HMRC - CTM60230 - Tests: Control - Right To Receive Most Assets

CTA2010/S450 (3) (d), S453 (4) and S1069(3) (formerly ICTA88/S416 (2), ICTA88/S417 (9))

Control under (d) of CTM60220 exists where a person or persons have a right to receive the greater part of the assets then available for distribution among participators, in any circumstances, (for example, on redemption of redeemable share capital or on repayment of loans to the company) but also, specifically, on a winding up of the company.

‘Participators’ for this purpose includes loan creditors (unlike (c) of CTM60220). As regards the definition of loan creditors, see CTM60130. If a loan creditor is an open company, see CTM60300.

The test under CTA2010/S450 (3) (formerly ICTA88/S416 (2) (c)) only applies to the assets that would come to a participator in that capacity. In the case of a bank, for example, no regard would be had to any assets that would come to it in respect of loans made in the ordinary course of its banking business, because it is not deemed to be a loan creditor (and, hence it is not a participator) in respect of such loans by virtue of CTA2010/S453 (4) (formerly ICTA88/S417 (9)).

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