

Interest paid to directors and directors' associates. CTA76 s97 437.—(1) In this section, “interest” includes any other consideration paid or given by the close company for the use of money advanced, or credit given, by any person, and references to interest paid shall be construed accordingly.

(2) For the purposes of this section, a person shall have a material interest in a company if the person, either on the person's own or with any one or more of the person's associates, or if any associate of the person with or without any such other associates, is the beneficial owner of, or is able, directly or through the medium of other companies or by any other indirect means, to control, more than 5 per cent of the ordinary share capital of the company.

(3) Subject to the exceptions mentioned in section 130 (1), this section shall apply where in any accounting period any interest is paid by a close company to, or to an associate of, a person—

(a) who is a director of the close company, or of any company which controls or is controlled by the close company, and

(b) who has a material interest—

(i) in the close company, or

(ii) where the close company is controlled by another company, in that other company.

(4) Where the total amount so paid to any person in the accounting period exceeds the limit imposed in that person's case, the excess shall be deemed to be a distribution made by the close company to that person.

(5) The limit shall be calculated in the first instance as an overall limit applying to the aggregate of all interest which is within subsection (3) and which was paid by the close company in the accounting period and, where there are 2 or more different recipients, that overall limit shall be apportioned between them according to the amounts of interest paid to them respectively.

(6) The overall limit shall be a sum equal to interest at 13 per cent per annum or such other rate of interest as the Minister for Finance may from time to time prescribe on whichever is the lesser of—

(a) the total of the loans, advances and credits on which the interest within subsection (3) was paid by the close company in the accounting period or, if the total was different at different times in the accounting period, the average total over the accounting period, and

(b) the nominal amount of the issued share capital of the close company plus the amount of any share premium account (or other comparable account by whatever name called) of the company, taking both amounts as at the beginning of the accounting period.

(7) This section shall apply subject to section 436 (7).