



HM Revenue  
& Customs

# Directors' Loan Accounts Toolkit

2019-20 Company Tax Returns

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## Introduction

Tax agents and advisers play an important role in helping their clients to get their tax returns correct. This toolkit is aimed at helping and supporting tax agents and advisers by providing guidance on the errors we find commonly occur in relation to directors' loan accounts. It may also be helpful to anyone who is completing a Company Tax Return.

This version of the toolkit was published in April 2020. The risks in this toolkit have been reviewed and updated where necessary for 2019-20. This toolkit is applicable for financial years commencing 1 April 2019 for Company Tax Returns. Its use is entirely voluntary.

The content of this toolkit is based on HMRC's view of how tax law should be applied. Its application to specific cases will depend on the law at the relevant time and on the precise facts.

For further information on using this toolkit and taking reasonable care under HMRC's penalty system see **Toolkits to help reduce errors - essential information**.

References are made throughout this toolkit to S455 and S458 Corporation Tax Act 2010 which replaced S419 and S419 (4) Income and Corporation Taxes Act 1988 respectively for periods beginning on or after 1 April 2010.

For guidance on matters not dealt with in this toolkit you should refer to the **Company Taxation Manual (CTM)**.

## Areas of risk directors' loan accounts

A company may not deduct expenditure in computing its taxable profits unless it is incurred wholly and exclusively for the purposes of the trade. See S54 Corporation Tax Act 2009. As companies are separate legal entities that stand apart from their directors and shareholders they do not incur personal expenses. However, many companies, particularly 'close' companies, pay for personal expenses of the directors.

It is important to note that where payments, either made to or incurred on behalf of a director, do not form part of their remuneration package, these amounts may not be an allowable company expense. In such circumstances it may be appropriate for these items to be set against the director's loan account. Establishing whether a payment forms part of a director's remuneration package can be complex.

For further guidance on HMRC's view of this area see **Enquiry Manual (EM) EM8505**.

This toolkit broadly covers expenses that do not form part of a director's remuneration package. Where a company makes payments on behalf of a director which forms part of their remuneration package please refer to the relevant guidance contained within **Employment Income Manual (EIM)**.

For further information on errors that we find commonly occur in relation to expenses and benefits from employment see **Expenses and Benefits from Employment Toolkit**.

## Accounting Framework

If an entity makes loans to/from directors/employees where there is no explicit interest rate or the interest rate charged is not at a market rate, then the prescribed accounting treatment will depend on which accounting framework the entity has adopted.

Where an entity applies either FRS 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' (FRS 102) or FRS 102 'Section 1A Small Entities' then such loans are required to be accounted for as if they were a loan with a market rate of interest. However, as an optional interim measure a small entity using FRS102 may measure loans from a director (or loans from a close family member of the director if one of the close family members is a shareholder) at transaction price. Where a company applies FRS 105 'The Financial Reporting

Standard applicable to the Micro-entities Regime' (FRS 105), loans to or from a director would initially be recorded at the amount borrowed/advanced.

The choice of accounting treatment does not affect the amount chargeable under section 455. That is charged on the full amount initially borrowed/advanced.

Areas of risk within director's loan accounts fall broadly into the following categories:

### Review of accounts

It is important that any personal expenditure incurred by the director and paid by the company is allocated correctly. Where the expenditure forms part of the remuneration package it will be an allowable expense of the company and the appropriate employment taxes should be paid. Where the expenditure does not form part of the remuneration package the relevant amount should normally be debited to the director's loan account.

A review of particular accounts headings may identify directors' personal expenditure that has not yet been allocated appropriately. Transactions should normally be recorded as they occur and a detailed transaction history maintained, so that it is possible to identify the director's loan account balance on any given date.

### Section 455 tax - Loans to Participators

Section 455 Corporation Tax Act 2010 charges tax in certain circumstances where a close company makes a loan to one of its participators. A participator is any person having a share or interest in the capital or income of the company (and in particular includes shareholders).

