



***TD 2004/86W - Income tax: if a shareholder borrows from a private company under a clause in the company's constitution setting out the terms on which such loans are to be made, is there a 'written agreement' for the purposes of paragraph 109N(1)(a) of Division 7A of the Income Tax Assessment Act 1936?***

 This cover sheet is provided for information only. It does not form part of *TD 2004/86W - Income tax: if a shareholder borrows from a private company under a clause in the company's constitution setting out the terms on which such loans are to be made, is there a 'written agreement' for the purposes of paragraph 109N(1)(a) of Division 7A of the Income Tax Assessment Act 1936?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *14 November 2007*



---

## Notice of Withdrawal

---

### Taxation Determination

Income tax: if a shareholder borrows from a private company under a clause in the company's constitution setting out the terms on which such loans are to be made, is there a 'written agreement' for the purposes of paragraph 109N(1)(a) of Division 7A of the *Income Tax Assessment Act 1936*?

Taxation Determination TD 2004/86 is withdrawn with effect from today.

1. Taxation Determination TD 2004/86 explained that if a shareholder borrows from a private company under a clause in the company's constitution setting out the terms on which such loans are to be made, there is a 'written agreement' for the purposes of paragraph 109N(1)(a) of Division 7A of the *Income Tax Assessment Act 1936*.
2. The arrangements dealt with in TD 2004/86 are now covered by draft Taxation Determination TD 2007/D19, which issued today as part of the Division 7A law clarification program. There has been no change in our view.

---

**Commissioner of Taxation**

14 November 2007

---

ATO references

NO: 2006/20258

ISSN: 1038-8982

ATOlaw topic: Income Tax ~~ Tax integrity measures ~~ private company distributions