

SCHEDULES

SCHEDULE 11

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES: LOANS ETC OUTSTANDING ON 5 APRIL 2019

PART 1

APPLICATION OF PART 7A OF ITEPA 2003

Relevant step

- 1 (1) A person (“P”) is treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 if—
- (a) P has made a loan, or a quasi-loan, to a relevant person,
 - (b) the loan or quasi-loan was made on or after [^{F1}9 December 2010], and
 - (c) an amount of the loan or quasi-loan is outstanding immediately before the end of 5 April 2019.
- (2) P is treated as taking the step immediately [^{F2}before the end of 5 April 2019.]
- (3) Where P is treated by this paragraph as taking a relevant step, references to “the relevant step” in [^{F3}sections 554A(1)(e)(i) and (ii) and 554AA(1)(h)(i) and (ii)] of ITEPA 2003 have effect as if they were references to the step of making the loan or, as the case may be, quasi-loan.
- (4) For the purposes of section 554Z3(1) of ITEPA 2003 (value of relevant step), the step is to be treated as involving a sum of money equal to the amount of the loan or quasi-loan that is outstanding at the time P is treated as taking the step.
- (5) Subsections (2) and (3) of section 554C of ITEPA 2003 (“relevant person”) apply for the purposes of this Schedule as they apply for the purposes of that section.
- (6) [^{F4}Sub-paragraphs (1) and (2) are] subject to paragraphs 23 and 24 (accelerated payments) [^{F5}and paragraph 36A (double taxation: close companies)].
- [^{F6}(6A) Sub-paragraph (4) is subject to paragraph 1A(5).]
- (7) For the purposes of this paragraph [^{F7}and paragraph 1A], whether an amount of a loan or quasi-loan is outstanding at a particular time—
- (a) is to be determined in accordance with [^{F8}paragraphs 3 to 18], and
 - (b) does not depend on the loan or quasi-loan subsisting at that time.
- (8) References in this Schedule and in Part 7A of ITEPA 2003 to a relevant step within paragraph 1 of this Schedule are to be read as references to a relevant step which a person is treated by this paragraph as taking.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2017, Cross Heading: Relevant step. (See end of Document for details)

Textual Amendments

- F1** Words in Sch. 11 para. 1(1)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 15\(1\)](#)
- F2** Words in Sch. 11 para. 1(2) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\), Sch. 2 para. 2](#)
- F3** Words in Sch. 11 para. 1(3) substituted (15.3.2018) by [Finance Act 2018 \(c. 3\), Sch. 1 para. 8\(2\)\(a\)](#)
- F4** Words in Sch. 11 para. 1(6) substituted (15.3.2018) by [Finance Act 2018 \(c. 3\), Sch. 1 para. 8\(2\)\(b\)\(i\)](#)
- F5** Words in Sch. 11 para. 1(6) inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), Sch. 1 para. 8\(2\)\(b\)\(ii\)](#)
- F6** Sch. 11 para. 1(6A) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(2\)\(a\)](#)
- F7** Words in Sch. 11 para. 1(7) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(2\)\(b\)\(i\)](#)
- F8** Words in Sch. 11 para. 1(7)(a) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(2\)\(b\)\(ii\)](#)

[^{F9}1A (1) This paragraph applies where—

- (a) a person (“P”) is treated as taking a relevant step within paragraph 1 (“the initial step”) by reason of making a loan or quasi-loan, and
 - (b) an election has been made by A for the purposes of this paragraph.
- (2) P is treated as taking two further relevant steps for the purposes of Part 7A of ITEPA 2003.
- (3) P is treated as taking one of the further steps on the first anniversary of the date on which P is treated as taking the initial step.
- (4) P is treated as taking one of the further steps on the second anniversary of the date on which P is treated as taking the initial step.
- (5) For the purposes of section 554Z3(1) of ITEPA 2003 (value of relevant step), the initial step and each of the further steps is to be treated as involving a sum of money equal to one third of the amount of the loan or quasi-loan that is outstanding at the time P is treated as taking the initial step.
- (6) References in this Schedule and in Part 7A of ITEPA 2003 to a relevant step within paragraph 1A of this Schedule are to be read as references to a relevant step which a person is treated by this paragraph as taking.
- (7) An election for the purposes of this paragraph—
- (a) may be made at any time before 1 October 2020, and
 - (b) may be made at a later time if an officer of Revenue and Customs allows it.
- (8) But a person who is under a duty imposed by paragraph 35C of this Schedule or paragraph 22 of Schedule 12 may not make an election for the purposes of this paragraph until that duty has been complied with.
- (9) An election for the purposes of this paragraph may not be revoked.
- (10) A person who has made an election for the purposes of paragraph 1(3A) of Schedule 12 is to be treated as having made an election for the purposes of this paragraph.
- (11) The Commissioners for Her Majesty’s Revenue and Customs may by regulations provide that sub-paragraph (7)(a) applies to a specified class of persons as if the reference to 1 October 2020 were to such later date as is specified.
- (12) In sub-paragraph (11) “specified” means specified in the regulations.]

