

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2017, PART 4. (See end of Document for details)*

# SCHEDULES

## SCHEDULE 11 **U.K.**

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

#### **PART 4** **U.K.**

#### SUPPLEMENTARY PROVISION

#### *Duty to provide loan [<sup>F1</sup>charge] information to B*

##### Textual Amendments

**F1** Word in Sch. 11 para. 36 cross-heading substituted (15.3.2018) by Finance Act 2018 (c. 3), Sch. 1 para. 11(4)

- 36 (1) This paragraph applies where—
- (a) a person (“P”) has made a loan, or a quasi-loan, to a relevant person,
  - (b) the loan or quasi-loan was made on or after [<sup>F2</sup>9 December 2010], and
  - (c) an amount of the loan or quasi-loan is outstanding at any time—
    - (i) on or after 17 March 2016, and
    - (ii) before the end of 5 April 2019.
- (2) Each of A and P must ensure that the [<sup>F3</sup>loan charge information (see paragraph 35D)] in relation to the loan or quasi-loan is provided to B before the end of [<sup>F4</sup>15 April 2019].
- <sup>F5</sup>(3) .....
- <sup>F6</sup>(4) .....
- <sup>F7</sup>(5) .....
- <sup>F8</sup>(6) .....
- (7) “Loan”, “quasi-loan” and “outstanding” have the same meaning for the purposes of this paragraph as they have for the purposes of paragraph 1.

##### Textual Amendments

**F2** Words in Sch. 11 para. 36(1)(b) substituted (22.7.2020) by Finance Act 2020 (c. 14), Sch. 2 para. 16(2)

**F3** Words in Sch. 11 para. 36(2) substituted (15.3.2018) by Finance Act 2018 (c. 3), Sch. 1 para. 11(2)

**F4** Words in Sch. 11 para. 36(2) substituted (22.7.2020) by Finance Act 2020 (c. 14), Sch. 2 para. 16(3)

**F5** Sch. 11 para. 36(3) omitted (15.3.2018) by virtue of Finance Act 2018 (c. 3), Sch. 1 para. 11(3)

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| <b>F6</b> | Sch. 11 para. 36(4) omitted (22.7.2020) by virtue of <a href="#">Finance Act 2020 (c. 14)</a> , <b>Sch. 2 para. 16(4)</b> |
| <b>F7</b> | Sch. 11 para. 36(5) omitted (15.3.2018) by virtue of <a href="#">Finance Act 2018 (c. 3)</a> , <b>Sch. 1 para. 11(3)</b>  |
| <b>F8</b> | Sch. 11 para. 36(6) omitted (15.3.2018) by virtue of <a href="#">Finance Act 2018 (c. 3)</a> , <b>Sch. 1 para. 11(3)</b>  |

### *Double taxation*

[<sup>F9</sup>36A(1) Sub-paragraphs (2) to (8) apply if—

- (a) a person (“P”) would, apart from this paragraph, be treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and
- (b) the loan gives rise to a charge to tax under section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participators).

(2) In this paragraph “the key date” means the later of—

- (a) 5 April 2019, and
- (b) the day on which the tax referred to in sub-paragraph (1)(b) is due and payable (see section 455(3) of CTA 2010).

(3) Paragraph 1(2) has effect as if it treated P as taking the relevant step immediately before the end of the key date, but this is subject to sub-paragraphs (4) and (5).

(4) Paragraph 1(1) does not apply in the case of the loan if the payment condition is met.

(5) Paragraph 1(1) does not apply in the case of the loan if—

- (a) the payment condition is not met,
- (b) the charge to tax mentioned in sub-paragraph (1)(b) is reported, in a company tax return of B’s, as required under Schedule 18 to FA 1998 (company tax returns etc), and
- (c) an officer of Revenue and Customs considers that paragraph 1(1) should not apply in the case of the loan.

(6) The payment condition is met if—

- (a) the net section 455 charge is paid in full on or before the key date, or
- (b) the net section 455 charge is nil.

(7) The “net section 455 charge” is the amount of the tax referred to sub-paragraph (1)(b) less the amount of section 458 relief from that tax.

(8) In sub-paragraph (7) “section 458 relief” means relief given under section 458 of CTA 2010—

- (a) in respect of a repayment made, or a release or writing-off occurring, on or before the key date, and
- (b) on a claim made on or before the key date.]

