

26 May 2020

The Hon. Michael Sukkar MP
Assistant Treasurer
House of Representatives
Parliament House
PO Box 6022
CANBERRA ACT 2600

By email: Michael.sukkar.mp@aph.gov.au

CC:

The Hon Josh Frydenberg MP, Treasurer: josh.frydenberg.mp@aph.gov.au
Ms Maryanne Mrakovic, Deputy Secretary Revenue Group, Treasury:
Maryanne.Mrakovic@treasury.gov.au

Dear Assistant Treasurer,

Certainty for Division 7A

The National Tax Liaison Group (**NTLG**) is the Australian Taxation Office's (**ATO**) longest standing consultative forum, focusing on strategic taxation matters of national interest. The primary objective of the NTLG is to provide a wide range of stakeholders with the opportunity to discuss the strategic direction of the tax system and to deliver opportunities for improvements to the administration of the tax system. The NTLG's membership is comprised of senior ATO and Treasury officers and representatives of the major tax, law, and accounting professional associations. Details of the activities of the NTLG, including its membership, can be found [here](#).

Chartered Accountants Australia and New Zealand, CPA Australia, Institute of Public Accountants, Law Council of Australia and The Tax Institute (together **the Joint Bodies**) are external members of the NTLG. We write to you as the peak professional accounting and tax practitioner bodies in Australia representing the tax profession at this critical time.

We previously wrote to the Treasurer on 7 April 2020 ([link to submission](#)) with our concerns in relation to current uncertainty surrounding Division 7A of the *Income Tax Assessment Act 1936* (Cth). The relevant part has been extracted in the attached Appendix.

We write to you seeking certainty around potential changes to be made to Division 7A, particularly in light of the 2018-19 Budget measure entitled *Tax Integrity — clarifying the operation of the Division 7A integrity rule*. The Joint Bodies consider that this is a complex area and as such this Budget measure should only be progressed after a thorough consultation process has occurred.

The start date of this measure has already been delayed once from 1 July 2019 to 1 July 2020. Our preference is to see the start date further delayed to allow for thorough consultation to occur before this measure is implemented. In this regard, we request the Assistant Treasurer consider our request and once a view is formed, make a public announcement regarding your decision. This announcement will provide certainty to taxpayers. Given the current proposed start date is in approximately 5 weeks' time, an announcement very soon is necessary.

If you would like to discuss any of the above, please contact Tax Counsel, Stephanie Caredes, on 02 8223 0059 in the first instance.

Yours faithfully,



Peter Godber
President
The Tax Institute



Michael Croker
Tax Leader Australia
Chartered Accountants Australia and New Zealand



Dr Gary Pflugrath
Executive General Manager, Policy & Advocacy
CPA Australia



Greg Rodgers
Chair – Business Law Section
Law Council of Australia



Tony Greco
General Manager Technical Policy
Institute of Public Accountants



Appendix

Measure	Required Outcome
Division 7A <i>Income Tax Assessment Act 1936</i> (Cth) – new measures	<p>Announce that the start time for any new measures related to Division 7A (such as the 2018-19 Budget measure to clarify the operation of the integrity rule in Division 7A) will be deferred until 1 July 2022.</p> <p>This will alleviate the current uncertainty regarding if/when changes to Division 7A may be made.</p>
Division 7A <i>Income Tax Assessment Act 1936</i> (Cth) – benchmarking (section 109N(2))	<p>Announce a temporary reduction in benchmark interest rate from 5.37% (current legislated percentage) to the medium business variable lending rate (currently 3.46 per cent) or lower.</p> <p>This will ease the cost of Division 7A loans during the COVID-19 crisis period.</p>
Division 7A <i>Income Tax Assessment Act 1936</i> (Cth) - minimum loan repayments (section 109E)	<p>Announce temporary relief from minimum yearly loan repayments.</p> <p>This will alleviate the cost of Division 7A loans during the COVID-19 crisis period.</p>