

DEEMED DIVIDENDS – USAGE OF COMPANY ASSETS

As part of the 2010 Federal Budget, the Government announced that it will extend the operation of Division 7A to generally include the use of private company assets including holiday homes, artwork, cars, boats etc by a company's shareholder, or their associate.

The legislation was to take effect from 1 July 2009 but has now been amended in order for the commencement date of the provisions to now take effect from 1 July, 2010.

Please note than in contrast, the use of an asset **by an employee rather than a shareholder** would normally attract fringe benefits tax.

IMPORTANT

Under these changes a private company will be taken to provide use of a company asset to the SHAREHOLDER, or their associate where either –

- The asset is **ACTUALLY** used by the shareholder, or their associate or
- The asset is **AVAILABLE** for use by the shareholder, or their associate, to the exclusion of the company

There are limited exceptions in place but these are not expected to apply to the majority of shareholders, or their associates

Practical examples of assets that may be impacted –

- Use of a company owned yacht where a shareholder does not actually take out his yacht on weekends, but nevertheless is **AVAILABLE** for his or her use
- Use of a company owned holiday house where a shareholder uses the house for his or her own benefit, with the company's permission

WHAT YOU SHOULD DO

If you are at all concerned that your existing entity structure will be implicated by these changes we recommend that you contact Carollo & Co to discuss the matter further.