Section 455 will apply to loans to directors who are also participators, and to participators who are not directors. It does not apply to directors who are not also participators.

Where a close company makes a loan or advances money to an individual who is either:

- a participator in the company
- an associate of a participator.

The close company is due to pay tax under S455 Corporation Tax Act 2010 unless:

- the loan or advance was made both in the ordinary course of the close company's business and where that business includes the lending of money, or
- relief under **S458 Corporation Tax Act 2010** is due.

The rate of Section 455 tax (and tax under Section 464A) has for many years been 25%, matching the effective dividend upper rate. Following changes to dividend taxation, the section 455 and section 464A rates are now specifically matched to the relevant dividend upper rate in force. For loans made to or benefits conferred on participators on or after 1 April 2016, the new rate is 32.5%.

For guidance about participators see **CTM60107**.

S455 only applies if the company is a close company at the time the loan or advance is made.

For information about close companies see **CTM60000**.

Commonly, but not exclusively, loans or advances are made to directors of close companies through their loan accounts. Where a director (who is also a participator) has a loan account that is overdrawn this should be reviewed to consider whether the company is liable to pay S455 tax.

### Review of benefits and expenses

If an employer provides a director or employee with anything other than pay it may have to be reported as an expense or a benefit. The type of expense or benefit and the way they are provided can affect the tax and NICs to be paid and the reporting requirement. Some expenses and benefits, although not liable to tax or NIC, may still need to be reported. Therefore, errors

can arise, and it is important to consider all of the facts surrounding expenses paid or benefits provided. If an entity offers interest-free loans to all employees, including its directors, as an additional employee benefit then you may need to consider under a review of benefits and expenses.

There is a general requirement to report all non-exempt expenses and benefits on the relevant forms. However, expenses that are 'wholly, exclusively and necessarily' incurred in the performance of the duties of employment are not normally liable for tax and NICs and the director or employee can normally make a claim for relief under S336 Income Tax (Earnings and Pensions) Act 2003 on their Self Assessment tax return or on form P810.

To avoid such routine reporting of expenses and benefits an employer can apply for a dispensation to cover these.

For further guidance on dispensations go to Chapter 2 of **Booklet 480 Expenses and benefits - a tax guide**.

For a chart showing common benefits and whether Class 1 or Class 1A NICs are due and how they should be shown on the forms P9D and P11D go to Appendix 1 of **CWG5: Class 1A National Insurance contributions on benefits in kind**.

## Self Assessment

Directors are treated as employees of their company for tax purposes. They are not self-employed. It is the company that is the business.

Company directors do not need to send a tax return unless they have other taxable income that needs to be reported, or if HMRC has sent a notice to file a return.

Use the '**Check if you need to send a Self Assessment tax return**' tool to help you decide whether your client needs to register.

Other taxable income that needs to be reported can include chargeable gains and the High Income Child Benefit charge (HICBC). If a customer has received a notice to file a return and has no other taxable income to report, they can ask for the notice to file to be withdrawn.

However, HMRC may decide that they still require a return and if so, the return must be submitted otherwise penalties may be incurred.

Remember to tell HMRC if your client is changing their business from self-employment to a limited company.

You will need to draw up final accounts from the business as a self-employed trader. You will need these details to complete the Self Assessment tax return and there may also be a requirement to pay final amounts of Class 2 and Class 4 National Insurance.

## Record keeping

Good record keeping is essential. Poorly kept records can mean that information provided is not accurate. This may result in non-business expenditure incurred by the directors being incorrectly recorded or misposted in the business records and claimed in error as an allowable expense. Conversely, justifiable business expenditure incurred by the directors may not be claimed or claimed inaccurately. Consequently, directors' loan account balances may be incorrect resulting in S455 tax being underpaid or S458 relief not claimed at the appropriate time.

For further information see **Directors' loan accounts and Corporation Tax explained**.

For further information on general record keeping for companies see **Records for Corporation Tax**.

## Using links within this document

[Blue underlined text](#) are links within this document.

