HMRC - CTM61580 - Arrangements Conferring Benefit On Participators: TAAR: Benefit Conferred

CTA10/S464A (1) (b)

The legislation is aimed at stopping money/value leaving a close company and ending up in the hands of a participator or an associate of a participator, where that extraction of money/value falls outside the definition of a loan or advance in CTA10/S455.

‘Benefit conferred’ in this section is not therefore linked in any way to income tax/employment income benefits. It has a broader/more general meaning. This is an anti-avoidance provision and it is necessary to take a broad view of the relevant facts and circumstances in each case.

It is aimed at any extractions of value out of a close company, or any scenario by which a participator/associate receives value out of a company which are not otherwise subjected to income tax or are taxed at a lower rate than would be the case if they were taken as remuneration or dividends. Where the value extracted is chargeable as a distribution, say under CTA10/S1000, then Section 464A will not apply. If the value extracted is chargeable as a chargeable gain that will not prevent Section 464A applying in appropriate circumstances.

The legislation can only apply, however, where any money/value actually ends up in the hands of the participator/associate. CTA10/S464A will not apply where value simply leaves the company, for example in the form of a capital contribution to a partnership, but where there is no benefit to the participator/associate (see CTM61585 for examples as to where it might apply in the partnership/capital contribution context).

If you consider that Section 464A might apply then please refer the case to CTIS (Technical).

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