

## SCHEDULES

### SCHEDULE 1

#### EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

#### PART 4

#### LOANS ETC OUTSTANDING ON 5 APRIL 2019

##### *Information requirement*

- 9 Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) is amended in accordance with this Part.
- 10 After paragraph 35 insert—

#### “PART 3A

#### DUTY TO PROVIDE LOAN CHARGE INFORMATION TO HMRC

##### **Duty to provide loan charge information**

- 35A (1) Paragraphs 35B and 35C apply if one of the following conditions is met.
- (2) The first condition is that—
- (a) a person (“P”) is treated as taking a relevant step within paragraph 1 immediately before the end of 5 April 2019, and
  - (b) Chapter 2 of Part 7A of ITEPA 2003 applies by reason of that relevant step.
- (3) The second condition is that—
- (a) a person (“Q”) has made a loan which is an approved fixed term loan on 5 April 2019,
  - (b) if that day were the approved repayment date in relation to the loan—
    - (i) Q would be treated as taking a relevant step within paragraph 1 immediately before the end of that day, and
    - (ii) Chapter 2 of Part 7A of ITEPA 2003 would apply by reason of that relevant step, and
  - (c) A is living immediately before the end of—
    - (i) 30 September 2019, or
    - (ii) if earlier, the approved repayment date.
- (4) The third condition is that—

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- (a) paragraph 24(1) applies by reference to a loan, or a quasi-loan, made by a person (“S”) to a relevant person (“R”),
  - (b) R makes an application under paragraph 24(1) for S to be treated as mentioned in paragraph 24(1) in relation to the relevant step concerned,
  - (c) a favourable decision is made on the application before 6 April 2019,
  - (d) that decision is not revoked before 6 April 2019,
  - (e) the first condition is not met, and
  - (f) A is living immediately before—
    - (i) the end of 30 September 2019, or
    - (ii) if earlier, the time given by sub-paragraphs (i) and (ii) of paragraph 24(1)(b).
- (5) The fourth condition is that—
- (a) none of the first, second and third conditions is met, and
  - (b) if the date specified in paragraph 1(1)(c) and (2)(b) were 16 March 2016 (and if paragraph 1(2)(a), and the words “in any other case” in paragraph 1(2)(b), were omitted)—
    - (i) a person (“T”) would be treated as taking a relevant step within paragraph 1 immediately before the end of 16 March 2016, and
    - (ii) Chapter 2 of Part 7A of ITEPA 2003 would apply by reason of that relevant step (using, for this purpose, the law that would be used to test whether that Chapter applies to a relevant step taken on 5 April 2019), and
  - (c) A is living immediately before the end of 5 April 2019.
- (6) Paragraph 35C does not apply in a case where one of the first to fourth conditions is met if—
- (a) a person agrees, with an officer of Revenue and Customs, terms for the discharge of liability for income tax,
  - (b) the terms cover all liability (if any) under Chapter 2 of Part 7A of ITEPA 2003 by reason of any loan-charge relevant step or result in there being no such liability, and
  - (c) the terms are agreed before 1 October 2019.
- (7) In sub-paragraph (6)(b) “loan-charge relevant step” means (as the case may be)—
- (a) the relevant step that P is treated as taking,
  - (b) any relevant step within paragraph 1 that Q is, or has yet to be, treated as taking by reference to the approved fixed term loan mentioned in sub-paragraph (3),
  - (c) any relevant step within paragraph 1 that S is, or has yet to be, treated as taking by reference to the loan or quasi-loan mentioned in sub-paragraph (4), or
  - (d) any relevant step within paragraph 1 that T is, or has yet to be, treated as taking by reference to the loan or quasi-loan by reference to which T would be treated as taking the relevant step mentioned in sub-paragraph (5)(b)(i).