**Green bold text** are hyperlinks to external documents on the internet (access to the internet is necessary to view these).

We have a range of services for people with disabilities, including guidance in Braille, audio and large print. Most of our forms are also available in large print. Please contact any of our helplines if you need these services.

**Dealing with HMRC if you have additional needs**

## Giving HMRC feedback on toolkits

HMRC would like to hear about your experience of using the toolkits to help develop and prioritise future changes and improvements. HMRC is also interested in your views of any recent interactions you may have had with the department.

**Send HMRC your feedback**

Client Name:

Period Ended:

## Checklist for directors' loan accounts

	Yes	No	N/A	N/K
<b>Review of accounts</b>				
1				
Have <a href="#">expense headings</a> which could include non-business expenditure paid to or on behalf of directors been reviewed to identify any non-business elements?				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2				
Have any <a href="#">payments made to or on behalf of the directors</a> as part of their remuneration package been treated as employment income and all relevant employment taxes operated?				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3				
Has any <a href="#">personal expenditure of the directors</a> that does not form part of their remuneration package been debited to the directors' loan accounts as appropriate?				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4				
Have any <a href="#">relevant credits to the directors' loan accounts</a> been calculated correctly?				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5				
Have all transactions relevant to the directors' loan accounts been <a href="#">posted contemporaneously</a> ?				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Section 455 tax - Loans to Participators

- 6 If a director (who is also a participator) has a [loan account that is or has been overdrawn](#), has the company paid tax under S455 Corporation Tax Act 2010 where appropriate? Has S455 been charged at the correct rate?
- 
- 7 If a loan chargeable to tax under S455 Corporation Act 2010 has [been repaid](#), has any relief been claimed in the correct year?
- 
- 8 If a loan chargeable to tax under S455 Corporation Tax Act 2010 has been repaid, has the [same or similar amount been withdrawn](#) in the subsequent period?
- 
- 9 Have all loans been [considered separately](#) where appropriate?
- 
- 10 If any loans chargeable to tax under S455 Corporation Tax Act 2010 have been [repaid by way of bonus or dividends](#), have these been credited correctly?
- 
- 11 Where a loan subject to tax under S455 Corporation Tax Act has been [released or written off](#), have they been treated correctly?
-



# Explanation and mitigation of risks

## Review of accounts

1. Have expense headings which could include non-business expenditure paid to or on behalf of directors been reviewed to identify any non-business elements?

### Risk

A company may not correctly distinguish non-business transactions such as payments made to or on behalf of the directors (directors' personal expenditure) from business transactions. This may result in non-business expenditure being claimed as an expense in the profit and loss account instead of debited to the directors' loan accounts, or directors' benefits not being properly returned on form P11D.

### Mitigation

A review of the draft profit and loss account may identify account headings where there is an unusual variation or where, based on past experience and knowledge of the business, directors' personal expenditure may be included.

Such account headings may include motor expenses, repairs and renewals, travel and subsistence, sundry expenses and so on. A detailed analysis of these may identify amounts which are paid by the company and which are more properly chargeable to the directors.

Ensure that relevant accounts are analysed, and that any directors' personal expenditure is debited to the appropriate director's loan account or included in the payroll records and/or returned on form P11D as appropriate.

### Explanation

Only revenue expenditure incurred wholly and exclusively for the purposes of the company's trade may be claimed as a deduction. Payments made towards the directors' personal expenditure are not allowable as deductions from profits, unless they form part of a director's remuneration package. If so, then relevant employment taxes should be operated or a form P11D should be completed detailing the value of the expenses and benefits as appropriate. See [Q2](#).

For further guidance on benefits see [EIM21000+](#).

For payments not forming part of the director's remuneration package see [Q3](#).

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2. Have any payments made to or on behalf of the directors as part of their remuneration package been treated as employment income and all relevant employment taxes operated?

### Risk

Payments made to or on behalf of directors or their family or household that are contractual, rewards for work done or are payments for future work are normally considered to be employment income. Employment income includes earnings, amounts treated as earnings (for example benefits) and certain other payments. See [explanation](#).

