



# Finance (No. 2) Act 2017

## 2017 CHAPTER 32

### PART 1

#### DIRECT TAXES

##### *Disguised remuneration*

#### **37 Disguised remuneration schemes: restriction of corporation tax relief**

- (1) Section 1290 of CTA 2009 (restriction of deductions: employee benefit contributions) is amended in accordance with subsections (2) to (5).
- (2) After subsection (1) insert—

“(1A) No deduction is allowed under this section in respect of employee benefit contributions for a period of account which starts more than 5 years after the end of the period of account in which the contributions are made.”
- (3) After subsection (2) insert—

“(2A) Subsection (2) is subject to subsections (1A) and (2B).

(2B) Where subsection (3C) applies, no deduction is allowed for an amount in respect of the contributions for the period except so far as the amount is a qualifying amount (see subsection (3D)).”
- (4) After subsection (3) insert—

“(3A) Subsection (3) is subject to subsections (1A) and (3B).

(3B) Where subsection (3C) applies, an amount disallowed under subsection (2) is allowed as a deduction for a subsequent period only so far as it is a qualifying amount.

(3C) This subsection applies where the provision of qualifying benefits out of, or by way of, the contributions gives rise both to an employment income tax charge and to an NIC charge.

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2017, Section 37. (See end of Document for details)*

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- (3D) An amount in respect of employee benefit contributions is a “qualifying amount” if the relevant tax charges are paid before the end of the relevant period (and are not repaid).
- (3E) For the purposes of subsection (3D)—
- (a) the “relevant tax charges”, in relation to an amount, are the employment income tax charge and the NIC charge arising in respect of benefits which are provided out of, or by way of, that amount, and
  - (b) the “relevant period” is the period of 12 months immediately following the end of the period of account for which the deduction for the employee benefit contributions would (apart from this section) be allowable.
- (3F) For the purposes of subsections (3C) and (3E), “employment income tax charge” and “NIC charge” have the meaning given by section 1292(7).”
- (5) After subsection (3F) (inserted by subsection (4)) insert—
- “(3G) Subsection (3H) applies where—
- (a) a deduction would, apart from this section, be allowable for an amount (the “remuneration amount”) in respect of employees' remuneration, and
  - (b) in consequence of the payment of the employees' remuneration, employee benefit contributions are made, or are to be made, in respect of the remuneration amount.
- (3H) In calculating for corporation tax purposes the profits of a company, the deduction referred to in subsection (3G)(a) is to be treated as a deduction in respect of employee benefit contributions made or to be made (and is to be treated as not being a deduction in respect of employees' remuneration).”
- (6) The amendments made by subsections (2) to (4) have effect in relation to employee benefit contributions made, or to be made, on or after 1 April 2017.
- (7) The amendment made by subsection (5) has effect in relation to remuneration paid on or after 1 April 2017.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2017, Section 37.