New draft Division 7A guidance about s109R

Learn about new draft Division 7A guidance on section 109R and how you can give feedback during consultation.

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We've released new draft guidance, **TD 2025/D2**, explaining our view on how **section 109R** applies in disregarding certain payments where notional loans are involved. If you're a private company owner, this draft guidance may be relevant to you.

Broadly, section 109R is an integrity provision that can apply where an entity repays a **Division 7A** loan, in part or in whole, or makes a minimum yearly repayment; and they borrow a similar or larger amount from the same private company either before or after the repayment is made.

Specifically, TD 2025/D2 states that:

- Section 109R can apply to disregard certain loan repayments made to a private company where the repaying entity is taken to have obtained a loan from the company by the interposed entity rules in sections **109T** and **109W** of the ITAA 1936.
- Where a private company is taken to have made a notional loan under sections 109T and 109W, section 109R can apply to disregard certain repayments when determining how much (if any) of that loan has been notionally repaid.

We're providing more comprehensive guidance about s109R because we want to ensure that private groups don't inadvertently trigger a Division 7A deemed unfranked dividend, which may result in an unexpected tax bill.

The draft guidance is open for consultation until 17 April. You can provide feedback directly to the contact person listed on the draft Determination. Feedback helps ensure the guidance is clear and relevant for your needs. If you're unsure whether it applies to you, speak to your tax professional.

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