



Corporation Tax Act 2009

2009 CHAPTER 4

PART 5

LOAN RELATIONSHIPS

CHAPTER 12

SPECIAL RULES FOR PARTICULAR KINDS OF SECURITIES

Deeply discounted securities: connected companies and close companies

406 Introduction

- (1) The following sections deal with deeply discounted securities—
 - ^{F1}(a)
 - (b) sections 409 to 411 (deeply discounted securities of close companies), and
 - (c) section 412 (persons indirectly standing in the position of creditor).
- (2) In this section and sections [^{F2}409] to 412 “deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 430 of that Act).
- (3) In sections [^{F3}409] to 412 “the discount” means the difference between—
 - (a) the issue price of the security, and
 - (b) the amount payable on redemption.
- (4) The provisions of Chapter 8 of Part 4 of ITTOIA 2005 apply for the purposes of this section and sections [^{F4}409] to 412 for determining the difference between the issue price of a security and the amount payable on redemption as they apply for the purposes of section 430 of that Act.

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Textual Amendments

- F1** S. 406(1)(a) omitted (with effect in accordance with s. 25(6)-(14) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\), s. 25\(5\)\(a\)](#)
- F2** Word in s. 406(2) substituted (with effect in accordance with s. 25(6)-(14) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 25\(5\)\(b\)](#)
- F3** Word in s. 406(3) substituted (with effect in accordance with s. 25(6)-(14) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 25\(5\)\(b\)](#)
- F4** Word in s. 406(4) substituted (with effect in accordance with s. 25(6)-(14) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 25\(5\)\(b\)](#)

Modifications etc. (not altering text)

- C1** Ss. 406-412 excluded by [S.I. 2006/3296, reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\), regs. 1\(1\), 10\(3\)](#))

^{F5}407 Postponement until redemption of debits for connected companies' deeply discounted securities

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Textual Amendments

- F5** S. 407 omitted (with effect in accordance with s. 25(6)-(14) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\), s. 25\(2\)\(c\)](#)

Modifications etc. (not altering text)

- C1** Ss. 406-412 excluded by [S.I. 2006/3296, reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\), regs. 1\(1\), 10\(3\)](#))

^{F6}408 Companies connected for section 407

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Textual Amendments

- F6** S. 408 omitted (with effect in accordance with s. 25(6)-(14) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\), s. 25\(2\)\(d\)](#)

Modifications etc. (not altering text)

- C1** Ss. 406-412 excluded by [S.I. 2006/3296, reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\), regs. 1\(1\), 10\(3\)](#))

409 Postponement until redemption of debits for close companies' deeply discounted securities

- (1) This section applies for any accounting period (“the relevant period”) if—

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- (a) a debtor relationship of a close company (“the issuing company”) is represented by a deeply discounted security it has issued,
 - (b) at any time in the period there is a person [^{F7}(“C”)] who stands in the position of a creditor as respects the security and is—
 - (i) a participator in the issuing company,
 - (ii) an associate of such a participator,
 - (iii) a company of which such a participator has control,
 - (iv) a person who controls a company which is such a participator,
 - (v) an associate of a person within sub-paragraph (iv), or
 - (vi) a company controlled by a person within sub-paragraph (iv),
 - (c) the period is not the accounting period in which the security is redeemed, and
 - (d) this section is not disapplied by section 410
- [^{F8}and, where it applies, the non-qualifying territory condition is met.]
- (2) The debits which are to be brought into account for the purposes of this Part by the issuing company in respect of the loan relationship are to be adjusted so that debits relating to the amount of the discount that is referable to the relevant period (“relevant debits”)—
 - (a) are not brought into account for the relevant period, but
 - (b) are brought into account for the accounting period in which the security is redeemed.
 - (3) If there is a person within subsection (1)(b) for only part of the relevant period, subsection (2) applies only to the appropriate proportion of the relevant debits.
 - (4) In subsection (3) “the appropriate proportion” means the proportion that the part of the relevant period for which there is such a person bears to the whole of that period.
 - (5) The amount of the discount that is referable to the relevant period is the amount of it which would be brought into account for the purposes of this Part for the relevant period in the case of the issuing company, apart from subsections (2) and (3).
 - (6) For the meaning of other expressions used in this section, see—
 - (a) section 411 (interpretation of this section), and
 - (b) section 412 (persons indirectly standing in the position of creditor).

Textual Amendments

- F7** Word in s. 409(1)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 7\(a\)](#)
- F8** Words in s. 409(1) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 7\(b\)](#)

Modifications etc. (not altering text)

- C1** Ss. 406-412 excluded by [S.I. 2006/3296](#), [reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\)](#), [regs. 1\(1\)](#), [10\(3\)](#))
- C2** [S. 409\(2\)](#) disapplied (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), [Sch. 2 para. 51\(1\)](#)

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410 Exceptions to section 409