Textual Amendments

F9 Sch. 11 para. 1A inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(3\)](#)

^{F10}1B (1) This paragraph applies where—

- (a) a person is treated as taking a relevant step within paragraph 1 by reason of making a loan or quasi-loan,
- (b) a reasonable case could have been made that for a qualifying tax year (“the relevant year”) A was chargeable to income tax on an amount that was referable to the loan or quasi-loan,
- (c) at a time when an officer of Revenue and Customs had power to recover (from A or any other person) income tax for the relevant year in respect of that amount, a qualifying tax return or two or more qualifying tax returns of the same type taken together contained a reasonable disclosure of the loan or quasi-loan, and
- (d) as at 6 April 2019 an officer of Revenue and Customs had not taken steps to recover (from A or any other person) income tax for the relevant year in respect of that amount.

(2) But this paragraph does not apply if—

- (a) a reasonable case could have been made that for a tax year other than the relevant year (“the alternative year”) A was chargeable to income tax on an amount within sub-paragraph (3), and
- (b) it is the case that—
 - (i) on or before 5 April 2019 an officer of Revenue and Customs took steps to recover (from A or any other person) income tax for the alternative year in respect of that amount, or
 - (ii) the alternative year is not a qualifying tax year.

(3) An amount is within this sub-paragraph if —

- (a) it is the same amount as is mentioned in sub-paragraph (1),
- (b) it is part of the amount mentioned in sub-paragraph (1), or
- (c) it is derived from or represents the whole or part of the amount mentioned in sub-paragraph (1).

(4) Where this paragraph applies, then for the purposes of paragraphs 1(4) and 1A(5) the amount of the loan or quasi-loan that is outstanding is to be taken to be reduced (but not below nil) by the amount mentioned in sub-paragraph (1).

(5) For the purposes of sub-paragraph (1)(c) a qualifying tax return, or two or more qualifying tax returns taken together, contained a reasonable disclosure of the loan or quasi-loan if the return or returns taken together—

- (a) identified the loan or quasi-loan,
- (b) identified the person to whom the loan or quasi-loan was made in a case where the loan or quasi-loan was made to a person other than A,
- (c) identified the relevant arrangements in pursuance of which or in connection with which the loan or quasi-loan was made, and
- (d) provided such other information as was sufficient for it to be apparent that a reasonable case could be made that for the relevant year A was chargeable to income tax on an amount that was referable to the loan or quasi-loan.

Changes to legislation: There are currently no known outstanding effects for the Finance
(No. 2) Act 2017, Cross Heading: Relevant step. (See end of Document for details)

- (6) A reference in sub-paragraph (1)(b), (2) or (5)(d) to A being chargeable to income tax does not include A being chargeable to income tax by reason of section 175 of ITEPA 2003 (benefit of taxable cheap loan treated as earnings).
- (7) In this paragraph—
- “qualifying tax year” means the tax year 2015-16 and any earlier tax year, and
 - “qualifying tax return” means —
 - (a) a return made by A or B under section 8 of TMA 1970 for a qualifying tax year, and any accompanying accounts, statements or documents, or
 - (b) a return made by B under paragraph 3 of Schedule 18 to FA 1998 for an accounting period that commenced before 6 April 2016,
- and a qualifying tax return is of the same type as another if both fall within the same paragraph of this definition.]

Textual Amendments

F10 Sch. 11 para. 1B inserted (22.7.2020) by Finance Act 2020 (c. 14), s. 17(1)

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 2017, Cross
Heading: Relevant step.