HMRC - CFM39035 - Connected Parties Deriving Benefit From Creditor Relationships

Connected parties deriving benefit from creditor relationships

Where a company lends money but does not receive any profit from the lending of money (which would usually be in the form of interest) but instead equivalent value is passed by the borrower to a company connected to the lender, the lending company may claim it is not taxable on this value. The connected company is not a party to the loan relationship, and also claims it is not taxable on the benefit it derives from the arrangements. CTA09/S453 (previously FA96/S93C, inserted by FA 2006) remedies this situation.

S453 applies in the case of a creditor loan relationship of a company (‘CoA’) if:

the return to CoA from the relationship is less than a return (a ‘commercial return’) on an investment of money at a commercial rate of interest,

another company (‘CoB’), which is connected with CoA, directly or indirectly derives any benefit as a result of any arrangements made in consequence of, or otherwise in connection with, the relationship, and

that benefit is designed to represent some or all of the amount by which the return to CoA is less than a commercial return.

S453 uses the ICTA88/S839 definition of connected persons.

In measuring whether the return to CoA is less than a commercial return, any benefit CoA derives directly or indirectly from the benefit derived by CoB is disregarded.

Under S453(2), the credits to be brought into account by CoA under the relationship must be determined on the basis of fair value accounting. The fair value of CoA’s rights under the relationship must include the fair value of the benefit which is derived by CoB as a result of the arrangements.

This section applies to loan relationships to which a company is party on or after 22 March 2006. (But amounts are only to be brought into account as a result of the changes if they relate to any time on or after that date.)

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