



## Division 7A and private loans

It is not uncommon for businesses to provide loans to shareholders or associates of a company. However, business owners should know the conditions that their loan must satisfy under Division 7A, to avoid the amount being deemed a dividend.

### WRITTEN AGREEMENT

Division 7A loan agreements need to be made under a written agreement before the private company's lodgement date. As a minimum, the written agreement should:

- identify the parties,
- set out the essential terms of the loans (e.g. the amount and term of the loan, the interest rate payable under the loan), and
- be signed and dated by all parties involved.

### MINIMUM INTEREST RATE

Loans must have an interest rate greater than or equal to the annual benchmark interest rate outlined in Division 7A. The benchmark interest rate for 2020 is 5.37% and will be 4.52% in 2021. This interest rate needs to be applied for each year after the year in which the loan was made.

### MAXIMUM TERM

The maximum term for a loan agreement is seven years. If the loan is secured by a registered mortgage over real property, the maximum term is 25 years. For this maximum term, the market value of the property (not including any other liabilities for securing the property prior to the loan) must also be at least 110% of the amount of the loan.

**PROVIDING  
SOLUTIONS  
THAT MAKE A  
DIFFERENCE  
TO YOU.**

## REFINANCING LOANS

From the 2007 income year onwards, loans that can be refinanced without resulting in a deemed dividend include:

- An unsecured loan which is converted to a loan secured by a registered mortgage over real property can have the loan term extended (with relative terms).
- A secured loan which is converted to an unsecured loan with a corresponding reduction in the loan term.
- A loan which becomes subordinated to another loan from another entity due to circumstances beyond the control of the original entity.

If these loan conditions are not met, Division 7A of the Income Assessment Act 1936 applies and the loan is deemed a dividend. This dividend is treated as taxable income and the company receives no tax deductions for its loan to you or your shareholders.

Please give your Accountant a call directly to see how this may apply to your particular circumstances or if you have any questions.

A tailored approach for each business is recommended so call us for assistance and advice on 4927 4588 (Rockhampton) or 4939 1766 (Yeppoon) to see how we can help.

**WE ARE DRIVEN TO  
UNDERSTAND WHAT YOUR  
FINANCIAL GOALS ARE, AND  
HELP YOU ACHIEVE THEM.**

- BUSINESS IMPROVEMENT STRATEGIES
- BUSINESS STRUCTURES AND SUCCESSION PLANNING
- SELF MANAGED SUPERANNUATION FUNDS
- TAXATION AND ACCOUNTING
- AUDITING AND ASSURANCE



ROCKHAMPTON • YEPPOON • EMERALD



[EVANSEDDWARDS.COM.AU](http://EVANSEDDWARDS.COM.AU)



**EVANS EDWARDS**

ACCOUNTANTS | AUDITORS | BUSINESS ADVISORS