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Board of Taxation

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7th January 2013

Att: Ms Louise Lucas
The Board of Taxation
c/- The Treasury
Langton Crescent
Canberra ACT 2600

Dear Board of Taxation

Re: Submission in respect of "Post-Implementation Review of Division 7A of Part III and Income Tax Assessment Act 1936"

I wish to make a submission in respect of the above named review.

The aim of my comments is to avoid the circumstances where small corporate or trust taxpayers inadvertently do not comply strictly with the requirements of Division 7A either because the interest rate is wrong, or no principal repayments to the debt are made, or repayments are not as large as should have been the case.

The consequences of such an error is an unfranked dividend which would more than likely destroy the cash flow and working capital of the small corporation or trust.

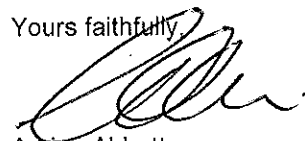
The answer should be that the Division 7A loan should automatically bear interest at the FBT rate, whether the interest be paid or not. Accordingly, on any ATO audit an assessment of that interest receivable by the small corporation or the trust would be taxable and the amount of interest payable would be deductible where the loan was made in respect of income pursuits; much the same as the otherwise deductible rule is for FBT.

There should be no requirement for a principal repayment because the interest payable to the small corporation or trust puts the small corporation or trust in the same position as it would have been in any commercial context. While interest at the prescribed rate is being charged on the loan, than there is no reason why such loan should be reduced.

The benefits of the above arrangement is that an unfranked dividend is unnecessary as the ATO receives the income tax payable on the interest receivable by the small corporation or trust.

Can you please acknowledge receipt of this submission.

Yours faithfully,



Adrian Abbott
Senior Chartered Accountant