Phillipsons
Accounting|Financial Planning

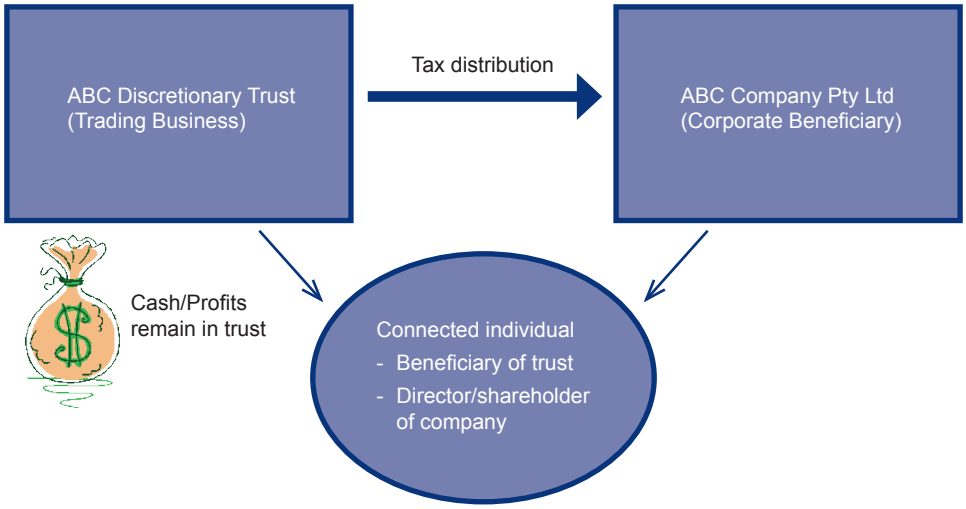
Division 7A – Trust Distributions

Fact sheet Fact Sheet Fact sheet Fact sheet

Division 7A of Part III of the Income Tax Assessment Act 1936 (ITAA 1936) is an integrity measure aimed at preventing private companies from making tax-free distributions of profits to shareholders (or their associates). In particular, advances, loans and other payments or credits to shareholders (or their associates) are, unless they come within specified exclusions, treated as assessable dividends to the extent that the private company has a distributable surplus.

There have been substantial changes to Division 7A over the years, the most significant changes being introduced effective 1st July 2009. The historical planning strategies, undertaken for decades, are now limited and the extent of coverage for Division 7A has been dramatically expanded.

A common occurrence of the Division 7A rules is seen whereby a discretionary trust makes a taxable distribution to a related company & there is no physical transfer of cash between the two entities. This creates an 'Unpaid Present Entitlement' between the trust and the company, and falls within these rules. Illustrated as follows:



Importantly, if appropriate arrangements and documentation are not put in place, this situation results in a deemed dividend to the individual and adverse taxation consequences.

A deemed dividend does not arise when there is qualifying written loan agreement entered into between the parties. This loan agreement is subject to minimum interest rate and maximum term critera.

Speak to your Phillipsons Business Advisor today to clarify your position in relation to Division 7A.

Contact us

For more information on the content of this fact sheet, please contact us:

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