the Westpac PEL and acquires the Securities for the purposes of deriving assessable income. In this regard, it is expected that assessable dividends and/or trust distributions or attributions will be received by Investors in relation to the Securities; and
- where the Securities are units in a trust, the trust will have 300 or more beneficiaries and is a widely held unit trust for the purposes of the provisions of the tax law dealing with deductions for prepaid interest.

Westpac does not provide taxation advice and Investors should seek professional taxation advice when preparing their income tax return. For further information in relation to the tax implications of this product, please refer to the Tax Opinion included in the relevant Product Disclosure Statement (**PDS**).

From 2015, exploration companies may distribute exploration credits to shareholders under an incentive program known as the "Exploration Development Incentive". Australian resident shareholders who receive these credits will be entitled to a refundable tax offset. If you have received exploration credits either directly from an exploration company you have invested in or indirectly from a managed fund that has invested in an exploration company, you will receive a separate letter from us confirming the amount.

## Interest Deductibility.

Division 247 of the 1997 Act applies to certain capital protected borrowings entered into on or after 1 July 2007. The amount reasonably attributable to the cost of capital protection will effectively reduce the amount of interest which would otherwise be deductible for investors. Division 247 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 (**Benchmark Rate**) had applied, the excess is not deductible (but instead will form part of the capital gains tax cost base of their put option).

The Benchmark Rate is currently the Reserve Bank of Australia's (**RBA**) Indicator Lending Rate for Standard Variable Housing Loans – Investor, plus 100 basis points (1%) as set out in the table below.

To the extent you have used the Loan to acquire securities for the purpose of producing assessable income other than capital gains, the deductible interest is the lesser of:

- The actual amount of interest charged by Westpac (whether payable annually in advance or monthly in arrears or payable on any applicable interest loan); and
- The amount of interest that would have been incurred if the applicable Benchmark Rate set out in the table below had applied to the loan.

The applicable Benchmark Rate should be the Benchmark Rate at the time of commencement of the relevant Fixed Rate or Annually Resetting Rate.

Month	Benchmark rate	Month	Benchmark rate	Month	Benchmark rate
July 2019	6.522%	November 2019	6.378%	March 2020	6.098%
August 2019	6.522%	December 2019	6.378%	April 2020	6.098%
September 2019	6.522%	January 2020	6.378%	May 2020	6.098%
October 2019	6.378%	February 2020	6.378%	June 2020	6.098%

The rates set out above are based on the indicator rates originally published for the relevant months (rather than the revised rates).

On 11 September 2015 the Reserve Bank of Australia (**RBA**) 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.

Where you have elected to pay the Capital Protection Fee as a component of the interest rate, the interest amount in your Westpac PEL Loan Annual Statement includes interest and the amount reasonably attributable to the cost of capital protection.

In these circumstances, the amount reasonably attributable to the cost of capital protection for an income year under Division 247 in respect of the Loan, which will form part of the cost of your Put Option, should be equal to the excess (if any) of:

1. The interest for that income year (e.g. whether payable annually in advance, or monthly in arrears, or payable on the Interest Loan); over,
2. an amount (the **Benchmark Amount**) that would have been incurred if the applicable Benchmark Rate had applied to the loan.

Where you elected to pay the Capital Protection Fee upfront at the time of entering the Westpac PEL, that amount will form part of the cost of your Put Option. Generally the interest amount in your Westpac PEL Loan Annual Statement does not include an amount reasonably attributable to the cost of capital protection. However, in the event that you are also denied a deduction for a portion of interest as a result of Division 247, then that amount would also be included in the cost of your Put Option.

In the event that an acquisition 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 this statement may require modification.

## Timing of deduction for prepaid interest.

For certain individuals (who are not carrying on a business) and small business taxpayers, the prepaid interest that is not reasonably attributable to the cost of capital protection should be deductible in full in the income year in which the interest payment is made if the interest period is 12 months or less and ends before the end of the following income year (which, relevantly, should be the case where the Interest is payable annually in advance).

For other investors, the deduction for the interest may be required to be apportioned over the period to which the interest relates.

Investors should obtain independent legal and taxation advice in relation to the timing of any deduction for Interest which takes into account the relevant Investor's individual facts and circumstances.

## Dividends, Distributions and Attributions.

Dividends and trust distributions paid with respect to 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. You may be denied the franking credits in respect of distributions received where you have not held the interest in the underlying securities 'at risk' for a continuous period of 45 days (or 90 days if the shares are preference shares) over the prescribed period. You should seek your own taxation advice in relation to the potential application of these provisions.

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 Non-concessional MIT income (**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. For financial year 2019/2020, the amount that is attributable to NCMI and ENCMI are included in the Trust Distribution – Other Australian income and capital gains tax. Trusts and partnerships must disclose these components in their income tax return. For Trusts, partnerships and foreign resident investors, your Annual Investor Income summary will have a breakdown of the NCMI income and ENCMI income.

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 your Investor Annual Income Summary. 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 28 August 2020.



Important Information: The Westpac Protected Equity Loan facility (Westpac PEL) is offered by Westpac Banking Corporation (ABN 33 007 457 141, AFSL 233714) (Westpac, we, or us). The Current Product Disclosure Statement (PDS) relating to the Westpac PEL is available from [westpac.com.au/pel](http://westpac.com.au/pel), or by contacting Westpac Structured Investments on 1800 990 107 or [structured.investments@westpac.com.au](mailto:structured.investments@westpac.com.au). It is important that you consider the PDS before making any investment decision in relation to Westpac PEL. This Guide has been prepared without taking account of your objectives, financial situation or needs and therefore you should consider its appropriateness before acting on any of the information in it. 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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