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- 35B (1) In this paragraph “the appropriate third party” means P, Q, S or T (as the case may be: see paragraph 35A).
- (2) Sub-paragraph (3) applies if the appropriate third party receives a request from A or A’s personal representatives for information specified in the request that is reasonably required for the purpose of complying with paragraph 35C in the case concerned.
- (3) The appropriate third party must provide A or A’s personal representatives—
- (a) with such of the information as is available to the appropriate third party, and
  - (b) if any of the information is not available to the appropriate third party, with a statement confirming that so much of the information as is not provided is information that is not available to the appropriate third party.
- (4) The information, and any such statement, must be provided promptly and, in any event, before the end of 30 days beginning with date of receipt of the request.
- 35C (1) A, or A’s personal representatives, must provide the loan charge information (see paragraph 35D(1)) to the Commissioners for Her Majesty’s Revenue and Customs.
- (2) The loan charge information must be provided—
- (a) after 5 April 2019, and
  - (b) before 1 October 2019.
- (3) The loan charge information must be provided in such form and manner as may be specified by, or on behalf of, the Commissioners for Her Majesty’s Revenue and Customs.

**“Loan charge information”**

- 35D (1) For the purposes of paragraphs 35C and 36, the “loan charge information” consists of—
- (a) A’s name and, if A’s personal representatives are providing the information, their names,
  - (b) the address and telephone number, and e-mail address (if any), of each person providing the information,
  - (c) A’s national insurance number (if any),
  - (d) the unique taxpayer reference number (if any) allocated to A by HMRC,
  - (e) if the loan or quasi-loan that is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), or the loan mentioned in paragraph 35A(3)(a), is made to someone other than A, the name of the person to whom it is made,
  - (f) B’s name,
  - (g) the name of the relevant arrangement,

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- (h) the reference number (if any) allocated to the relevant arrangement by HMRC under section 311 of FA 2004 (disclosure of tax avoidance schemes: arrangements to be given reference number),
  - (i) any other reference number allocated by HMRC in connection with the relevant arrangement or the relevant step,
  - (j) if a person has agreed terms with an officer of Revenue and Customs for the partial discharge of the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003 by reason of the relevant step that P, Q or S is treated as taking, the date of that agreement and the amount of the liability to which it relates,
  - (k) if a loan is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), or in a case within paragraph 35A(3)(a), the loan payment information (see subparagraph (2)), and
  - (l) if a quasi-loan is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), the quasi-loan payment information (see subparagraph (3)).
- (2) The “loan payment information”, in relation to a loan, consists of statements of the following—
- (a) whether the loan is an approved fixed term loan,
  - (b) the initial principal amount of the loan,
  - (c) the amount that has become principal under the loan, otherwise than by capitalisation of interest, in each relevant tax year,
  - (d) the amount of principal under the loan repaid in each relevant tax year, ignoring any repayments not in money made on or after 17 March 2016,
  - (e) the details of any repayment that is to be disregarded under paragraph 4,
  - (f) the amount of principal under the loan that has been released or written off in each relevant tax year, and
  - (g) whether the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003, or section 188 of that Act, by reason of the release or writing-off has been paid.
- (3) The “quasi-loan payment information”, in relation to a quasi-loan, consists of statements of the following—
- (a) the amount equal to the value of the acquired debt,
  - (b) the amount equal to the value of the additional debts acquired in each relevant tax year,
  - (c) the amount by which the initial debt amount has been reduced by way of repayment in each relevant tax year, ignoring any repayments not in money made on or after 17 March 2016,
  - (d) where the acquired debt or an additional debt is a right to a transfer of assets, and the assets have been transferred, the amount of the market value of the assets at the time of the transfer,

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- (e) the details of any repayment that is to be disregarded under paragraph 12,
  - (f) the amount by which the initial debt amount has been reduced by release or writing off in each relevant tax year, and
  - (g) whether the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003, or section 188 of that Act, by reason of the release or writing-off has been paid.
- (4) In this paragraph “relevant tax year” in relation to a loan, or a quasi-loan, means—
- (a) the tax year in which the loan or quasi-loan was made, and
  - (b) each subsequent tax year.
- (5) In sub-paragraph (3), “acquired debt”, “additional debt” and “initial debt amount” have the same meaning as in paragraph 11.
- (6) In this paragraph and in paragraphs 35G to 35J, “HMRC” means Her Majesty’s Revenue and Customs.

