



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XI

COMPANY TAXATION

CHAPTER III

CLOSE COMPANIES

Meaning of close company

282 Meaning of close company

- (1) For the purposes of the Corporation Tax Acts, a "close company" is one which is under the control of five or fewer participators, or of participators who are directors, except that the expression does not apply—
 - (a) to a company not resident in the United Kingdom, or
 - (b) to a registered industrial and provident society within the meaning of section 340(9) of this Act, or to a building society within the meaning of section 343 of this Act or any other company to which the said section 343 applies, or
 - (c) to a company controlled by or on behalf of the Crown, and not otherwise a close company, or
 - (d) to a company falling within subsection (4) or section 283 below.
- (2) Subject to subsection (4) and section 283 below, a company resident in the United Kingdom (but not falling within subsection (1)(b) above) is also a close company if, on the assumption that it is so, or on the assumption that it and any other such company or companies are so, more than half of any amount falling under this Chapter to be apportioned for the purposes of surtax in the case of the company could be apportioned among five or fewer participators, or among participators who are directors.
- (3) For the purposes of this section—

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- (a) a company is to be treated as controlled by or on behalf of the Crown if, but only if, it is under the control of the Crown or of persons acting on behalf of the Crown, independently of any other person, and
 - (b) where a company is so controlled, it shall not be treated as being otherwise a close company unless it can be treated as a close company as being under the control of persons acting independently of the Crown.
- (4) A company is not to be treated as a close company in any case where—
- (a) by reason of beneficial ownership of shares in the company, the control of it is in the hands of a company which is not a close company, or of two or more companies none of which is a close company, and
 - (b) it could only be treated as a close company as being under the control of five or fewer participators, and it cannot be so treated except by taking as one of the participators a company which is not a close company,
- but so that references in this subsection to a close company shall be treated as applying to any company which, if resident in the United Kingdom, would be a close company.

283 Certain companies with quoted shares not to be close companies

- (1) Subject to the following provisions of this section, a company is not to be treated as being at any time a close company if—
- (a) shares in the company carrying not less than 35 per cent. of the voting power in the company (and not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) have been allotted unconditionally to, or acquired unconditionally by, and are at that time beneficially held by, the public, and
 - (b) any such shares have within the preceding twelve months been the subject of dealings on a recognised stock exchange, and the shares have within those twelve months been quoted in the official list of a recognised stock exchange.
- (2) Subsection (1) above shall not apply to a company at any time when the total percentage of the voting power in the company possessed by all of the company's principal members exceeds 85 per cent.
- (3) For the purposes of subsection (1) above, shares in a company shall be deemed to be beneficially held by the public if, and only if, they—
- (a) fall within subsection (4) below, and
 - (b) are not within the exceptions in subsection (5) below,
- and a corresponding construction shall be given to the reference to shares which have been allotted unconditionally to, or acquired unconditionally by, the public.
- (4) Shares fall within this subsection (as being beneficially held by the public)—
- (a) if beneficially held by a company resident in the United Kingdom which is not a close company, or by a company not so resident which would not be a close company if it were so resident, or
 - (b) if held on trust for a fund or scheme approved under section 208 or section 222 (superannuation funds and retirement schemes) of this Act, or
 - (c) if they are not comprised in a principal member's holding.
- (5) Shares shall not be deemed to be held by the public if they are held—
- (a) by any director or associate of a director of the company, or

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- (b) by any company which is under the control of any such director or associate, or of two or more persons each of whom is such a director or associate, or
- (c) by any associated company of the company, or
- (d) as part of any fund the capital or income of which is applicable or applied wholly or mainly for the benefit of, or of the dependants of, the employees or directors, or past employees or directors, of the company, or of any company within paragraph (b) or (c) above.

References in this subsection to shares held by any person include references to any shares the rights or powers attached to which could, for the purposes of section 302 below (definition of " control"), be attributed to that person under subsection (5) of that section (nominees).

- (6) For the purposes of this section—
 - (a) a person is a principal member of a company if he possesses a percentage of the voting power in the company of more than 5 per cent. and, where there are more than five such persons, if he is one of the five persons who possess the greatest percentages or if, because two or more persons possess equal percentages of the voting power in the company, there are no such five persons, he is one of the six or more persons (so as to include those two or more who possess equal percentages) who possess the greatest percentages, and
 - (b) a principal member's holding consists of the shares which carry the voting power possessed by him.
- (7) In arriving at the voting power which a person possesses, there shall be attributed to him any voting power which, for the purposes of section 302 below (definition of " control "), would be attributed to him under subsection (5) or (6) of that section (nominees, controlled companies and associates).
- (8) In this section " share " includes " stock ".