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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD45250 - Intangible assets: related party rules: participator in close company CTA09/PART8/S835 (5)

Under the third test outlined in [CIRD45105](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45105>) a person (a natural person or a legal entity) is a related party of a company if the company is a ‘close company’, and the person is one of the following:

- a ‘participator’ in the company

- an 'associate of a participator' in the company
- a participator in a company that has 'control' of, or holds a 'major interest' in the company
- an 'associate of a participator' in a company that has 'control' of, or holds a 'major interest' in the company

Prior to 16 March 2005 this related parties test was slightly different - it only included the first two bullets above. The full test outlined above applies to accounting periods commencing on or after 16 March 2005, but for those accounting periods it is deemed to have always been in force. An accounting period can be deemed to have commenced on 16 March 2005. See [CIRD48270](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48270) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48270>) for an explanation of how this works.

Definitions

A close company is as defined in section CTA2010/S439. See CTM60100 onwards. For the purpose of determining whether a company is closely controlled, the provisions of CTA2010/S450 apply in the usual way (see CTM60200 onwards). And in attributing rights and powers for this purpose the rules in CTA2010/S451 (3)-(6) apply (see CTM60140).

The test of control and whether someone holds a major interest in a company are determined by the provisions in CTA09/PART8/S836 - 840 explained at [CIRD45150](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45150) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45150>) to CIRD45200.

A participator is as defined in CTA2010/S454 (see CTM60107), subject to a slight restriction: a person cannot be a participator in a close company solely by virtue of being a 'loan creditor' of that company.

An associate of a participator is as defined in CTA2010/S448 - see CTM60150.

Particular case: Incorporation of partnership business

Where a partnership of individuals transfers its business to a company, set up for this purpose, in exchange, wholly or partly, for shares issued by the company to the partners, the company is likely to be closely controlled, however numerous the partners. That is because:

- the interest of one participator in a company can be attributed to another where they are associates of one another (CTM60140),
- partners are associates of one another (CTM60150 (a)(v)),
- so, each partner's holding can be attributed to five or fewer partners (indeed just to one) to make the company a close company (CTM60060).

Each partner is therefore a related party of the company.

For further advice in relation to incorporation of a pre-FA 2002 partnership business see [CIRD45260](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45260) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45260>) - CIRD45270.

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