If such payments are posted to the director's loan account when they are in fact part of the remuneration package this can result in an underpayment of tax and National Insurance contributions (NICs) and an incorrect loan account balance.

## Mitigation

Consider the payments made to or on behalf of the director or members of their family or household. Those that constitute employment income, including benefits etc. should be subject to tax and NICs and/or returned on form P11D appropriately.

If the payments are not charged as earnings, because they do not have a monetary value or cannot be converted to cash, they may be chargeable to tax under the benefits code. In these circumstances the benefit should be included on form P11D. It is important to note that NICs will be due on most benefits.

Payments that legitimately form part of the director's remuneration package are taxable as employment income and will therefore be an allowable expense of the company.

For further guidance on NICs see [National Insurance Manual \(NIM\) NIM02010+](#).

## Explanation

Before there is a charge to tax on employment income there must be an office or employment, for instance as a company director. Employment income consists of three types of income: earnings including wages, salaries, fees or bonuses defined in S62 Income Tax (Earnings and Pensions) Act 2003

- any amount treated as earnings including expenses, benefits and other payments such as sick pay
- any amount that counts as employment income, including termination payments and share options.

Subject to minor exceptions, any benefit provided for the members of the family or household of a director is treated as if it were provided for the director personally. Family or household covers the director's:

- spouse or civil partner
- children, their spouses or civil partners
- parents
- servants, dependants and guests.

For further information regarding payments that should be treated as earnings see [EIM00513](#).

Certain expenses may require to be returned on form P11D. To avoid the submission of details of routine expenses and benefits that would clearly involve no further tax liability, the company may prefer to consider applying for a dispensation.

For further information on dispensations see [Booklet 480 Chapter 2](#).

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## 3. Has any personal expenditure of the directors that does not form part of their remuneration package been debited to the directors' loan accounts as appropriate?

### Risk

If the company makes payments to, or on behalf of, the directors for their personal bills, and these payments do not form part of their remuneration package, these should normally be debited to the appropriate director's loan account. For example, payment of personal bills including credit cards, personal expenses paid by company credit card and personal entertaining, such as of the director's family or friends, should not be overlooked.

If these payments are not debited to the appropriate director's loan account, the loan account balance will be incorrect.

## Mitigation

Identify any payments the company has made to or on behalf of the directors that do not form part of their remuneration package. Ensure these costs are debited to the appropriate loan account and not the company profit and loss account.

Establishing whether a payment forms part of a director's remuneration package can be complex. For further guidance on HMRC's view of this area see [EM8505](#).

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## 4. Have any relevant credits to the directors' loan accounts been calculated correctly?

### Risk

Directors' bonuses, dividends and salaries etc. may be credited to the directors' loan accounts. Where such credits are made to the loan account the amount or timing of the credit may be incorrect, for example a director's bonus should only be credited when paid or deemed to be paid. PAYE and NICs should be operated on earnings at the same time and therefore only the net amount should be credited to the loan account.

Where there are credits for other items such as use of the director's home or business expenses paid personally, it is important to ensure that the amount reflects the actual or apportioned expense. If not, the loan account balance may be incorrect.

### Mitigation

Consider any amounts credited to the directors' loan accounts and ensure that these are for the correct amount and have been posted at the correct time.

Where items such as use of home are included there may be employment income implications. For further information see [Expenses and benefits A to Z](#).

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## 5. Have all transactions relevant to the directors' loan accounts been posted contemporaneously?

### Risk

If transactions are not posted at the time they occur, for example if they are only posted at the year end, an overdrawn balance during the year may be overlooked. Overdrawn loan accounts may constitute a beneficial loan which should be returned on form P11D. If beneficial loans are not returned on form P11D, this can result in an underpayment of tax by the director.

The company may also be liable to tax under S455 Corporation Tax Act 2010. See [Q6+](#).

