HMRC - CTM61642 - Loans To Participators And Arrangements Conferring Benefit On Participators: B&B - Exclusions

CTA10/S464C (6)

This legislation does not apply where the repayment itself gives rise to a charge to income tax on the participator or associate to whom the original loan was made. This could happen, for example, where the loan is repaid by means of a dividend credited to the loan account which is included as income on the recipient’s tax return, or where a bonus is paid which is subjected to PAYE/NIC before being credited to the loan account. It would not apply, for example, to a payment of rent from the company to the participator because this is not itself income that gives rise to a tax charge but rather it is a constituent part of the eventual calculation of profits from a rental business.

Where money actually leaves the company, (for example the dividend or bonus is paid out in cash before being reintroduced into the company and credited to the loan account), then, regardless of whether income tax is chargeable on the dividend etc. when paid, this is not within the exemption in CTA10/S464C (6) as it is not the repayment itself which is giving rise to the income tax charge. When the money leaves the company it loses its identity as a relevant repayment.

Furthermore, to qualify for the exception the repayment must come from the same company source. Thus where a participator receives a dividend from a separate company and pays the cash into the company that has made him a loan; that will not qualify as a repayment that bears income tax within this exception.

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