Corp Reps
The Incorporation People
A division of Corporate Representatives
Pty Limited ABN 85 000 540 741

Suite 4301, 4 Daydream Street
Warriewood NSW 2102

Ph: 02 9999 3000
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www.corpreps.com.au
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IMPORTANT NOTICE TO ALL PROFESSIONAL ADVISERS

Division 7A Amnesty (loans to Shareholders)

In August 2007, the Australia Taxation Office issued Practice Statement Law Administration 2007/20 effectively giving taxpayers who had not complied with the requirements of Division 7A of Part III of the Income Tax Assessment Act in respect of the 2001-02 to 2006-07, an amnesty providing they take "corrective action" prior to 1st July 2008.

Division 7A deals with loans and payments made by companies out of profit. Certain loans and payments which have been made in those years which do not comply with the requirements of Division 7A would be treated as deemed dividends to the taxpayer.

In most cases "corrective action" means

- having in place a loan agreement that complies with the requirements of Section 109N;
- the taxpayer making a payment or payments equal to the total of minimum payments which would have been payable during the respective tax year.

It is important that all professional advisers inform their clients of the necessity to take this "corrective action" immediately to ensure that their clients are not severely disadvantaged as a result of not taking such "corrective action" prior 1st July 2008.

We are able to assist your clients in ensuring that they comply with the requirements of Division 7A prior 1st July 2008 and therefore to avoid the taxation penalties that would otherwise result.

Please telephone John Andrews or Colin Andrews on (02) 9999 3000.

Note& The full Practice Statement can be read on Tax Office website at
wwww.law.ato.gov/atolaw/index.htm

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IMPORTANT NOTICE

LOANS TO SHAREHOLDERS OF PRIVATE COMPANIES

Division 7A of Part III of the Income Tax Assessment Act will ensure that advances, loans and credits by private companies to shareholders will be treated as assessable dividends unless the loans or payments are excluded from Division 7A.

Loans or payments will be treated as excluded loans if they are covered by an appropriate loan agreement which provides for a maximum term, a minimum interest rate and minimum annual repayment as prescribed by Division 7A.

Taxation Determination TD 2004/86 provides however that where a private company includes in its constitution a loan clause which sets out the terms on which a loan is made by the company to a member which complies with the minimum rate of interest and maximum term of repayment as provided in Division 7A and it is agreed that the terms of the loan are as specified in the relevant loan clause in the constitution this will be sufficient to satisfy the requirements of a written agreement for the purposes of Division 7A.

All members of a private company who have loans made to them by their company should immediately examine their company's constitution to see whether it contains a loan clause to satisfy Division 7A and if not whether they have a separate loan agreement executed by them and the company.

If no loan clause or loan agreement exists, they should take urgent steps to either:

(a) have their company adopt a new constitution including a suitable loan clause and complete documentation in respect of each loan made to a shareholder or associate, or

(b) have a loan agreement prepared and executed by the company and themselves in respect of each loan.

We are able to supply a new constitution for adoption by the company including all related documentation at a cost of $192.50 (incl. GST). Documentation in respect of each loan can be supplied at a cost of $110 (incl. GST).

Alternatively we are able to supply at a cost of $176 (including GST) a solicitor prepared loan agreement drafted to suit your clients' specific requirements. Our loan agreement documentation includes two bound copies of the loan agreement and minutes of meeting of directors approving the loan.

Although Division 7A came into effect from 4 December, 1997 and many private companies may have failed to enter into appropriate loan agreements with shareholders to date, the Commissioner has a discretion to disregard the failure to make minimum yearly repayments in certain circumstances.

To avoid loans to shareholders or their associates being treated as dividends under Division 7A of the Act it is essential that the directors of private companies take immediate action to cover any present or future loans or payments to shareholders by an appropriate loan agreement.

We attach a Loan Agreement Order Form and Request for Adoption of New Constitution form, which we invite you to complete and FAX to (02) 9999 0519 to initiate the required service. Please telephone John Andrews on (02) 9999 3000 for further information.

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LOAN AGREEMENT ORDER FORM

(Division 7A of Part III of the Income Tax Assessment Act)

Company Name: ____ ACN:_____________________

We attach a copy of the last Company Statement (including notification of any subsequent changes)

Member:

Full Name: ____
(Given Names) (Surname)

Address: ____ Postcode______________

Associate (being an associate of the Member):

Full Name: ____
(Given Names) (Surname)

Address: ____ Postcode______________

Details of Loan

Maximum Amount of Loan: $............... Amount per annum: $................

Drawdown Date or Period: Date ……./……./20……. or Period: Y/E 30th June, 20……. to 30th June, 20…….

Interest Rate Payable (tick as applicable):

❑ The highest of …………. percent (……%) and the minimum interest rate adopted for the purpose of Division 7A of Part III of the Act.

❑ The rate of …………. percent (…….%) above the minimum interest rate adopted for the purpose of Division 7A of Part III of the Act.

❑ The minimum interest rate adopted for the purpose of Division 7A of Part III of the Act.

Term of Loan: …………….. years or ❑ The maximum term of 7 years allowed by Division 7A.

ORDERED BY	PAYMENT DETAILS
Company name	❑ **Bankcard** ❑ **MasterCard** ❑ **Visa** **Number**
Contact name	**Expiry date** **Name**
Address	❑ **Direct deposit** *(Account details below. Please fax confirmation)* CorpReps BSB 062287 A/c No. 10282947 Commonwealth Bank, Brookvale, NSW
Phone/Fax	❑ **Bank cheque** ❑ **Cash**
DELIVERY DETAILS	❑ **Approved Client: A/c No.: …………..**
Personal collection ❑ **Courier** ❑	**Please note:** ***The person placing the order is responsible for payment of the account***

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Request for adoption or amendment of Constitution (M&A's)

Company Name ____

ACN _________________________

Enclosed:

a) Copy of existing Constitution (M&A's) ❑

b) Copy of last Company Statement (including notification of any subsequent changes) ❑

c) Cheque in favour of "Corp Reps" as calculated below: ❑

• Adoption of Constitution	($154.00)	$______
• Appointments/Resignations of Officeholders	(____ @ $24.20 each)	$______
• Transfer of Shareholdings	(____ @ $24.20 each)	$______
• Other changes	(____ @ $24.20 each)	$______
	Total	**$______**

• Amendment of existing M&A's (Price on applicaltion) ❑

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<tr><td colspan="2">ORDERED BY</td><td rowspan="4">❑ Bankcard ❑ Mastercard ❑ Visa
Number
Expiry date Name
❑ Direct deposit (Account details below. Please fax confirmation)
CorpReps BSB 062287 A/c No. 10282947
Commonwealth Bank, Brookvale, NSW
❑ Bank cheque ❑ Cash
❑ Approved Client: A/c No. ………..</td></tr>
<tr><td colspan="2">Company name</td></tr>
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<tr><td>Address</td><td>Postcode</td></tr>
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