



Corporation Tax Act 2010

2010 CHAPTER 4

PART 10

CLOSE COMPANIES

CHAPTER 3

CHARGE TO TAX IN CASE OF LOAN TO PARTICIPATOR

Modifications etc. (not altering text)

C1 Pt. 10 Chs. 3-3B applied (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), [Sch. 2 para. 37](#)

Charge to tax in case of loan to participator

455 Charge to tax in case of loan to participator

- [^{F1}(1) This section applies if a close company makes a loan or advances money to—
- (a) a relevant person who is a participator in the company or an associate of such a participator,
 - (b) the trustees of a settlement one or more of the trustees or actual or potential beneficiaries of which is a participator in the company or an associate of such a participator, or
 - (c) a limited liability partnership or other partnership one or more of the partners in which is an individual who is—
 - (i) a participator in the company, or
 - (ii) an associate of an individual who is such a participator.]
- (2) There is due from the company, as if it were an amount of corporation tax chargeable on the company for the accounting period in which the loan or advance is made, an amount equal to [^{F2}such percentage of the amount of the loan or advance as

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corresponds to the dividend upper rate specified in section 8(2) of ITA 2007 for the tax year in which the loan or advance is made] .

- (3) Tax due under this section in relation to a loan or advance is due and payable in accordance with section 59D of TMA 1970 on the day following the end of the period of 9 months from the end of the accounting period in which the loan or advance was made.
- (4) For the purposes of this section and sections 456 to 459, the cases in which a close company is to be treated as making a loan to a person include a case where—
 - (a) that person incurs a debt to the close company, or
 - (b) a debt due from that person to a third party is assigned to the close company.
 In such a case, the close company is to be treated as making a loan of an amount equal to the debt.
- (5) If a company (C) controls another company (D), a participator in C is to be treated for the purposes of this section as being also a participator in D.
- (6) In this Chapter, “relevant person” means—
 - (a) an individual, or
 - (b) a company receiving a loan or advance in a fiduciary or representative capacity.
- (7) For exceptions to the charge under this section, see section 456.
- (8) See also—
 - (a) section 458 (relief in case of repayment or release of loan),
 - (b) section 459 (loan treated as made to participator), and
 - (c) sections 460 to 462 (loan treated as made by close company).

Textual Amendments

- F1** S. 455(1) substituted (with retrospective effect in accordance with [Sch. 30 para. 3\(2\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 30 para. 3\(1\)](#)
- F2** Words in [s. 455\(2\)](#) substituted (with effect in accordance with s. 50(2) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 50\(1\)](#)

Exceptions to the charge to tax under section 455

456 Exceptions to the charge under section 455

- (1) Section 455 does not apply to a loan or advance made in the ordinary course of a business carried on by a company if the business includes the lending of money.
- (2) Section 455(4)(a) does not apply to a debt incurred for the supply by a close company of goods or services in the ordinary course of its trade or business unless the credit given exceeds 6 months or is longer than that normally given to the company's customers.
- [^{F3}(2A) Section 455 does not apply to a loan or advance made to a trustee of a charitable trust if the loan or advance is applied to the purposes of the charitable trust only.]
- (3) Section 455 does not apply to a loan or advance made to—

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- (a) a director of a close company,
 - (b) an employee of such a company,
 - (c) a director of an associated company of such a company, or
 - (d) an employee of such an associated company,
- if conditions A, B and C are met (but see subsection (7)).
- (4) Condition A is that—
- (a) the amount of the loan or advance does not exceed £15,000, and
 - (b) that amount does not exceed £15,000 when taken together with any other outstanding loans and advances which were made to the borrower by—
 - (i) the close company, or
 - (ii) any of its associated companies.
- (5) Condition B is that the borrower works full-time for the close company or any of its associated companies.
- (6) Condition C is that the borrower does not have a material interest in the close company or in any of its associated companies.
- (7) If the borrower acquires such a material interest at a time when the whole or part of any loan or advance within subsection (3) remains outstanding, the close company is to be treated as making to the borrower at that time a loan or advance of an amount equal to the sum outstanding.
- (8) For the meaning of “material interest in a company”, see section 457.

Textual Amendments

F3 S. 456(2A) inserted (with effect in accordance with s. 51(2) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 51\(1\)](#)

457 Section 456: meaning of “material interest in a company”

- (1) A person has a material interest in a company for the purposes of section 456 if condition A or B is met.
- (2) Condition A is that the person (with or without one or more associates) or any associate of that person (with or without one or more other such associates) is—
- (a) the beneficial owner of, or
 - (b) directly or indirectly able to control,
- more than 5% of the ordinary share capital of the company.
- (3) Condition B is that, in the case of a close company, the person (with or without one or more associates) or any associate of that person (with or without one or more other such associates) possesses or is entitled to acquire such rights as would—
- (a) in the event of the winding up of the company, or
 - (b) in any other circumstances,
- give an entitlement to receive more than 5% of the assets which would then be available for distribution among the participators.

