HMRC - CTM61570 - Arrangements Conferring Benefit On Participators: TAAR: Arrangements To Which A Close Company Becomes Party On Or After 20 March 2013

CTA10/S464A

CTA10/S455 and CTA10/S459 charge tax on any loans or advances to (or debts incurred by) close company participators and their associates which are made either directly (Section 455) or indirectly (Section 459).

However, increasingly, participators (or their associates) were extracting value out of their companies in untaxed forms in ways which did not, on the facts, amount to loans/advances/debts within the meaning of Sections 455/459 and may not have been charged by other taxing provisions either.

FA13 inserted a new Chapter 3A in Part 10 of CTA10 to charge such extractions and, mirroring CTA10/Chapter 3, to provide relief from the charge if the amount extracted is returned to the company. Equally, it is also subject to the new bed and breakfasting provisions so that any repayment must be enduring.

CTA10/Chapter3A is a Targeted Anti-Avoidance Rule (TAAR). It is widely drawn and should be considered in any case in which value is leaving a company and ending up in the hands of a participator, other than in the form of a loan/advance which is chargeable under Section 455. It is also specifically aimed at ensuring Section 455 tax cannot be avoided by the use of certain close company/partnership arrangements.

Section 464A applies where the company becomes party to arrangements on or after 20 March 2013 where:

a close company is party to tax avoidance arrangements, and

as a result of those arrangements a benefit is conferred, directly or indirectly, on an individual who is a participator or an associate of a participator

For further details of the meaning of various phrases see:

CTM61580 for ‘benefit conferred’

CTM61575 for ‘tax avoidance arrangements’

Where the value extracted is repaid or returned to the company (a ‘return payment’), and no consideration is given for the return payment, then CTA10/S464B makes provision for relief to be available to the company from the charge in the same way as for loans repaid. The claim and timing provisions in CTA10/S464B (2) to (6) mirror those of CTA10/S458, see CTM61600.

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