

Explanatory Note

Clause 26: Loans to participators – trustees of charitable trusts

Summary

1. This measure introduces a partial exemption from the loans to participator rules for certain charity transactions.

Details of the clause

2. Subsection 1 inserts new subsection 2A into section 456 Corporation Tax Act 2010 (CTA 2010).
3. New subsection 2A provides an exemption from the section 455 charge to tax for loans or advances to trustees of charitable trusts where the loan or advance is applied for the purposes of the charitable trust.

Commencement

4. Subsection 2 provides that the exemption applies to loans or advances made on or after 25 November 2015.

Background note

5. The loans to participator rules exist to ensure that value is not extracted by individuals from close companies (broadly companies owned by 5 or fewer shareholders) in ways which minimise their personal taxes.
6. The rules applied to charities in relevant circumstances. Whilst 2013 changes to the rules did not bring charities within the rules for the first time, they raised awareness that certain financing transactions that charities entered into could be caught by the rules and this was brought to the government's attention.
7. The transactions in question do not meet the purpose of the loans to participator rules. The exemption will ensure that such loans are no longer caught, but at the same time it will provide that the charge can continue to apply to charity transactions which do meet the purpose of the rules.
8. If you have any questions about this change, or comments on the legislation, please contact Lorraine Coster on 03000 585676 (email: lorraine.coster@hmrc.gsi.gov.uk)