HMRC - CTM61640 - Loans To Participators And Arrangements Conferring Benefit On Participators: B&B Repeated Loans/Repayments

CTA10/S464C (4)

Most bed and breakfasting involves only one repayment and one further loan. However, in any accounting period (AP) there can be several advances (chargeable payments) and several repayments which will need to be considered under the two rules, the 30 day rule and the ‘arrangements’ rule in CTA10/S464C, possibly leading to several applications of CTA10/S464C.

Therefore Section 464C and Section 464D include prioritising rules to match repayments with chargeable payments to prevent double counting and/or double relieving in respect of either amount .

Example

A company (C) has an AP end date of 31 December. In its APs ended 31 December 2014 and 31 December 2015 there are the following transactions with its participator (P):

31 December 2014 (AP1)

1 January 2014 loan by C to P of £50,000

1 November 2014 P repays £20,000 to C

20 November 2014 loan by C to P of £10,000

15 December 2014 P repays £10,000 to C

Year End Balance £30,000

31 December 2015 (AP2)

1 January 2015 loan by C to P £25,000

1 August 2015 repayment by P to C of £35,000

1 November 2015 loan by C to P of £55,000

Year End Balance £75,000

AP1

Under the normal repayment provisions of CTA10/S458, the combination of the repayment of £10,000 on 15 December 2014 along with the repayment of £35,000 on 1 August 2015 within 9 months of the end of the AP would, without CTA10/S464C mean that there was no S455 charge for AP1. However, as the repayments on 15 December 2014 and 1 August 2015 are made on or after 20 March 2013, CTA10/S464C needs to be considered.

The first repayment to which S464C (1) can apply is that of £10,000 on 15 December 2014. In the 30 day period from that date, a new loan, a new chargeable payment, of £25,000 was made on 1 January 2015. The 30 day rule will therefore deny relief for the repayment of £10,000 which will be matched with and hence treated as repaying part of the subsequent loan on 1 January 2015. At this point it looks as though there will be a Section 455 charge for AP1 on £40,000.

However within 9 months of the end of the AP, there is a further repayment of £35,000. This exceeds the original year end balance and is therefore meant to repay that year end balance such that no Section 455 is chargeable for AP1.

Looking first at the 30 day rule there is no chargeable payment within 30 days of the 1 August 2015 repayment, so the 30 day rule cannot apply to it. The ‘arrangements’ rule will need to be considered.

Assuming there are ‘arrangements’, which will of course depend on the facts, the rule will apply as follows:

the amount of chargeable payments outstanding immediately before the repayment on 1 August 2015 is in excess of £15,000.

as the 1 August 2015 repayment is not made in the same 30 day period as the January 2015 chargeable payment and it is made after that chargeable payment it is not matched with that chargeable payment

all of the £35,000 repayment is therefore matched with the £55,000 available amount of the chargeable payment on 1 November 2015. This leaves £20,000 of the loan on 1 November 2015 unmatched

as the whole of the 1 August 2015 repayment has been matched with the 1 November loan, no part of that repayment is available to relieve the balance at 31 December 2014 despite the repayment being made within the 9 month period following the year end.

as above, after the operation of the 30 day rule, the balance ostensibly chargeable for AP1 was £40,000. As the arrangement provision denies relief on the whole of the £35,000 repayment made on 1 August 2015, the amount chargeable after the operation of both rules in CTA10/S464C is £40,000 for AP1.

AP2

Loans totalling £80,000 were made in this year (£25,000 plus £55,000). £10,000 of the 1 January 2015 loan is matched with the £10,000 15 December 2014 repayment (therefore leaving £15,000 unmatched). £35,000 of the 1 November loan is matched with the £35,000 1 August 2015 repayment (therefore leaving £20,000 unmatched). The Section 455 charge for AP2 will therefore be on £35,000 (£80,000 less £10,000, less £35,000, or the unmatched amounts of £15,000 plus £20,000).

Overall for the 2 accounting periods , there are Section 455 charges totalling £75,000 (£40,000 in AP1 and £35,000 in AP2) which equates to the accounts balance at the end of AP2

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