Changes to legislation: Income and Corporation Taxes Act 1988, PART XI is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XI

CLOSE COMPANIES

[F1CHAPTER I

INTERPRETATIVE PROVISIONS

F1	Pt. 11 Ch. 1 (ss. 414-418) repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 40, Sch. 3 Pt. 1 (with Sch. 2)					
414	Close companies.					
	F2					

Textual Amendments

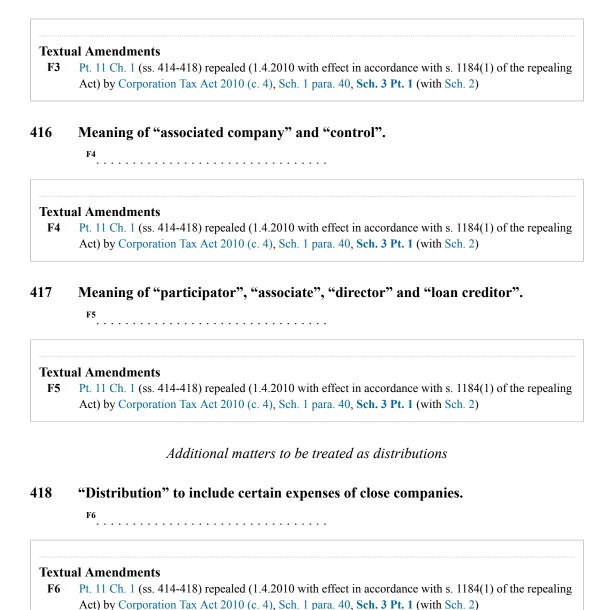
Textual Amendments

Pt. 11 Ch. 1 (ss. 414-418) repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 40, Sch. 3 Pt. 1 (with Sch. 2)

415	Certain quoted companies not to be close companies.
	F3

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[F7CHAPTER II

CHARGES TO TAX IN CONNECTION WITH LOANS

Textual Amendments

F7 Pt. 11 Ch. 2 (ss. 419-422) repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 41, Sch. 3 Pt. 1 (with Sch. 2)

CHAPTER II – CHARGES TO TAX IN CONNECTION WITH LOANS

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419 Loans to participators etc.

(1) MISubject to the following provisions of this section and section 420, where a close company, otherwise than in the ordinary course of a business carried on by it which includes the lending of money, makes any loan or advances any money to an individual who is a participator in the company or an associate of a participator, there shall be assessed on and recoverable from the company, as if it were an amount of corporation tax chargeable on the company for the accounting period in which the loan or advance is made, an amount equal to I^{F8}25 per cent. of the amount of the loan or advance].

In relation to a loan or advance made in an accounting period ending after the day, not being earlier than 31st March 1992, appointed by order by the Treasury for the purpose of this provision, this subsection shall have effect with the substitution for "assessed on and recoverable" of "due".

- (2) M2For the purposes of this section the cases in which a close company is to be regarded as making a loan to any person include a case where—
 - (a) that person incurs a debt to the close company; or
 - (b) a debt due from that person to a third party is assigned to the close company; and then the close company shall be regarded as making a loan of an amount equal to the debt.
- [F9(3) Tax due by virtue of this section in relation to any loan or advance shall be due and payable [F10 in accordance with section 59D of the Management Act] on the day following the expiry of nine months from the end of the accounting period in which the loan or advance was made.]
 - (4) M3Where a close company has made a loan or advance which gave rise to a charge to tax on the company under subsection (1) above and
 - [F11(a)] the loan or advance or any part of it is repaid to the company, [F12] or
 - (b) the whole or part of the debt in respect of the loan or advance is released or written off,]

relief shall be given from that tax, or a proportionate part of it F13. . . .

Relief under this subsection shall be given on a claim, which must be made within [F144 years] from the end of the financial year in which the repayment is made [F15 or the release or writing off occurs].

