HMRC - CTM61660 - Loans To Participators: Release Or Writing Off Of Loan Or Advance: Class 1 NIC

As well as attracting a potential charge under ITTOIA05/S415, where the participator or associate is an employee, the amount released or written off will attract Class 1 NIC if it is remuneration or profit derived from an employment (section 3 (1) SSCBA 1992). This was confirmed in the First Tier Tribunal in Stewart Fraser Ltd v HMRC [2011] UKFTT 46 (TC).

An officer who finds that a loan to which CTA10/S455 applied has been wholly or partly written off or released should make a report to RIS Referrals, available via RIS A to Z. This report should:

refer to ITTOIA05/S415, to SSCBA92/S3 (1) and to this paragraph,

give the full name and address (and the tax reference, if known) of the person to whom the loan etc was made,

give the date the loan etc was released or written off and the amount released or written off,

give the name of the company that made the loan or advance

For the treatment on the death of the individual to whom the loan was made see CTM61665.

For the treatment on the termination of a trust see CTM61670.

For sums paid into settlement see ITTOIA05/S633; this treatment is not followed if S633 applies to the loan.

Previous page

Next page