

### Are You Borrowing Money From Your Company?

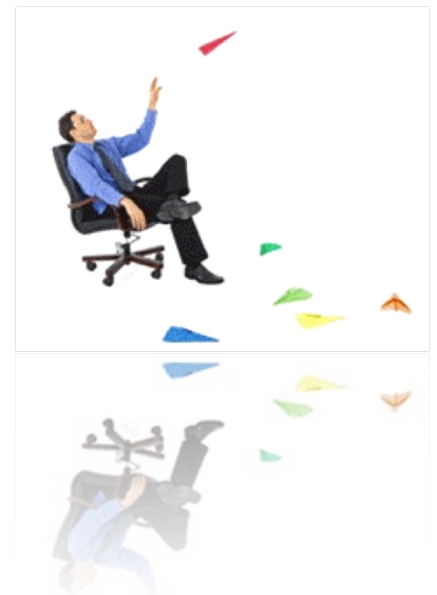
The Australian Government introduced Division 7A into the Tax Act some years ago. This Division essentially taxes a Shareholder on a loan made to that Shareholder by the company as an *Unfranked Dividend*. The effects of Division 7A can be partially avoided by entering into a written agreement to repay the loan and interest on that loan.

Recently, the Australian Taxation Office almost won a court case against a Shareholder of a company to whom that company owed funds and the Shareholder withdrew funds from their loan account from time to time to meet their personal expenses. The ATO's case was that the payments made on behalf of the Shareholder were a Fringe Benefit and should be taxed as a Fringe Benefit.

The major defense used against the ATO by the Shareholder withdrawing their own funds from the company was that the Shareholder had a *Shareholder Offset Agreement* in place to cover the payments made on their behalf.

It is clear that the ATO will seek to tax Shareholders with either a debit or credit loan account with a company by either the Division 7A route or the Fringe Benefit Tax route.

The answer to these challenges by the ATO is to have the correct paperwork in place within the company's records.



**Should you wish to discuss the position of the company loans, either to or from yourself, please call Sid Edwards, Senior Partner, at Abby Practice on 9476 0399 for a free initial discussion.**