[F16(4A) Where

- [the repayment of the whole or any part of a loan or advance occurs on or after the day on which tax by virtue of this section becomes due in relation to that loan or advance, I^{F18} or
 - (b) the release or writing off of the whole or any part of the debt in respect of a loan or advance occurs on or after the day on which tax by virtue of this section becomes due in relation to that loan or advance,

relief in respect of the repayment [F19, release or writing off] shall not be given under subsection (4) above at any time before the expiry of nine months from the end of the accounting period in which the repayment [F19, release or writing off] occurred.]

- [F20(4B) Schedule 1A to the Taxes Management Act 1970 (claims and elections not included in return) applies to a claim for relief under subsection (4) above unless—
 - (a) the claim is included (by amendment or otherwise) in the return for the period in which the loan or advance was made, and

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- (b) the relief may be given at the time the claim is made.]
- (5) M4Where, under arrangements made by any person otherwise than in the ordinary course of a business carried on by him—
 - (a) a close company makes a loan or advance which, apart from this subsection, does not give rise to any charge on the company under subsection (1) above, and
 - (b) some person other than the close company makes a payment or transfers property to, or releases or satisfies (in whole or in part) a liability of, an individual who is a participator in the company or an associate of a participator,

then, unless in respect of the matter referred to in paragraph (b) above there falls to be included in the total income of the participator or associate an amount not less than the loan or advance, this section shall apply as if the loan or advance had been made to him

- (6) In subsections (1) and (5)(b) above the references to an individual shall apply also to a company receiving the loan or advance in a fiduciary or representative capacity F21....
- (7) For the purposes of this section any participator in a company which controls another company shall be treated as being also a participator in that other company.

Subordinate Legislation Made

P1 S. 419(1)(3): 30.9.1993 appointed for the purposes of s. 419(1)(3) by S.I. 1992/3066, art. 2(2)(b)

Textual Amendments

- F8 Words in s. 419(1) substituted (with effect in accordance with Sch. 3 para. 24(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(2)
- F9 S. 419(3) substituted (with effect in accordance with s. 173(6) of the amending Act) by Finance Act 1996 (c. 8), s. 173(2)
- **F10** Words in s. 419(3) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 19 para. 47(2)**; S.I. 1998/3173, **art. 2**
- F11 Word in s. 419(4) renumbered as s. 419(4)(a) (with effect in accordance with Sch. 3 para. 24(6) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(3)(a)
- F12 S. 419(4)(b) and preceding word inserted (with effect in accordance with Sch. 3 para. 24(6) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(3)(b)
- F13 Words in s. 419(4) repealed (with effect in accordance with s. 117(4)(5) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 19 para 47(3), Sch. 27 Pt. 3(28), Note; S.I. 1998/3173, art. 2
- **F14** Words in s. 419(4) substituted (1.4.2010) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 22**; S.I. 2009/403, **art. 2(2)** (with art. 10)
- F15 Words in s. 419(4) inserted (with effect in accordance with Sch. 3 para. 24(6) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(3)(c)
- F16 S. 419(4A) inserted (with effect in accordance with s. 173(6) of the amending Act) by Finance Act 1996 (c. 8), s. 173(3)
- F17 Word in s. 419(4A) renumbered as s. 419(4A)(a) (with effect in accordance with Sch. 3 para. 24(6) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(4)(a)
- F18 S. 419(4A)(b) and preceding word inserted (with effect in accordance with Sch. 3 para. 24(6) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(4)(b)
- F19 Words in s. 419(4A) inserted (with effect in accordance with Sch. 3 para. 24(6) of the amending Act) by Finance Act 1998 (c. 36), Sch. 3 para. 24(4)(c)
- **F20** S. 419(4B) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 19 para. 47(4)**; S.I. 1998/3173, **art. 2**

PART XI – CLOSE COMPANIES

CHAPTER III – APPORTIONMENT OF UNDISTRIBUTED INCOME ETC.

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F21 Words in s. 419(6) repealed (with effect in accordance with s. 173(6) of the repealing Act) by Finance Act 1996 (c. 8), s. 173(4), Sch. 41 Pt. 5(29), Note

Modifications etc. (not altering text)

C1 See 1970(M) s.109—application of s.419to corporation tax enactments generally.

