



**Australian Government**  
**Australian Taxation Office**

## **ADMINISTRATIVE SOLUTION: PROXY FOR THE AUSTRALIAN DOLLAR LONDON INTERBANK OFFERED RATE (AUD LIBOR)**

### WHAT THIS ADMINISTRATIVE SOLUTION IS ABOUT

1. Section 160ZZZA of the *Income Tax Assessment Act 1936* (ITAA1936) enables the Australian branch of a foreign bank or foreign financial entity to claim a deduction on the notional interest payment arising from an intra-bank loan. The amount of the deduction is limited to the interest amount calculated by reference to the London Interbank Offered Rate (LIBOR).
2. AUD LIBOR is no longer quoted as of 31 May 2013. As a result, a proxy rate has been produced for the operation of section 160ZZZA of the ITAA 1936 in relation to Australian dollar notional intra-bank loans.

### ADMINISTRATIVE SOLUTION

#### ***PROXY RATES FOR AUD LIBOR FOR THE PURPOSE OF SECTION 160ZZZA OF THE ITAA 1936***

3. The Australian Taxation Office (ATO) and the Australian Financial Markets Association (AFMA) have agreed upon the following proxy rates for AUD LIBOR for the tenors for which LIBOR continues to be published.

<b>LIBOR</b>	<b>Proxy rate</b>
Overnight LIBOR	1 month BBSW
1 week LIBOR	1 month BBSW
1 month LIBOR	1 month BBSW + 50 bp
2 month LIBOR	2 month BBSW + 50 bp
3 month LIBOR	3 month BBSW + 50 bp
6 month LIBOR	6 month BBSW + 50 bp
12 month LIBOR	6 month BBSW + 80 bp

4. For the purpose of this Administrative Solution, "BBSW" represents the midpoint of the nationally observed best bid and best offer for AFMA Prime Bank Eligible Securities calculated as per the rules in Section 11.1 of the *BBSW Benchmark Rate General Conventions* found on the AFMA website.

**RELIANCE ON THIS ADMINISTRATIVE SOLUTION**

5. This document is not a public ruling and therefore cannot offer protection to the taxpayer under the law. The Commissioner accepts that taxpayers may rely on this administrative solution in assessing the extent to which their practices present any compliance risk.
6. Where a taxpayer follows this administrative solution in good faith and the Commissioner subsequently changes his view and/or this administrative solution is altered or withdrawn (whether by the Commissioner, change of law or otherwise), he will apply the principles set out under PS LA 2011/27 and not take action to apply any changed view of the law to past years or periods. In these instances any action in terms of applying the new view of the law, will only occur on a prospective basis.
7. Where a taxpayer departs from this administrative solution, the ATO's view of the taxpayer's level of compliance risk may increase.

**APPLICABLE PERIOD**

8. This is an interim administrative solution that applies for income years starting on or after 1 January 2013 and until:
  - a. a legislative solution is effected; or
  - b. in consultation with the AFMA, the ATO reassesses this interim administrative solution, determines this approach no longer has application and an alternative administrative solution is put in place. This will not occur to income years commencing prior to 1 January 2015.

**IMPLICATIONS ON WITHHOLDING TAX**

9. Interest withholding tax is payable under section 160ZZZJ of the ITAA 1936 on 50% of the amount of interest taken to be paid under section 160ZZZA of the ITAA 1936 (i.e. withholding tax is payable on the section 160ZZZA (of the ITAA 1936) interest deduction amount capped at the LIBOR available in the same currency of the borrowing). On this basis, withholding tax is not payable on non-deductible amounts in excess of the relevant LIBOR cap.
10. Accordingly, in relation to Australian dollar loans, those taxpayers who limit their deduction to an interest amount calculated with reference to the above administrative solution will not be liable to pay withholding tax on non-deductible amounts in excess of the administrative solution.

**CURRENCIES FOR WHICH LIBOR CONTINUES TO BE PUBLISHED**

11. LIBOR will continue to be published for the following currencies: CHF, EUR, GBP, JPY and USD. For those currencies, LIBOR continues to be published for the following tenors: Overnight, 1 week, 1 month, 2 months, 3 months, 6 months and 12 months.

12. Section 160ZZZA of the ITAA 1936 continues to operate in its current form for all notional intra-bank loans in the above listed currencies.