HMRC - CTM61615 - Loans To Participators And Arrangements Conferring Benefit On Participators: Repayment Of - Bed And Breakfasting - General

CTA10/S458 and CTA10/S464B

There is further advice on bed and breakfasting cases generally in EM8565

You may find that a participator’s indebtedness to the company is shown as reduced or eliminated immediately before the accounting date, or before the due date for payment of the Section 455 tax, only to be followed by a fresh loan or advance of the same or of a similar amount soon afterwards. The temporary reduction in indebtedness is often brought about by the participator borrowing funds on a short-term basis from a third party such as a bank. But it may come from a transfer of assets to the company, or a transfer from another account with the company. You may also come across other schemes for ‘bed and breakfasting’ the debt.

This practice is undertaken with a view to preventing the Section 455 charge arising even though essentially the participator effectively had the same loan, often for many years.

Where you think that you have found a case of bed and breakfasting you should get full details of the transactions and obtain as much factual evidence of the transactions and the accompanying arrangements as possible. As a minimum this should include a detailed breakdown of the loan account and copies of bank statements for the company and the relevant participators. CTIS (Technical) will advise further on the types of information which should be obtained as necessary.

It is vital to establish initially whether the mechanics of the transactions/arrangements have been effected in the right order and on the right dates, and that book entries reflect genuine underlying transactions. For example, a cheque may not actually have cleared, ie the funds have not actually been received in the company bank account, before the relevant date (the end of the accounting period or the 9 month point) and there can therefore be no argument that the loan is repaid at the appropriate point.

If the mechanics of the transactions are within the wording of Section 458 and the repayment is made up to and including 19 March 2013, see CTM61620.

For repayments (or return payments, see CTM61570) made on or after 20 March 2013 see CTM61625. New legislation at CTA10/S464C has been enacted to ensure that relief is no longer available for repayments and return payments which are not enduring.

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