### Mitigation

Transactions should normally be recorded as they occur and a detailed transaction history maintained, so that it is possible to identify the director's loan account balance on any given date. Where a contemporaneous record has not been kept, consider whether the loan account should be redrawn to identify if it has been overdrawn at any point during the year. Where a director's loan account is overdrawn at any point during the year consider whether there is a beneficial loan and ensure the benefit is returned on form P11D. Also consider whether tax under S455 applies. See [Q6+](#).

Class 1A NICs will also be payable on the P11D benefit and should be reported on form P11D(b).

### Explanation

A beneficial loan is chargeable if, at any time during the tax year, the total balance outstanding is more than £10,000. Loans with a balance of less than £10,000 throughout the whole year do not give rise to a chargeable benefit. Prior to 6 April 2014 the total balance outstanding amount

was £5,000 for each particular tax year. These limits do not apply for S455 purposes. Exceptions from S455 are detailed in S456 Corporation Tax Act 2010.

A director obtains a benefit by reason of their employment when they or members of their family or household are provided with a cheap or interest free loan. The director is generally taxable on the difference between interest at the relevant official rate and any interest paid.

For further guidance on beneficial loans see **Booklet 480 Chapter 17** and Q3 in the **Expenses and Benefits from Employment Toolkit**.

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## Section 455 tax - Loans to Participators

Section 455 Corporation Tax Act 2010 charges tax in certain circumstances where a close company makes a loan to one of its participators. A participator is any person having a share or interest in the capital or income of the company (and in particular includes shareholders). Section 455 will apply to loans to directors who are also participators, and to participators who are not directors. It does not apply to directors who are not also participators.

For guidance about participators see **CTM60107**.

**6. If a director (who is also a participator) has a loan account that is or has been overdrawn, has the company paid tax under S455 Corporation Tax Act 2010 where appropriate? Has S455 been charged at the correct rate?**

### Risk

Where a close company makes a loan or advance to a director (who is also a participator) in the company or to an associate of a participator (normally the individuals who own shares in the company and their relatives), the close company is due to pay tax under S455 Corporation Tax Act 2010. If S455 tax is not paid on the overdrawn amount this can result in an underpayment of tax.

Exceptions from S455 are detailed in S456 Corporation Tax Act 2010.

The rate has increased from 25% to 32.5% for loan made to or benefits conferred on participators on or after 1 April 2016.

### Mitigation

Once all appropriate adjustments have been made to the director's loan accounts, review the loan account balances at the end of the accounting period. If the loan accounts are overdrawn at the end of the accounting period and the director is also a participator calculate any S455 tax due and include the amount due with any Corporation Tax payable. S455 tax is due nine months and one day after the end of the accounting period in which the liability arises. See S455(3) Corporation Tax Act 2010. Check that the appropriate rate of section 455 tax has been applied, any loan should be charged at the dividend upper rate specified in section 8(2) of Income Tax Act 2007 (ITA07) for the tax year in which the loan or advance is made.

However, where the whole or part of a loan or advance is repaid, released or written off, the company is entitled to relief from the tax chargeable under S455 or a proportionate part of it. Where the loan is repaid, released or written off within nine months of the end of the accounting period relief is due immediately. The S455 tax and relevant S458 relief should be included and claimed on the relevant Company Tax Return. See [Q7](#) regarding the date relief is otherwise due.

### Explanation

A loan from a close company to a director will be chargeable to tax under S455 Corporation Tax Act 2010 if that director is also a participator.

Loans made on beneficial terms to a director or a relative of a director may also give rise to liability on the individual under the earnings from employment provisions in addition to any charge on the company under S455. See [Q5](#).

For further guidance see [EIM26101](#).

For guidance about participators see [CTM60107](#).

For further guidance on associates of participators see [CTM60150](#).

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## 7. If a loan chargeable to tax under S455 Corporation Act 2010 has been repaid, has any relief been claimed in the correct year?