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Relief in case of repayment or release of loan

458 Relief in case of repayment or release of loan

- (1) Subsection (2) applies if a close company has made a loan or advance which gave rise to a charge to tax on the company under section 455.
- (2) Relief is to be given from that tax, or a proportionate part of it, if—
 - (a) the loan or advance or part of it is repaid to the company, or
 - (b) the whole or part of the debt in respect of the loan or advance is released or written off.
- (3) Relief under this section is to be given on a claim, which must be made within 4 years from the end of the financial year in which the repayment is made or the release or writing off occurs.
- (4) Subsection (5) applies if—
 - (a) the repayment of the whole or part of a loan or advance occurs on or after the day on which tax under section 455 becomes due and payable in relation to the loan or advance, or
 - (b) the release or writing off of the whole or part of the debt in respect of a loan or advance occurs on or after the day on which tax under that section becomes due and payable in relation to the loan or advance.
- (5) Relief in respect of the repayment, release or writing off may not be given under this section at any time before the end of the period of 9 months from the end of the accounting period in which the repayment, release or writing off occurred.
- (6) Schedule 1A to TMA 1970 (claims and elections not included in return) applies to a claim for relief under this section unless—
 - (a) the claim is included (by amendment or otherwise) in the return for the period in which the loan or advance was made, and
 - (b) the relief may be given at the time the claim is made.

Loan treated as made to participator

459 Loan treated as made to participator

- (1) This section applies if under arrangements made by a person (P)—
 - (a) a close company makes a loan or advance which, apart from this section, does not give rise to a charge to tax under section 455, and
 - (b) a person other than the close company makes a payment or transfers property to, or releases or satisfies (in whole or in part) a liability of, a relevant person who is a participator in the company or an associate of such a participator.
- (2) Sections 455 to 458 ^[F4] and 464C and 464D] apply as if the loan or advance had been made to the relevant person.
- (3) But this section does not apply if—
 - (a) the arrangements mentioned in subsection (1) are made by P in the ordinary course of a business carried on by P, or
 - (b) the total income of the relevant person includes, in respect of the matter mentioned in subsection (1)(b), an amount not less than the loan or advance.

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- (4) If a company (C) controls another company (D), a participator in C is to be treated for the purposes of this section as being also a participator in D.

Textual Amendments

- F4** Words in s. 459(2) inserted (retrospective to 20.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 30 para. 4\(1\)\(2\)](#)

Loan treated as made by close company

460 Loan treated as made by close company

- (1) This section applies if a company (C) which is controlled by another company makes a loan or advance which, apart from this section, does not give rise to a charge to tax under section 455.
- (2) If C is controlled by a close company at the time the loan or advance is made, sections 455 to 459 apply as if the loan or advance had been made by the close company.
- (3) If C is not controlled by a close company at that time but a close company subsequently acquires control of it, sections 455 to 459 apply as if the loan or advance had been made by the close company immediately after the time when it acquired control.
- (4) If two or more close companies together control C or together acquire control of C, subsection (2) or (as the case may be) subsection (3) is to have effect—
- (a) as if each of them controlled C, and
 - (b) as if the loan or advance had been made by each of those close companies.
- But the loan or advance is to be apportioned between those close companies in such proportion as may be appropriate having regard to the nature and amount of their respective interests in C.
- (5) For an exception to this section, see section 461.
- (6) See also section 462 (determination of particular questions as a result of this section).
- (7) References in this section and sections 461 and 462 to a company making a loan include references to cases in which the company is, or if it were a close company would be, regarded as making a loan because of section 455(4).

461 Exception to section 460

- (1) Section 460 does not apply if it is shown that no person has made any arrangements (otherwise than in the ordinary course of a business carried on by the person) as a result of which there is a connection—
- (a) between—
 - (i) the making of the loan or advance, and
 - (ii) the acquisition of control, or
 - (b) between—
 - (i) the making of the loan or advance, and
 - (ii) the provision by the close company of funds for C.

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- (2) The close company is to be treated for the purposes of subsection (1) as providing funds for C if it directly or indirectly makes a payment or transfers property to, or releases or satisfies (in whole or in part) a liability of, C.

462 Determination of particular questions as a result of section 460

- (1) This section applies if, as a result of section 460, sections 455 to 459 have effect as if a loan or advance made by C had been made by another company.
- (2) Any question under those sections whether—
- (a) the company making the loan or advance did so in the ordinary course of a business carried on by it which includes the lending of money,
 - (b) the loan or advance or part of it has been repaid to the company, or
 - (c) the company has released or written off the whole or part of the debt in respect of the loan or advance,
- is to be determined by reference to C.

Taxation of debtor on release of loan to trustees of settlement which has ended

463 Taxation of debtor on release of loan to trustees of settlement which has ended

- (1) This section applies if each of conditions A to D is met.
- (2) Condition A is that a company (X) is or was chargeable to tax under section 455 (charge to tax in the case of loan to participator) in respect of a loan or advance made to the trustees of a settlement.
- (3) Condition B is that X releases or writes off the whole or part of the debt in respect of the loan or advance.
- (4) Condition C is that the person from which the debt was due at the time of the release or writing off is a company (Y).
- (5) Condition D is that the release or writing off takes place after the settlement has ended.
- (6) When the release or writing off takes place, Y is treated as receiving an amount to which the charge to corporation tax on income applies.
- [^{F5}(7) The amount which Y is treated as receiving is equal to the amount released or written off.]

Textual Amendments

F5 S. 463(7) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 31](#)

464 Section 463: other person treated as releasing or writing off debt

- (1) This section applies if sections 455 to 459 have effect under section 460 (loan treated as made by close company) as if a loan or advance had been made by a company (“A”), rather than the company (“B”) which—
- (a) actually made it,

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- (b) is regarded as having made it under section 455(4) (deemed loan where debt incurred or assigned to close company), or
 - (c) would be so regarded if it were a close company.
- (2) If the whole or part of the debt is released or written off by B, A rather than B is treated, for the purposes of section 463, as releasing it or writing it off.

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