

Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 30. (See end of Document for details)

SCHEDULES

SCHEDULE 30

Section 79

CLOSE COMPANIES

PART 1

AMENDMENTS OF PART 10 OF CTA 2010

- 1 Part 10 of CTA 2010 (close companies) is amended as follows.
- 2 (1) In section 438 (overview), after subsection (2) insert—
- “(2A) Chapter 3A imposes a charge to tax in connection with other arrangements involving close companies and participators.
- (2B) Chapter 3B makes provision about the treatment of certain repayments and return payments made in respect of loans, advances and other arrangements.”
- (2) The amendment made by this paragraph is treated as having come into force on 20 March 2013.
- 3 (1) In section 455 (charge to tax in case of loan to participator), for subsection (1) substitute—
- “(1) This section applies if a close company makes a loan or advances money to—
- (a) a relevant person who is a participator in the company or an associate of such a participator,
- (b) the trustees of a settlement one or more of the trustees or actual or potential beneficiaries of which is a participator in the company or an associate of such a participator, or
- (c) a limited liability partnership or other partnership one or more of the partners in which is an individual who is—
- (i) a participator in the company, or
- (ii) an associate of an individual who is such a participator.”
- (2) The amendment made by this paragraph has effect in relation to a loan or advance made on or after 20 March 2013.
- 4 (1) In section 459(2) (application of other provisions where loan treated as made to participator), after “458” insert “ and 464C and 464D ”.
- (2) The amendment made by this paragraph is treated as having come into force on 20 March 2013.
- 5 (1) After Chapter 3 insert—

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“CHAPTER 3A

CHARGE TO TAX: OTHER ARRANGEMENTS

Charge to tax: arrangements conferring benefit on participator

464A) This section applies if—

- (a) a close company is at any time a party to tax avoidance arrangements, and
 - (b) as a result of those arrangements, a benefit is conferred (whether directly or indirectly) on an individual who is—
 - (i) a participator in the company, or
 - (ii) an associate of such a participator.
- (2) But this section does not apply if, or to the extent that, the conferral of the benefit gives rise to—
- (a) a charge to tax on the company under section 455, or
 - (b) a charge to income tax on the participator or associate.
- (3) There is due from the company, as if it were an amount of corporation tax chargeable on the company for the accounting period in which the benefit is conferred on the participator or associate, an amount equal to 25% of the value of the benefit conferred.
- (4) Tax due under this section in relation to a benefit conferred on a participator or associate is due and payable in accordance with section 59D of TMA 1970 on the day following the end of the period of 9 months from the end of the accounting period in which the benefit was conferred.
- (5) If a company (C) controls another company (D), a participator in C is to be treated for the purposes of this section as being also a participator in D.
- (6) For the purposes of this section, arrangements are “tax avoidance arrangements” if the main purpose, or one of the main purposes, of the arrangements is—
- (a) to avoid or reduce, or obtain a relief or increased relief from, a charge to tax on the company under section 455, or
 - (b) to obtain a tax advantage for the participator or associate.
- (7) In this section—
- “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions, and
- “tax advantage” has the meaning given in section 1139, reading references to tax in that section as references to income tax.

Relief in case of return payment to company

464B) Subsection (2) applies if a benefit has been conferred which gave rise to a charge to tax on the company under section 464A.

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- (2) Relief is to be given from that tax, or a proportionate part of it, if—
 - (a) a payment (“the return payment”) is made to the company in respect of the benefit, and
 - (b) no consideration is given for the return payment.
 - (3) Relief under this section is to be given on a claim, which must be made within 4 years from the end of the financial year in which the return payment is made to the company.
 - (4) Subsection (5) applies if the return payment is made on or after the day on which tax under section 464A becomes due and payable in relation to the benefit.
 - (5) Relief in respect of the return payment may not be given under this section at any time before the end of the period of 9 months from the end of the accounting period in which the return payment was made.
 - (6) Schedule 1A to TMA 1970 (claims and elections not included in return) applies to a claim for relief under this section unless—
 - (a) the claim is included (by amendment or otherwise) in the return for the period in which the benefit was conferred, and
 - (b) the relief may be given at the time the claim is made.”
- (2) The amendment made by this paragraph has effect in relation to arrangements to which a close company becomes a party on or after 20 March 2013.
- 6 (1) After Chapter 3A insert—

“CHAPTER 3B

REPAYMENTS AND RETURN PAYMENTS

Treatment of certain repayments and return payments

464(1) Where—

- (a) within any period of 30 days—
 - (i) the qualifying amount of repayments made to a close company in respect of one or more chargeable payments made by the company to a person totals £5,000 or more, and
 - (ii) the available amount of the relevant chargeable payments made by the company to the person or an associate of the person totals £5,000 or more, and
 - (b) the relevant chargeable payments are made in an accounting period subsequent to that in which the chargeable payments mentioned in paragraph (a)(i) were made,
- the qualifying amount of the repayments, so far as not exceeding the available amount of the relevant chargeable payments, is to be treated for the purposes of this Chapter as a repayment of the relevant chargeable payments.
- (2) A chargeable payment is a relevant chargeable payment for the purposes of subsection (1) if (or to the extent that) it is not repaid within the period of 30 days mentioned in that subsection.