### Risk

If a loan chargeable to tax under S455 Corporation Tax Act 2010 is repaid more than nine months following the end of the accounting period in which the loan was made, relief under S458 Corporation Tax Act 2010 is not due until nine months after the end of the accounting period in which the loan is repaid. If the date of repayment is not properly identified relief could be claimed in the wrong accounting period and the Company Tax Return may be incorrectly completed. For repayments made on or after 20 March 2013 relief may also not be due if S464C Corporation Tax Act 2010 applies, because the repayment is made shortly before or after a further loan is made or is otherwise linked by arrangements to another loan, see [Q8](#).

### Mitigation

Identify the date the loan is repaid. If the loan was repaid more than nine months after the end of the accounting period in which the loan was made ensure the relief is not claimed until nine months after the end of the appropriate accounting period.

For further guidance on S458 relief see [EM8560](#).

### Explanation

A claim for relief under S458 has to be made within four years from the end of the financial year in which the loan is repaid, released or written off. The company can claim relief whether or not it is a close company at the time of the repayment etc. of the loan.

### Example

Director A is a full time working director and participator of a close company. His loan account is overdrawn by £20,000.

The company's accounting period ends on 31 March 2012. Director A repays £3,000 on 31 July 2012 and the remaining £17,000 on 10 January 2013. The first repayment is within nine months of the end of the accounting period and therefore relief can be claimed on the Company Tax Return for the accounting period ending 31 March 2012. The second repayment is more than nine months after the end of the accounting period and falls within the accounting period ending 31 March 2013.

- S455 tax is due on £20,000 on 1 January 2013
- S458 relief is due on £3,000 on 1 January 2013
- S458 relief is due on £17,000 on 1 January 2014

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## 8. If a loan chargeable to tax under S455 Corporation Tax Act 2010 has been repaid, has the same or similar amount been withdrawn in the subsequent period?

### Risk

If the repayment of a loan chargeable to tax under S455 Corporation Tax Act 2010 is a temporary arrangement, for example the loan account is repaid at the end of the accounting period (or at any time up to nine months after the end of the accounting period), and the same or a similar amount is redrawn shortly before or after, then relief under S458 Corporation Tax Act 2010 may not be due. Section 464C Corporation Tax Act 2010 was introduced for repayments made on or after 20 March 2013 to deal specifically with temporary repayments.

### Mitigation

Establish whether the loan account is overdrawn at or near the end of the accounting period. Where the loan has been repaid, you should identify whether the repayment was made shortly before the end of the accounting period or at some point within 9 months of the end of the accounting period. If it was and a similar sum has been withdrawn within 30 days before or after the repayment, then you should consider whether the rules at S464C Corporation Tax Act 2010 will apply.

### Explanation

Where a loan is repaid and another loan is made within the 30 days before or after the repayment, the repayment may be treated as repaying the newer loan. This may mean that not all of the original loan will have been repaid and so relief under S458 Corporation Tax Act 2010 may not be due. Detailed guidance can be found at [CTM61615+](#).

### Example

Director A is a full time working director and also a participator of a close company. His loan account is overdrawn by £20,000. Two days before the end of the accounting period, Director A repays £20,000 to the company. On the third day of the following accounting period Director A takes a new loan from the company of £20,000.

The repayment will be matched with the new loan rather than the original loan. The company will still be liable to tax under S455 on the original loan because it will be treated as not having been repaid.

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## 9. Have all loans been considered separately where appropriate?

### Risk

Normally each director has a separate loan account; indeed, each director may have more than one account. Where there are separate accounts for individual loans/indebtedness each account should be considered separately for S455 purposes even where the loans are to the same person. If accounts are aggregated inappropriately this can result in an underpayment of S455 tax.

The position, however, is different if the facts show that there is genuinely a joint account. It would, though, be unusual to find two directors operating a genuine joint account unless they are spouses, civil partners or otherwise closely related individuals.

### Mitigation

Ensure each loan and each loan account balance is considered separately and S455 tax calculated on each overdrawn balance.

