HMRC - CTM61610 - Loans To Participators And Arrangements Conferring Benefit On Participators: Repayment Of - Date Relief Is Due

CTA10/S458 and CTA10/S464B

The due date for payment of Section 455 and Section 464A tax is aligned with the due date for mainstream CT.

Relief for any repayment is available immediately where the loan is repaid, released or written off or a return payment made within nine months of the end of the period in which it is made. The company will not need to pay the Section 455 or Section 464A tax if the loan is repaid/released/written off, or a return payment made before the tax falls due, because the company will then be entitled to relief under Section 458 or Section 464B. This takes many companies outside the charge where, for example, the loans are fully repaid by remuneration or dividends as soon as the preparation of the accounts reveals the extent of the indebtedness.

If repayment, release or write off of the loan, or a return payment, is made more than nine months after the end of the accounting period, then both CTA10/S458 (5) and CTA10/S464B (5) defer relief until the due date for the accounting period in which the repayment, release or writing off, or return payment takes place.

The deferral of the relief can affect the date on which a liquidation can be finalised or on which a company can dissolve using ESC C16 (up to 29 February 2012) or CTA10/S1030A from 1 March 2012. If the directors choose to force a short accounting period (for example, by changing the accounting periods with Companies House or using one of the other accounting period triggering events in CTA09/S9 or S10), then the wait for any repayment due can be correspondingly shortened.

You must not make any repayments before they are due, and where the tax remains unpaid you must not withhold collection pending the relief becoming due.

The wording of Section 458 (5) and Section 464B (5) means that relief for a repayment, release or write off, or a return payment cannot be given unless the repayment/release/write off or return payment is made in an accounting period. Where you are aware of a company which is to liquidate or dissolve and, for example, a loan repayment is to be made, advise the company that the repayment must be made in an accounting period. If the repayment of the loan has already been made and you cannot establish an accounting period for the company at the relevant time, contact CTIS (Technical).

There is no change to the rules for interest on overdue tax under TMA70/109 (3A) and TMA70/S87A, so interest stops running when the loan is repaid/released or written off or a return payment made and not when relief is due. The material date for repayment interest on loans or advances taxed under the new rules will normally depend on the date the loan is repaid, released or written off or a return payment made. (see CTM98265).

For CTSA accounting periods (ie those ending on or after 1 July 1999), the company’s self-assessment must not be amended until relief under Section 458 or Section 464B is due.

A claim for relief may be made on the CT600A where the relief is already due, see CTM98215, otherwise a separate claim should be made. A new form, L2P, is available to ensure that all relevant information is provided for the claim.

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