

30 June 2011 - The Prudent Trustee With 2010 UPEs

TAX BRIEF

COWELL CLARKE'S TAX & REVENUE GROUP

Private client groups and their advisers should act quickly in the lead up to 30 June 2011 on unpaid present entitlements ("UPEs") arising between 16 December 2009 and 30 June 2010 (inclusive).

Trusts that have made UPEs to private companies for the year ended **30 June 2010** should assess whether funds *can* and *should* be held on sub-trust and, if so, ensure the necessary documentation is in place by **30 June 2011**.

PREVENTING A UPE BEING TREATED AS A DEEMED DIVIDEND

Under TR 2010/3, a UPE to a private company can be prevented from becoming a deemed dividend to the trust by either:

1. converting the UPE into a complying Division 7A loan; or
2. treating the UPE as the subject of a sub-trust as prescribed in PS LA 2010/4.

DOCUMENTING A SUB-TRUST ARRANGEMENT

If you decide to adopt a sub-trust arrangement for a 30 June 2010 UPE, then it will be critical that by **30 June 2011** the trustee has decided (or resolved) to put the 2010 UPE on a sub-trust, which may include one of the Commissioner's three options from PS LA 2010/4.

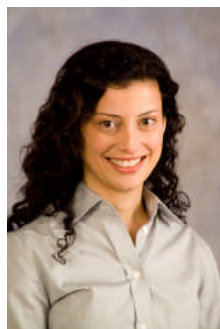
We are currently assisting our private client groups and their advisers with advice and documenting sub-trust arrangements as appropriate. If you have any queries or require assistance, please contact us.

Dated: 23 May 2011

Andrew Sinclair
asinclair@cowellclarke.com.au



Andrea Melillo
amelillo@cowellclarke.com.au



Peter Slegers
pslegers@cowellclarke.com.au

