



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 10

#### CLOSE COMPANIES

### CHAPTER 2

#### BASIC DEFINITIONS

*Meaning of other expressions in this Part*

**448** “Associate”

- (1) In this Part “associate”, in relation to a person (“P”), means—
- (a) any relative or partner of P,
  - (b) the trustees of any settlement in relation to which P is a settlor,
  - (c) the trustees of any settlement in relation to which any relative of P (living or dead) is or was a settlor,
  - (d) if P has an interest in any shares or obligations of a company which are subject to any trust, the trustees of any settlement concerned,
  - (e) if P—
    - (i) is a company, and
    - (ii) has an interest in any shares or obligations of a company which are subject to any trust,any other company which has an interest in those shares or obligations,
  - (f) if P has an interest in any shares or obligations of a company which are part of the estate of a deceased person, the personal representatives of the deceased, or
  - (g) if P—
    - (i) is a company, and

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(ii) has an interest in any shares or obligations of a company which are part of the estate of a deceased person,  
any other company which has an interest in those shares or obligations.

(2) In this section, “relative” means—

- (a) a spouse or civil partner,
- (b) a parent or remoter forebear,
- (c) a child or remoter issue, or
- (d) a brother or sister.

**Modifications etc. (not altering text)**

- C1** Pt. 10 Ch. 2 applied (with modifications) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 376(1) (as amended by 2010 c. 4, s. 1184(1), Sch. 1 para. 610(2) (with Sch. 2))
- C2** Pt. 10 Ch. 2 applied (with modifications) (with effect in accordance with s. 1184(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 456(7) (as substituted by 2010 c. 4, s. 1184(1), Sch. 1 para. 466(2) (with Sch. 2))

**449 “Associated company”**

For the purposes of this Part, a company is another's “associated company” at a particular time if, at that time or at any other time within the preceding 12 months—

- (a) one of them has control of the other, or
- (b) both are under the control of the same person or persons.

**Modifications etc. (not altering text)**

- C3** Ss. 449-451 applied (with modifications) by Income and Corporation Taxes Act 1988 (c. 1), s. 815(5) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), Sch. 1 para. 116(b) (with Sch. 2))

**450 “Control”**

(1) This section applies for the purpose of this Part.

(2) A person (“P”) is treated as having control of a company (“C”) if P—

- (a) exercises,
- (b) is able to exercise, or
- (c) is entitled to acquire,

direct or indirect control over C's affairs.

(3) In particular, P is treated as having control of C if P possesses or is entitled to acquire—

- (a) the greater part of the share capital or issued share capital of C,
- (b) the greater part of the voting power in C,
- (c) so much of the issued share capital of C as would, on the assumption that the whole of the income of C were distributed among the participators, entitle P to receive the greater part of the amount so distributed, or

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- (d) such rights as would entitle P, in the event of the winding up of C or in any other circumstances, to receive the greater part of the assets of C which would then be available for distribution among the participators.
- (4) Any rights that P or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in subsection (3)(c).
- (5) If two or more persons together satisfy any of the conditions in subsections (2) and (3), they are treated as having control of C.
- (6) See also section 451 (section 450: rights to be attributed etc).

**Modifications etc. (not altering text)**

- C3** Ss. 449-451 applied (with modifications) by Income and Corporation Taxes Act 1988 (c. 1), s. 815(5) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), **Sch. 1 para. 116(b)** (with **Sch. 2**))
- C4** Ss. 450, 451 applied by Taxes Management Act 1970 (c. 9), s. 109F(4) (as inserted (with effect in accordance with s. 381(1) of the amending Act) by 2010 c. 8, s. 381(1), **Sch. 7 para. 54** (with **Sch. 9 paras. 1-9, 22**))
- C5** Ss. 450, 451 applied by Finance Act 1996 (c. 8), Sch. 15 para. 11(2D)(a) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), **Sch. 1 para. 293** (with **Sch. 2**))

**451 Section 450: rights to be attributed etc**

- (1) This section applies for the purposes of section 450.
- (2) A person is treated as entitled to acquire anything which the person—
  - (a) is entitled to acquire at a future date, or
  - (b) will at a future date be entitled to acquire.
- (3) If a person—
  - (a) possesses any rights or powers on behalf of another person (A), or
  - (b) may be required to exercise any rights or powers on A's direction or behalf, those rights or powers are to be attributed to A.
- (4) There may also be attributed to a person all the rights and powers—
  - (a) of any company of which the person has, or the person and associates of the person have, control,
  - (b) of any two or more companies within paragraph (a),
  - (c) of any associate of the person, or
  - (d) of any two or more associates of the person.
- (5) The rights and powers which may be attributed under subsection (4)—
  - (a) include those attributed to a company or associate under subsection (3), but
  - (b) do not include those attributed to an associate under subsection (4).
- (6) Such attributions are to be made under subsection (4) as will result in a company being treated as under the control of 5 or fewer participators if it can be so treated.

