

7 April 2020

Mr Chris Jordan AO  
Commissioner of Taxation  
Australian Taxation Office  
52 Goulburn Street  
SYDNEY NSW 2000

By email: [chris.jordan@ato.gov.au](mailto:chris.jordan@ato.gov.au)

CC: Jeremy Hirschhorn, a/g Second Commissioner – Client Engagement  
Jeremy Geale, a/g Second Commissioner – Law Design and Practice

Dear Commissioner,

### **Other matters to be addressed in response to COVID-19 Crisis**

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, Corporate Tax Association, CPA Australia, Institute of Public Accountants, Law Council of Australia and The Tax Institute (together **the Joint Bodies**) are the 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 ask that the Commissioner address the issues noted below as suggested in response to the COVID-19 crisis.

#### **1. Requests for Information – deferral for 90 days**

All non-critical (not related to fraud or evasion) ATO requests for information (**RFI**) should be deferred for 90 days. This deferral period coincides with the NTLG members' request for a 90-day waiver for all penalties for lodgement penalties for all compliance obligations.

Taxpayers should be informed of the impending RFI and its deferral. Deferrals of RFIs should be optional, meaning taxpayers, upon being informed of the deferral, can opt to fulfil the RFI either within the usual timeframe or an alternative timeframe negotiated with the ATO.

#### **2. Division 7A loans – exercise of Commissioner's discretion**

In a separate letter to the Treasurer dated 7 April 2020 (copy attached), we have requested the Treasurer consider announcing a temporary measure to relieve the need for taxpayers to meet the minimum loan

repayment requirement under section 109E of the *Income Tax Assessment Act 1936* (Cth) during the COVID-19 crisis.

Irrespective of this outcome, we consider that the Commissioner will need to exercise his discretion under section 109Q to ensure that where the minimum yearly repayment is not met (ie subsection 109Q(1)(a) will be met if no amount is paid), an amalgamated loan will not be treated as a dividend (ie subsection 109Q(1)(b) applied). We understand that the ATO is currently considering this and we would request that this discretion be broadly applied to any type of entity (individuals, trusts, partnerships etc).

The Joint Bodies are available to assist with any consultation or further discussion of any of these items and given the urgent nature of this request in the context of the COVID-19 crisis, we will be ready to respond promptly. We look forward to your response.

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**



**Michelle de Niese**  
**Executive Director**  
**Corporate Tax Association**



**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**