### Explanation

It may be that, for commercial or other purposes, certain transactions are kept separate and this is achieved by the use of distinct loan accounts, even for the same person. One account may

be secured, the other unsecured; one account may bear interest, the other may be interest free; and so on. If, for whatever reasons, the parties choose to keep the various forms of indebtedness separate, then liability under S455 will arise if the director is also a participator and is indebted to the company on any of the accounts. This will also normally apply where the accounts are held by different persons.

Separate accounts should not be aggregated or 'netted off' for S455 purposes. The company is liable on the full amount of an overdrawn loan account, irrespective of whether the same director (who is also a participator) has a credit balance on another account with that company.

Saying that two accounts are 'netted off' is not the same as book entries that reflect the fact that a credit balance is used to repay a debit balance. The S455 liability is on the full amount of the debit balance. The date the book entries for the repayment are made will determine when relief is available under S458. See **CTM61605** onwards.

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## 10. If any loans chargeable to tax under S455 Corporation Tax Act 2010 have been repaid by way of bonus or dividends, have these been credited correctly?

### Risk

Where a loan has been repaid by way of a bonus or dividend it is important to identify the date the bonus or dividend was paid, and that the transaction is recorded at the correct date. If the date of the payment of the bonus or dividend is not properly identified this may result in underpayment (or overpayment) of tax under S455 Corporation Tax Act 2010, or relief being claimed when not due. It will also affect any tax due under the beneficial loans rules (see [Q6](#)). The date of repayment will affect whether there is a charge under S455 or when any S458 relief is due. This may not necessarily be the same date as the date of payment (for other tax purposes) of the bonus or the dividend.

The bonus or dividend should be credited net of tax.

### Mitigation

When a loan has been repaid, particularly by way of a bonus or dividend voted at the end of the year, establish the actual date of payment. Ensure that the bonus or dividend is not credited to the loan account before the date of payment, which may differ from the date that the bonus or dividend is voted or provided for in the accounts which is often the accounting date. If the loan account remains overdrawn at the accounting date S455 tax is due. The date of payment will also affect the date S458 relief may be due.

### Example

Director B is a full time working director and also a participator of a close company. He has an overdrawn loan account of £20,000.

The company's accounting period end is 31 December 2011.

At the AGM on 31 October 2012 a director's bonus of £25,000 is voted, the net bonus is credited to Director B's loan account the same day.

The bonus is therefore paid on 31 October 2012 and PAYE/NICs are due on that date.

S455 tax is due on the overdrawn balance of £20,000 at 31 December 2011 and payable on 1 October 2012.

S458 relief is due on 1 October 2013. As the loan account was not repaid until more than nine months after the accounting period end then relief is due nine months after the end of the accounting period in which the repayment was made.

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## 11. Where a loan subject to tax under S455 Corporation Tax Act has been released or written off, have they been treated correctly?

### **Risk**

Where a loan or indebtedness has been released or written off, then relief under S458 Corporation Tax Act 2010 will be due to the company as in [Q7](#). However, there may also be a charge under S415 Income Tax (Trading and Other Income) Act 2005 on the recipient of the original loan. If so, they will be treated as being in receipt of income which has been taxed at the dividend ordinary rate. In addition, NICs will normally be due on the amount released or written off.

### **Mitigation**

Consider whether any loans etc. have been released or written off and whether S415 Income Tax (Trading and Other Income) Act 2005 will impose a charge on the recipient of the original loan as dividend income. Where loans have been released or written off the company can claim relief under S458 accordingly.

For further guidance see [CTM61630](#).

For Income Tax purposes the amount released or written off should normally be included on the director's Self Assessment tax return. For the purposes of NICs the amount released or written off should normally be treated as earnings liable for Class 1 NICs.

Where the director was not a participator at the time the loan was made the treatment can be complex, a charge to tax will arise either under S62 Income Tax (Earnings and Pensions) Act 2003 as earnings or as a benefit under S188 Income Tax (Earnings and Pensions) Act 2003.

For further guidance see [EIM01490](#) and [EIM21740+](#).

For the NICs treatment of any loans released or written off see [NIM12020](#).

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