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**Modifications etc. (not altering text)**

- C3** Ss. 449-451 applied (with modifications) by Income and Corporation Taxes Act 1988 (c. 1), s. 815(5) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), **Sch. 1 para. 116(b)** (with **Sch. 2**))
- C4** Ss. 450, 451 applied by Taxes Management Act 1970 (c. 9), s. 109F(4) (as inserted (with effect in accordance with s. 381(1) of the amending Act) by 2010 c. 8, s. 381(1), **Sch. 7 para. 54** (with **Sch. 9 paras. 1-9, 22**))
- C5** Ss. 450, 451 applied by Finance Act 1996 (c. 8), Sch. 15 para. 11(2D)(a) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), **Sch. 1 para. 293** (with **Sch. 2**))

**452 “Director”**

- (1) In this Part, “director”, in relation to a company, includes—
- (a) a person occupying the position of director of the company, by whatever name called,
  - (b) a person in accordance with whose directions or instructions the directors of the company are accustomed to act, and
  - (c) a person within subsection (2).
- (2) A person (P) is within this subsection if P—
- (a) is a manager of the company or otherwise concerned in the management of the company's trade or business, and
  - (b) is—
    - (i) the beneficial owner of, or
    - (ii) directly or indirectly able to control,
 at least 20% of the ordinary share capital of the company.
- (3) For the purposes of subsection (2)(b), P is treated as owning or controlling (as the case may be) what any associate of P owns or controls.

**453 “Loan creditor”**

- (1) For the purposes of this Part, “loan creditor”, in relation to a company, means a creditor—
- (a) in respect of any debt within subsection (2), or
  - (b) in respect of any redeemable loan capital issued by the company.
- But this is subject to subsection (4).
- (2) Debt is within this subsection if it is incurred by the company—
- (a) for any money borrowed or capital assets acquired by the company,
  - (b) for any right to receive income created in favour of the company, or
  - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium on the debt).
- (3) A person who—
- (a) is not the creditor in respect of any debt or loan capital to which subsection (1) applies, but

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- (b) has a beneficial interest in that debt or loan capital, is, to the extent of that interest, treated for the purposes of this Part as a loan creditor in respect of that debt or loan capital (but this is subject to subsection (4)).
- (4) A person carrying on a business of banking is not treated as a loan creditor in respect of any debt or loan capital incurred or issued by the company for money lent by the person to the company in the ordinary course of that business.
- (5) See also section 519(2) of CTA 2009 (bond-holder under investment bond arrangements is loan creditor in respect of bond-issuer).

#### 454 “Participator”

- (1) For the purposes of this Part, “participator”, in relation to a company, means a person having a share or interest in the capital or income of the company.
- (2) In particular, “participator” includes—
  - (a) a person who possesses, or is entitled to acquire, share capital or voting rights in the company,
  - (b) a loan creditor of the company,
  - (c) a person who possesses a right to receive or participate in distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption,
  - (d) a person who is entitled to acquire such a right as is mentioned in paragraph (c), and
  - (e) a person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for the person's benefit.
- (3) For the purposes of subsection (2), a person is treated as entitled to do anything which the person—
  - (a) is entitled to do at a future date, or
  - (b) will at a future date be entitled to do.
- (4) In subsection (2) “distribution” is to be construed without regard to section 1000(2) (extended definition of distribution for close companies).
- (5) See also section 519(2) of CTA 2009 (investment bond arrangements to be ignored in the application of subsection (2)(e)).
- (6) This section does not affect any provision of this Part requiring a participator in one company to be treated as being also a participator in another company.

#### Modifications etc. (not altering text)

- C6 S. 454 applied (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), **ss. 341(5), 381(1)** (with [Sch. 9 paras. 1-9, 22, 31](#))

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**Changes to legislation:**

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