#### **Power to amend paragraph 35D**

- 35E The Commissioners for Her Majesty’s Revenue and Customs may by regulations amend paragraph 35D so as to—
- (a) add, remove or amend an entry in a list of information, and
  - (b) make incidental provision.

#### **Penalties for failure to comply**

- 35F (1) A person who fails to comply with paragraph 35C is liable to a penalty of £300.
- (2) Sub-paragraph (3) applies if the failure continues after the date on which a penalty is imposed under sub-paragraph (1) in respect of the failure.
- (3) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day, up to a maximum of 90 days, on which the failure continues.

#### **Penalties for inaccurate information and documents**

- 35G (1) This paragraph applies if—
- (a) in complying with the duty under paragraph 35C, a person provides inaccurate information, and
  - (b) condition A, B or C is met.
- (2) Condition A is that the inaccuracy is careless or deliberate.
- (3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.
- (4) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.

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- (5) Condition C is that the person—
  - (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform HMRC.
- (6) The person is liable to a penalty not exceeding £3000.
- (7) Where the information contains more than one inaccuracy, a penalty is payable for each inaccuracy.

### **Reasonable excuse**

- 35H (1) Liability to a penalty under paragraph 35F does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.
- (2) For the purposes of this paragraph—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person’s control,
  - (b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure, and
  - (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

### **Assessment of a penalty**

- 35I (1) Where a person becomes liable for a penalty under paragraph 35F or 35G—
- (a) HMRC may assess the penalty, and
  - (b) if they do so, they must notify the person.
- (2) An assessment of a penalty under paragraph 35F must be made before 1 October 2021.
- (3) An assessment of a penalty under paragraph 35G must be made before 1 October 2023.

### **Appeals**

- 35J (1) A person may appeal against any of the following decisions of an officer of Revenue and Customs—
- (a) a decision that a penalty is payable by that person under paragraph 35F or 35G, or
  - (b) a decision as to the amount of such a penalty.
- (2) Notice of an appeal under this paragraph must be given—
- (a) in writing,
  - (b) before the end of the period of 30 days beginning with the date on which the notification under paragraph 35I was issued, and
  - (c) to HMRC.

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- (3) Notice of an appeal under this paragraph must state the grounds of appeal.
- (4) On an appeal under sub-paragraph (1)(a) that is notified to the tribunal, the tribunal may confirm or cancel the decision.
- (5) On an appeal under sub-paragraph (1)(b) that is notified to the tribunal, the tribunal may—
  - (a) confirm the decision, or
  - (b) substitute for the decision another decision that the officer of Revenue and Customs had power to make.

### **Enforcement**

- 35K (1) A penalty under paragraph 35F or 35G must be paid—
- (a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 35I was issued, or
  - (b) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under paragraph 35F or 35G may be enforced as if it were income tax charged in an assessment and due and payable.”

- 11 (1) Paragraph 36 (duty to provide loan balance information to B) is amended in accordance with this paragraph.
- (2) In sub-paragraph (2) for “loan balance information” substitute “loan charge information (see paragraph 35D)”.
  - (3) Omit sub-paragraphs (3), (5) and (6).
  - (4) In the italic heading preceding paragraph 36, for “balance” substitute “charge”.

*PAYE: employee of non-UK employer*

- 12 (1) Section 689 of ITEPA 2003 (PAYE: employee of non-UK employer) is amended in accordance with this paragraph.
- (2) In subsection (4), in the words before paragraph (a), after “employee,” insert “and if the case is not within subsection (4A),”.
  - (3) After subsection (4) insert—
    - “(4A) A case is within this subsection if—
      - (a) the section concerned is section 687A or 695A (employment income under Part 7A), and
      - (b) the relevant step concerned is within paragraph 1 of Schedule 11 to F(No. 2)A 2017 (loans etc outstanding on 5 April 2019).
- (And this section does not apply in a case within this subsection.)”