Marginal Citations

- M1 Source—1970 s.286(1); 1972 Sch.17 3(2); 1987 (No.2) s.90(3)
- **M2** Source—1970 s.286(2)
- **M3** Source—1970 s.286(5); 1972 Sch.17 3(4); 1986 s.43(2); 1976 s.44
- **M4** Source—1970 s.286(7)-(9)

420	Excen	tions	from	section	419
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F22

Textual Amendments

F22 Pt. 11 Ch. 2 (ss. 419-422) repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 41, **Sch. 3 Pt. 1** (with Sch. 2)

421 Taxation of borrower when loan under section 419 released etc

F23

Textual Amendments

F23 Pt. 11 Ch. 2 (ss. 419-422) repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 41, Sch. 3 Pt. 1 (with Sch. 2)

422 Extension of section 419 to loans by companies controlled by close companies.

F24

Textual Amendments

F24 Pt. 11 Ch. 2 (ss. 419-422) repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 41, Sch. 3 Pt. 1 (with Sch. 2)

[F25CHAPTER III

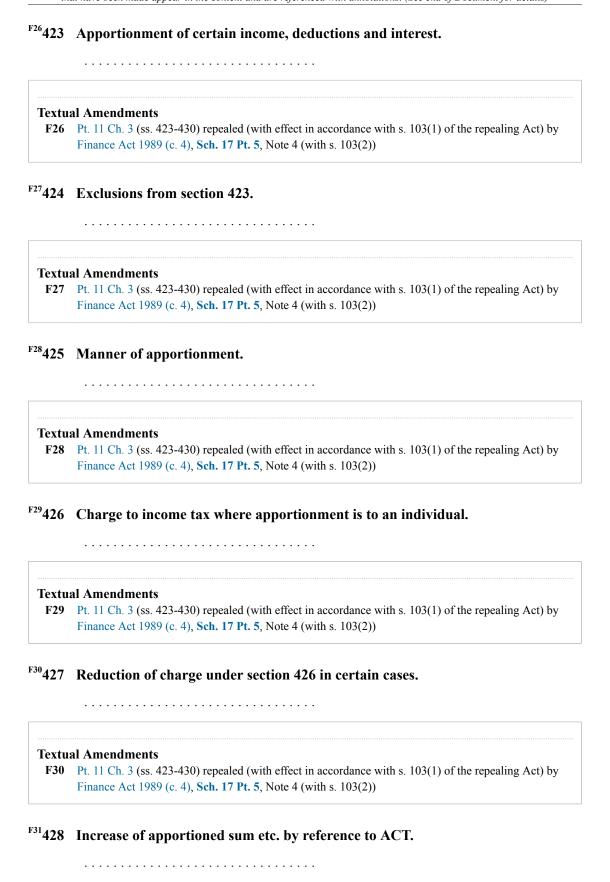
APPORTIONMENT OF UNDISTRIBUTED INCOME ETC.]

Textual Amendments

F25 Pt. 11 Ch. 3 (ss. 423-430) repealed (with effect in accordance with s. 103(1) of the repealing Act) by Finance Act 1989 (c. 4), Sch. 17 Pt. 5, Note 4 (with s. 103(2))

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CHAPTER III – APPORTIONMENT OF UNDISTRIBUTED INCOME ETC.

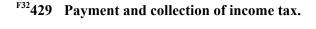
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F31 Pt. 11 Ch. 3 (ss. 423-430) repealed (with effect in accordance with s. 103(1) of the repealing Act) by Finance Act 1989 (c. 4), **Sch. 17 Pt. 5**, Note 4 (with s. 103(2))



Textual Amendments

F32 Pt. 11 Ch. 3 (ss. 423-430) repealed (with effect in accordance with s. 103(1) of the repealing Act) by Finance Act 1989 (c. 4), **Sch. 17 Pt. 5**, Note 4 (with s. 103(2))

F33430 Consequences of apportionment: ACT.

Textual Amendments

F33 Pt. 11 Ch. 3 (ss. 423-430) repealed (with effect in accordance with s. 103(1) of the repealing Act) by Finance Act 1989 (c. 4), **Sch. 17 Pt. 5**, Note 4 (with s. 103(2))

Status:

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