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- (3) Where—
- (a) immediately before a repayment is made in respect of one or more chargeable payments made by a close company to a person, the total amount owed to the company by the person in respect of chargeable payments is £15,000 or more,
 - (b) at the time the repayment is made, arrangements had been made for one or more chargeable payments to be made to replace some or all of the amount repaid, and
 - (c) the available amount of the chargeable payments made by the company to the person or an associate of the person under the arrangements totals £5,000 or more,
- the qualifying amount of the repayment, so far as not exceeding the available amount of the chargeable payments mentioned in paragraph (c), is to be treated for the purposes of this Chapter as a repayment of those chargeable payments.
- (4) An amount contained in a chargeable payment is an available amount—
- (a) for the purposes of subsection (1), to the extent that no repayment has been treated as made in respect of it by the previous operation of that subsection, and
 - (b) for the purposes of subsection (3), to the extent that no repayment has been treated as made in respect of it—
 - (i) by the operation of subsection (1), or
 - (ii) by the previous operation of subsection (3).
- (5) An amount contained in a repayment is a qualifying amount to the extent that it has not been treated by the previous operation of this section as a repayment of a chargeable payment.
- (6) This section does not apply in relation to a repayment which gives rise to a charge to income tax on the participator or associate by reference to whom the loan, advance or benefit was a chargeable payment.
- (7) The Treasury may by order vary a sum specified in subsection (1) or (3).
- (8) An order under subsection (7) may contain incidental, supplemental, consequential and transitional provision and savings.

Section 464C: supplementary

- 464D) All such assessments and adjustments of assessments are to be made as are necessary to give effect to section 464C(1) and (3).
- (2) If a person who has made a tax return becomes aware that, after making it, anything in it has become incorrect because of the operation of section 464C(1) or (3), the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
 - (3) The notice must be given within 3 months beginning with the day on which the person became aware that anything in the return had become incorrect because of the operation of section 464C(1) or (3).
 - (4) In section 464C, “chargeable payment” means—

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- (a) a loan or advance made by a close company which gives rise to a charge to tax under section 455, or
 - (b) the conferral of a benefit on an individual in circumstances which give rise to a charge to tax under section 464A.
- (5) In a case within subsection (4)(b)—
- (a) the conferral of the benefit is to be treated for the purposes of section 464C as a loan made by the close company to the individual to the value of the benefit conferred, and
 - (b) any payment in respect of which (apart from section 464C) relief is due to the close company under section 464B is to be treated for the purposes of section 464C as a repayment of the loan.”
- (2) The amendment made by this paragraph has effect in relation to repayments and return payments made on or after 20 March 2013.
- 7 In section 465 (power to obtain information), after “Chapter 3” (in both places) insert “ or 3A ”.

PART 2

OTHER AMENDMENTS

Taxes Management Act 1970

- 8 TMA 1970 is amended as follows.
- 9 In section 59E(11)(a) (provision as to when tax is due and payable)—
- (a) after “455” insert “ or 464A ”, and
 - (b) after “loan” insert “ or benefit ”.
- 10 In section 59F(6)(a) (arrangements for paying tax on behalf of group members)—
- (a) after “455” insert “ or 464A ”, and
 - (b) after “loan” insert “ or benefit ”.
- 11 (1) Section 109 (corporation tax on close company in connection with loans to participators etc) is amended as follows.
- (2) In subsection (1)—
- (a) after “459” insert “ and 464A and 464B ”, and
 - (b) for “by close companies” insert “ or benefits ”.
- (3) For subsection (3) substitute—
- “(3) For the purposes of section 87A of this Act as applied by subsection (1) above—
- (a) the date when tax under section 455 of CTA 2010 became due and payable is that determined in accordance with subsection (3) of that section, and
 - (b) the date when tax under section 464A of CTA 2010 became due and payable is that determined in accordance with subsection (4) of that section.”
- (4) After subsection (3A) insert—

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“(3B) If there is a payment which for the purposes of section 464B of CTA 2010 is a return payment in respect of a benefit conferred, interest under section 87A of this Act on so much of the tax under section 464A of CTA 2010 as is referable to the return payment is not payable in respect of any period after the date on which the return payment was made.”

- (5) In subsection (4), after “458” insert “ or 464B ”.
 - (6) In subsection (5), after “459” insert “ or 464A and 464B ”.
 - (7) In the heading, after “loans” insert “ **or benefits** ”.
- 12 The amendments made by paragraphs 9 to 11 are treated as having come into force on 20 March 2013.

Finance Act 1998

- 13 (1) Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.
- (2) In paragraph 1 (meaning of “tax”), after the entry relating to section 455 of CTA 2010 insert— “ section 464A of that Act (tax on other benefit conferred on participator), ”.
 - (3) In paragraph 8(1) (calculation of tax payable), in paragraph 1 of the third step—
 - (a) after “455” insert “ or 464A ”, and
 - (b) for “or advance made by close company” substitute “ , advance or benefit ”.
 - (4) In paragraph 18 (failure to deliver return: tax-related penalty), for sub-paragraph (4) substitute—

“(4) In determining that amount no account is to be taken of—

 - (a) any relief under section 458 of the Corporation Tax Act 2010 (relief in respect of repayment, etc of loan) which is deferred under subsection (5) of that section, or
 - (b) any relief under section 464B of that Act (relief in respect of return payment) which is deferred under subsection (5) of that section.”
- (5) The amendments made by this paragraph are treated as having come into force on 20 March 2013.

Income Tax (Trading and Other Income) Act 2005

- 14 (1) In section 417 of ITTOIA 2005 (person liable for charge on release of loan or advance), for subsection (1) substitute—
- “(1) The person liable for any tax charged under this Chapter is—
- (a) in the case of a loan or advance made to a partnership, any partner who is an individual, and
 - (b) in any other case, the person to whom the loan or advance was made.
- (1A) If more than one person is liable in a case within subsection (1)(a), the liability is to be apportioned between them in a just and reasonable manner.”
- (2) The amendment made by this paragraph has effect in relation to loans or advances made on or after 20 March 2013.

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