



Tax & Legal – News Alert



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Retraction of Proposed Amendments to Section 8E (Hybrid Equity Instruments)

What happened?

On **3 September 2025**, National Treasury announced that the proposal in the 2025 draft Taxation Laws Amendment Bill to amend the definition of “hybrid equity instrument” under section 8E of the Income Tax Act has been **withdrawn**.

Background

As highlighted in our [18 August 2025 Tax Alert](#) - the draft bill proposed a principle-based approach that would have aligned tax treatment with IFRS by treating instruments classified as liabilities for accounting purposes as hybrid equity instruments for tax. This would have replaced the current three-year redemption test, effectively intending to classify a financial instruments based on its substance rather than its legal form.

Why the retraction?

National Treasury cited:

- Concerns from stakeholders about broad and uncertain application;
- Risk to preference shares as a source of finance;
- Potential negative impact on existing transactions and investment flows.

So, what now?

- The **current section 8E rules remain in force**, including the three-year redemption test.
- Existing and planned preference share funding structures remain unaffected for now.
- National Treasury has indicated that **future reforms will follow consultation** with stakeholders to achieve a balanced outcome.

It is encouraging that National Treasury responded to stakeholder input by withdrawing the proposal even before the 12 September deadline for comments.

For more information and assistance, please contact:



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