#### **Textual Amendments**

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| <b>F9</b> | Sch. 11 para. 36A inserted (15.3.2018) by <a href="#">Finance Act 2018 (c. 3)</a> , <b>Sch. 1 para. 4(2)</b> |
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37 (1) Sub-paragraph (2) applies where—

- (a) P is treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and

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- (b) the loan is an employment-related loan (within the meaning of Chapter 7 of Part 3 of ITEPA 2003).
- (2) The effect of section 554Z2(2)(a) of ITEPA 2003 (value of relevant step to count as employment income: application of Part 7A instead of the benefits code) is that the loan is not be treated as a taxable cheap loan for the purposes of Chapter 7 of Part 3 of that Act for—
- (a) the tax year in which the relevant step is treated as being taken, and
  - (b) any subsequent tax year.
- 38 In section 554Z2 of ITEPA 2003, at the end insert—
- “(4) See paragraph 37 of Schedule 11 to F(No. 2)A 2017 for provision about the effect of subsection (2)(a) in a case in which the relevant step is within paragraph 1 of that Schedule.”

*Remittance basis*

- 39 Part 7A of ITEPA 2003 is amended as follows.
- 40 (1) Section 554Z9 (remittance basis: A does not meet section 26A requirement) is amended in accordance with this paragraph.
- (2) In subsection (1), for “Subsection (2) applies” substitute “ Subsections (2) and (2A) apply ”.
- (3) In subsection (1A), for “subsection (2) does not apply” substitute “ subsections (2) and (2A) do not apply ”.
- (4) At the beginning of subsection (2) insert “ Except in a case within subsection (2A), ”.
- (5) After subsection (2) insert—
- “(2A) Where the relevant step is within paragraph 1 of Schedule 11 to F(No. 2)A 2017, A's employment income by virtue of section 554Z2(1), or the relevant part of it, is “taxable specific income” in the tax year in which the relevant step is treated as being taken so far as the income is remitted to the United Kingdom in that tax year or in any previous tax year.”
- (6) In subsection (3) for “this purpose” substitute “ the purposes of subsections (2) and (2A) ”.
- (7) In subsection (5)—
- (a) in the words before paragraph (a), for “subsection (2)” substitute “ subsection (2) or (2A) ”;
  - (b) in the words after paragraph (d)—
    - (i) for “subsection (2)” substitute “ subsection (2) or (2A) ”;
    - (ii) for “that subsection” substitute “ subsection (2) or (2A) (as the case may be) ”.
- 41 (1) Section 554Z10 (remittance basis: A meets section 26A requirement) is amended in accordance with this paragraph.
- (2) In subsection (1) for “Subsection (2) applies” substitute “ Subsections (2) and (2A) apply ”.

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- (3) At the beginning of subsection (2) insert “ Except in a case within subsection (2AA), ”.
- (4) After subsection (2) insert—
- “(2AA) Where the relevant step is within paragraph 1 of Schedule 11 to F(No. 2)A 2017, the overseas portion of (as the case may be)—
- (a) A's employment income by virtue of section 554Z2(1), or
- (b) the relevant part of A's employment income by virtue of that section, is “taxable specific income” in the tax year in which the relevant step is treated as being taken so far as the overseas portion is remitted to the United Kingdom in that tax year or in any previous tax year.”
- 42 (1) Section 554Z11 (remittance basis: supplementary) is amended in accordance with this paragraph.
- (2) In subsection (4), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.
- (3) In subsection (5), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.
- (4) In subsection (6), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.
- 43 (1) Section 554Z11A (temporary non-residents) is amended in accordance with this paragraph.
- (2) In subsection (2)—
- (a) after “554Z9(2)” insert “ or (2A) ”;
- (b) after “554Z10(2)” insert “ or (2AA) ”.
- (3) In subsection (3)(d)(i), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.

#### *Interpretation*

- 44 (1) In this Schedule, “tax avoidance arrangement” has the same meaning as it has for the purposes of Part 7A of ITEPA 2003 (see section 554Z(13) to (15) of that Act).
- (2) Section 554Z(16) (determining whether a step is connected with a tax avoidance arrangement) applies for the purposes of this Schedule as it applies for the purposes of Part 7A of ITEPA 2003.
- 45 See section 554A(1)(a) [<sup>F10</sup>and 554AA(1)(a)] of ITEPA 2003 for the meaning of “A” and “B”.

#### **Textual Amendments**

**F10** Words in [Sch. 11 para. 45](#) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [s. 19\(3\)](#)

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