



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XI

CLOSE COMPANIES

CHAPTER II

CHARGES TO TAX IN CONNECTION WITH LOANS

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

- (1) Subject to subsection (4) below, where a company which is controlled by a close company makes a loan which, apart from this section, does not give rise to a charge under subsection (1) of section 419, that section and section 420 shall apply as if the loan had been made by the close company.
- (2) Subject to subsection (4) below, where a company which is not controlled by a close company makes a loan which, apart from this section, does not give rise to a charge under subsection (1) of section 419 and a close company subsequently acquires control of it, that section and section 420 shall apply as if the loan had been made by the close company immediately after the time when it acquired control.
- (3) Where two or more close companies together control the company that makes or has made the loan, subsections (1) and (2) above shall have effect—
 - (a) as if each of them controlled that company; and
 - (b) as if the loan had been made by each of those close companies,but the loan shall be apportioned between those close companies in such proportion as may be appropriate having regard to the nature and amount of their respective interests in the company that makes or has made the loan.
- (4) Subsections (1) and (2) above do not apply if it is shown that no person has made any arrangements (otherwise than in the ordinary course of a business carried on by him) as a result of which there is a connection—

Status: This is the original version (as it was originally enacted).

- (a) between the making of the loan and the acquisition of control; or
- (b) between the making of the loan and the provision by the close company of funds for the company making the loan;

and the close company shall be regarded as providing funds for the company making the loan if it directly or indirectly makes any payment or transfers any property to, or releases or satisfies (in whole or in part) a liability of, the company making the loan.

- (5) Where, by virtue of this section, sections 419 and 420 have effect as if a loan made by one company had been made by another, any question under those sections or section 421 whether—
- (a) the company making the loan did so otherwise than in the ordinary course of a business carried on by it which includes the lending of money;
 - (b) the loan or any part of it has been repaid to the company;
 - (c) the company has released or written off the whole or part of the debt in respect of the loan,

shall be determined by reference to the company that makes the loan.

- (6) This section shall be construed as one with section 419 and section 420 and in this section—
- (a) “loan” includes advance; and
 - (b) references to a company making a loan include references to cases in which the company is, or if it were a close company would be, regarded as making a loan by virtue of section 419(2).