

# CORPORATION TAX ACT 2010

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## EXPLANATORY NOTES

### INTRODUCTION

#### **Part 16: Factoring of income etc**

#### **Chapter 2: Finance arrangements**

#### **Section 772: Exceptions: relevant person**

2344. This section defines “relevant person” for the purposes of section 771. It is based on section 774E(7) of ICTA.
2345. Section 774E of ICTA contains priority rules which prevent sections 774B and 774D of ICTA applying if other tax enactments apply. The definition of “relevant person” in section 774E(7) of ICTA interprets the references to a relevant person in section 774E(1) and (3) of ICTA. The wider the meaning of “relevant person”, the more likely it is that section 774E(1) and (3) of ICTA disapply the anti-avoidance rules in sections 774B and 774D of ICTA. The only possibly uncertain element of the meaning of “relevant person” is the reference to a person connected with the borrower. Section 774G(4) of ICTA provides that the definition of “connected” in section 839 of ICTA applies “for the purposes of sections 774A to 774D”. It is not clear whether the use of “connected” in section 774E(7) of ICTA can be said to be “for the purposes of sections 774A to 774D”. But it is at any rate clear that section 774E only operates effectively as a priority rule if, at the very least, the reference in section 774E(7) of ICTA to persons connected with the borrower includes all persons who as a result of section 839 of ICTA would be treated as connected to the borrower. Whether the reference goes (or needs to go) wider than that group is open to argument. The inclusive definition in *subsection (5)* preserves the scope for making that argument while giving the maximum possible certainty.