

JOINT SUBMISSION BY

CPA Australia, The Institute of Chartered Accountants in Australia, The Tax Institute, the National Institute of Accountants and Taxpayers Australia

Draft Taxation Determination TD 2011/D2

Income tax: can Part IVA of the Income Tax Assessment Act 1936 apply to a scheme designed to convert otherwise assessable interest income into non assessable non-exempt dividends?

Date: 29 April 2011

The Professional Bodies welcome the opportunity to comment on Draft Taxation Determination TD 2011/D2 ("the Draft TD").

SPECIFIC COMMENT

Paragraphs 6 and 11

The Professional Bodies consider that the Draft TD would benefit if guidance was given on the meaning of "*has not contemplated future lending activities*" in this context. In particular, what time frame would the ATO look at in assessing whether future lending activities are contemplated? For example, if only one or a small number of loans is initially done by the subsidiary but the long term plan is to have a far larger 'loan book', will the ATO seek to invoke Part IVA if the larger 'loan book' does not eventuate within a certain time frame?