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Don't use the company car as you will pay for it!

The Tax Laws Amendment (2010 Measures No 2) Bill 2010 ("Bill") was introduced into Parliament on 17 March 2010.

One of the most significant changes introduced by the bill is the extension of the tax rules associated with payments by companies to their shareholders.

The aim of the changes is to stop people avoiding tax by purchasing private use assets in companies and allowing them to be used free of charge by shareholders.

Under the new rules the use of company assets by shareholders is deemed to be a payment by the company to the shareholder.

Unless a shareholder either:

- pays a market value fee for the use of company asset; or
- can access one of the exceptions

the value of the use will be taxable to the shareholder.

For example, assume your company owns a car that is used within its business during the week. As it is your company, you and your family use the car free of charge on weekends and when you go on holidays. From 1 July 2009 unless you pay the company a market value fee for your use of the car on weekends and holidays you will be taxed on the market value of your use of the car.

As originally announced by the Treasurer in May 2009 and set out in the Exposure Draft Bill released in January 2010 the measures would have had a significant and adverse impact on small business and farmers. However, due to lobbying by JMA Legal and many others the Bill now includes a number of exceptions which provide direct benefits to small businesses and farmers.

The most significant of these benefits is that the free use of a farm, and farm residence, owned by a family company will not, in nearly all cases, have any adverse taxation consequences for the shareholders operating their business on the land.

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