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MACBITES

ATO DRAFT RULING KICKS THE BUCKET - COMPANY

In December 2009 the Australian Taxation Office (ATO) released a draft ruling (TR 2009/D8) relating to the issue of a Family Trust making distributions to a Family Company (bucket company), without physically making payment to that Company. This issue is covered within Division 7A of the Tax Act.

The draft ruling has flagged a change in view of the ATO and it now considers that the Company has effectively loaned the Beneficial Entitlement back to the Trust by not enforcing payment of the distribution. Previous statements issued by the ATO have not indicated that Beneficial Entitlements were included in the definition of a loan for Division 7A purposes.

WHAT DOES IT ALL MEAN?

If the ATO draft ruling is adopted in its current format, the key point is that where taxpayers draw out more than \$80,000 p.a. (\$160,000 for a husband and wife) for private or living purposes (including repayments of personal debt), then it needs to be understood that their overall tax rate can no longer be capped at 30%.

Please contact Geoff Cowan or Paul Bongiorno to discuss further if you wish, and please feel free to send on this email to any associates that may be interested.

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