- (1) Section 409 does not apply for any accounting period (“the relevant period”) if any of the following conditions are met—
- (a) the corresponding creditor relationship conditions (see subsection (2)),
 - (b) the CIS-based close company conditions (see subsection (3)), or
 - (c) the CIS limited partnership conditions (see subsection (4)).
- (2) The corresponding creditor relationship conditions are that—
- (a) at all times in the relevant period when there is a person within section 409(1)(b), that person is a company, and
 - (b) credits representing the full amount of the discount that is referable to the period are brought into account for the purposes of this Part for any accounting period in respect of the corresponding creditor relationship (see section 412(3)).
- (3) The CIS-based close company conditions are that—
- (a) the issuing company is a CIS-based close company,
 - (b) at no time in the relevant period when there is a person within section 409(1)(b) is that person resident [^{F9}for tax purposes] in a non-qualifying territory, and
 - (c) the issuing company is a small or medium-sized enterprise for the relevant period.
- (4) The CIS limited partnership conditions are that—
- (a) the debt is one which is owed to, or to persons acting for, a CIS limited partnership,
 - (b) no member of that partnership is resident [^{F10}for tax purposes] in a non-qualifying territory at any time in the relevant period when there is a person within section 409(1)(b),
 - (c) the issuing company has received written notice from the partnership containing information from which it appears that the condition in paragraph (b) is met, and
 - (d) the issuing company is a small or medium-sized enterprise for the relevant period.
- [^{F11}(4A) The non-qualifying territory condition applies if C is a company; and the non-qualifying territory condition is that C is—
- (a) resident for tax purposes in a non-qualifying territory at any time in the relevant period, or
 - (b) effectively managed in a non-taxing non-qualifying territory at any such time.]

(5) In this section—

“CIS-based close company” means a company that would not be a close company apart from the rights and powers of one or more partners in a CIS limited partnership being attributed to another of the partners under [^{F12}section 451(4) to (6) of CTA 2010 because of section 448(1)(a) of that Act],

“CIS limited partnership” means a limited partnership—

 - (a) which is a collective investment scheme, or
 - (b) which would be a collective investment scheme if it were not a body corporate,

“issuing company” has the same meaning as in section 409 (see subsection (1)(a) of that section),

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“non-qualifying territory” has the meaning given by ^{F13}section 173 of TIOPA 2010] (provision not at arm's length),

^{F14} “resident for tax purposes” means liable, under the law of the non-qualifying territory, to tax there by reason of domicile, residence or place of management, and]

“small or medium-sized enterprise” has the meaning given by ^{F15}section 172 of TIOPA 2010].

^{F16}(5A) For the purposes of this section, a non-qualifying territory is “non-taxing” if companies are not under its law liable to tax by reason of domicile, residence or place of management.]

(6) For the meaning of “corresponding creditor relationship”, see section 412 (persons indirectly standing in the position of creditor).

Textual Amendments

- F9** Words in s. 410(3)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(2\)](#)
- F10** Words in s. 410(4)(b) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(2\)](#)
- F11** S. 410(4A) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(3\)](#)
- F12** Words in s. 410(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 613](#) (with [Sch. 2](#))
- F13** Words in s. 410(5) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 131\(2\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F14** Definition in s. 410(5) substituted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(4\)](#)
- F15** Words in s. 410(5) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 131\(3\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F16** S. 410(5A) inserted (with effect in accordance with Sch. 20 para. 9 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 20 para. 8\(5\)](#)

Modifications etc. (not altering text)

- C1** Ss. 406-412 excluded by [S.I. 2006/3296](#), [reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\)](#), [regs. 1\(1\), 10\(3\)](#))

411 Interpretation of section 409

- (1) Section 472 (meaning of “control”) applies for the purposes of section 409 and this section.
- (2) A person who is a participator in a company which controls another company is treated for the purposes of section 409 as being a participator in that other company also.
- (3) Subject to that, in section 409 and this section “participator”, in relation to a company, means a person who is a participator in the company ^{F17}within the meaning given by section 454 of CTA 2010], but not a person who is ^{F18}such a participator] just because of being a loan creditor of the company.

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- (4) In determining whether a person who carries on the trade of banking is a participator in a company for the purposes of section 409 and this section, securities of the company acquired by the person in the ordinary course of the person's business are ignored.

Textual Amendments

F17 Words in s. 411(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 614\(a\)](#) (with [Sch. 2](#))

F18 Words in s. 411(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 614\(b\)](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

C1 Ss. 406-412 excluded by [S.I. 2006/3296, reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\), regs. 1\(1\), 10\(3\)](#))

412 Persons indirectly standing in the position of creditor

- (1) For the purposes of sections 407(1)(b) and 409 a person is treated as standing in the position of a creditor if the person indirectly stands in that position by reference to a series of loan relationships or relevant money debts.
- (2) If a company (“C”) is so treated for the purposes of section 407(1)(b), the reference in section 407(1)(e) to the corresponding creditor relationship is a reference to C's creditor relationship.
- (3) If a person (“P”) is so treated for the purposes of section 409, the reference in section 410(2)(b) to the corresponding creditor relationship is a reference to P's creditor relationship.
- (4) In subsection (1) “relevant money debt” means a money debt which would be a loan relationship if a company directly stood in the position of creditor or debtor.

Modifications etc. (not altering text)

C1 Ss. 406-412 excluded by [S.I. 2006/3296, reg. 19\(3\)](#) (as substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Taxation of Securitisation Companies \(Amendment\) Regulations 2018 \(S.I. 2018/143\), regs. 1\(1\), 10\(3\)](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)