



Corporation Tax Act 2010

2010 CHAPTER 4

PART 23

COMPANY DISTRIBUTIONS

CHAPTER 4

SPECIAL RULES FOR DISTRIBUTIONS MADE BY CERTAIN COMPANIES

Close companies

1064 Certain expenses of close companies treated as distributions

- (1) This section applies if a close company incurs an expense in, or in connection with, the provision for any participator of—
 - (a) living or other accommodation,
 - (b) entertainment,
 - (c) domestic or other services, or
 - (d) other benefits or facilities of any kind.
- (2) The company is treated for the purposes of the Corporation Tax Acts as making a distribution to the participator of an amount equal to—
 - (a) the expense, less
 - (b) any part of the expense that the participator makes good to the company (so far as not already deducted in calculating the amount of the expense in accordance with subsection (3)).
- (3) For the purposes of subsection (2)(a), the amount of the expense is equal to what would, under Chapter 6, 7 or 10 of Part 3 of ITEPA 2003, be the cash equivalent of the resultant benefit to the participator.
- (4) Subsection (2) is subject to sections 1065 and 1066, and to any other express exceptions.

Status: This is the original version (as it was originally enacted).

1065 Exception for benefits treated as employment income etc

Section 1064 does not apply to expenses incurred—

- (a) in the provision for a person or persons mentioned in the first column of the table in this subsection of anything mentioned in the corresponding entry in the second column of the table, or
- (b) in connection with such provision.

<i>Person benefiting</i>	<i>Benefit</i>
A person employed in employment to which Part 3 of ITEPA 2003 (benefits etc treated as employment income) applies without the exclusion in section 216 of that Act (provisions not applicable to lower-paid employment).	Such benefits as are mentioned in— (a) Chapter 6, 7 or 10 of Part 3 of ITEPA 2003 (cars and vans, loans and other benefits), or (b) section 223 of that Act (payments on account of director’s tax).
Any person.	Living accommodation which is (within the meaning of Chapter 5 of Part 3 of ITEPA 2003) provided by reason of the person’s employment.
The spouse or civil partner, children or dependants of a person (“the employee”) employed by the company.	A pension, annuity, lump sum, gratuity or other like benefit to be given on the employee’s death or retirement.

1066 Exception for certain transfers between UK resident companies

- (1) Section 1064 does not apply if the company and the participator are both UK resident and—
 - (a) one is a 51% subsidiary of the other or both are 51% subsidiaries of a third company which is also UK resident, and
 - (b) the benefit to the participator arises on a transfer of assets or liabilities—
 - (i) by the company to the participator, or
 - (ii) to the company by the participator,
 or in connection with such a transfer.
- (2) In determining whether one body corporate (“A”) is a 51% subsidiary of another (“B”) for the purposes of subsection (1), B is treated as not being the owner of—
 - (a) any share capital which it owns directly in a body corporate as trading stock,
 - (b) any share capital which it owns indirectly, and which is owned directly by a body corporate as trading stock, or
 - (c) any share capital which it owns directly or indirectly in a body corporate that is not UK resident.
- (3) For the purposes of subsection (2) share capital owned by a body is owned as trading stock if (and only if) a profit on the sale of the shares would be treated as a trading receipt of the body’s trade.

1067 Companies acting in concert or under arrangements

- (1) Subsection (2) applies if—

Status: This is the original version (as it was originally enacted).

- (a) each of two or more close companies makes a payment,
 - (b) each of those payments is made to a person who—
 - (i) is not a participator in the company making the payment, but
 - (ii) is a participator in another of those companies, and
 - (c) the companies are acting in concert or under arrangements made by any person.
- (2) For the purposes of sections 1064 to 1066, each payment made to a person as mentioned in subsection (1) is treated as if it had been made to that person by the company in which that person is a participator.
- (3) Subsections (1) and (2) apply, with any necessary adaptations, in relation to the giving of any consideration, and to the provision of any facilities, as they apply in relation to the making of a payment.

1068 Meaning of “participator” in sections 1064 to 1067

- (1) In sections 1064 to 1067 “participator” has the same meaning as in Part 10 (see section 454).
- (2) Section 1069 extends the meaning given by subsection (1).

1069 Additional persons treated as participators

- (1) In sections 1064 to 1067 any reference to a participator includes an associate of a participator.
- (2) If a company (“A”) controls another company (“B”), a person who—
 - (a) is a participator in A, or
 - (b) is an associate of a participator in A,is treated for the purposes of sections 1064 to 1067 as being a participator in B as well.
- (3) In this section the following expressions have the same meaning as in Part 10 (close companies)—
 - (a) “associate” (see section 448),
 - (b) “control” (see sections 450 and 451), and
 - (c) “participator” (see section 454).

Companies carrying on a mutual business

1070 Companies carrying on a mutual business

- (1) Subsection (2) applies if a company carries on a business (“the mutual business”) of—
 - (a) mutual trading,
 - (b) mutual insurance, or
 - (c) other mutual business.
- (2) The provisions of the Corporation Tax Acts relating to distributions apply to relevant distributions made by the company only so far as they are made out of—
 - (a) profits of the company which are brought into charge to corporation tax, or
 - (b) franked investment income.

Status: This is the original version (as it was originally enacted).

This is subject to subsection (4).

- (3) In subsection (2) “relevant distributions” means distributions which—
 - (a) are made to persons participating in the mutual activities of the mutual business, and
 - (b) derive from those activities.
- (4) If a company carries on a mutual life assurance business, the provisions of the Corporation Tax Acts relating to distributions do not apply to distributions made by the company which—
 - (a) are made to persons participating in the mutual activities of the business, and
 - (b) derive from those activities.
- (5) Subject to subsections (1) to (4), the fact that—
 - (a) a distribution made by a company carrying on a mutual business is derived from the mutual activities of that business, and
 - (b) the recipient is a company participating in those activities,does not affect the character that the payment or other receipt has for the purposes of corporation tax or income tax in the hands of the recipient.
- (6) In subsection (2) “profits” means income and chargeable gains.

Companies not carrying on a business

1071 Companies not carrying on a business

- (1) This section applies if a company meets conditions A, B and C.
- (2) Condition A is that the company does not carry on, and has never carried on—
 - (a) a trade, or
 - (b) a business of holding investments.
- (3) Condition B is that the company does not hold, and has never held, an office.
- (4) Condition C is that the company is not established for purposes which include—
 - (a) carrying on a trade,
 - (b) carrying on a business of holding investments, or
 - (c) holding an office.
- (5) The provisions of the Corporation Tax Acts relating to distributions apply to distributions made by the company only so far as the distributions are made out of—
 - (a) profits of the company which are brought into charge to corporation tax, or
 - (b) franked investment income.
- (6) In subsection (5) “profits” means income and chargeable gains.

Members of a 90% group

1072 Members of a 90% group

- (1) In the Corporation Tax Acts “distribution”, in relation to a company which is a member of a 90% group, includes anything distributed out of assets of the company (whether in cash or otherwise) in respect of shares in or securities of another company in the group.
- (2) Subsection (1) is without prejudice to paragraph B in section 1000(1) (distributions, other than dividends, in respect of shares) as extended by section 1113(1).
- (3) Nothing in subsection (1) requires a company to be treated as making a distribution to any other company which is in the same group and is UK resident.
- (4) In this section “90% group” means a company and all its 90% subsidiaries.