

## SCHEDULE

### Arrangements prescribed by these Regulations

## PART 1

### Arrangements connected with employment

#### **Introduction**

1.—(1) The arrangements specified in this Part are those which satisfy the condition in subparagraph (2) and involve—

- (a) securities or associated rights (see paragraph 3);
- (b) payments to trustees and intermediaries (see paragraph 4); or
- (c) loans (see paragraph 5).

(2) The condition is that a tax advantage by way of a reduction in, or deferment of, liability might be expected to be obtained, by virtue of the arrangements, by the employer or the employee, or by any other person by reason of the employee's employment—

- (a) where the advantage relates to employment income, in any year of assessment; or
- (b) in any other case, in any period of account.

#### **Interpretation for the purposes of this Part**

2.—(1) In this Part the persons who are associated with each other in relation to arrangements are—

- (a) the person who is expected to receive any payment under the arrangements,
- (b) the employee, and
- (c) any relevant linked person.

(2) A person is a relevant linked person if—

- (a) that person (on the one hand), and
- (b) either the person who is expected to receive the payment or the employee (on the other),

are or have been connected or (without being or having been connected) are or have been members of the same household.

(3) In this Part “payment” includes a transfer of assets and any other transfer of money's worth, including, without prejudice to the foregoing, the doing of anything by means of which the value of an asset is increased, or a liability is reduced.

#### **Arrangements involving securities or associated rights**

3.—(1) This paragraph applies to any arrangements under which—

- (a) securities,
- (b) interests in securities,
- (c) securities options,
- (d) anything the right to which is derived from securities, or
- (e) anything the value or amount of which is calculated by reference to securities, interests in securities or securities options, or something the right to which is derived from securities,

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

are obtained by an employee or any other person, by reason of the employee's employment, but this is subject to sub-paragraphs (3), (5) and (6).

In this sub-paragraph—

“securities” has the meaning which it would have by virtue of section 420 of ITEPA 2003<sup>(1)</sup> were subsection (5) disregarded; and

“securities option” has the meaning given by subsection (8) of that section.

(2) For the purposes of this paragraph, anything obtained under arrangements by an employee or a person associated with him—

- (a) which confer a right or opportunity to obtain anything mentioned in sub-paragraph (1), and
- (b) the costs of which are borne wholly or partly and whether directly or indirectly by the employer or a person connected with the employer,

is to be treated as obtained by reason of the employee's employment.

(3) This paragraph does not apply if the arrangements in their entirety constitute—

- (a) an approved share incentive plan under Schedule 2 to ITEPA 2003<sup>(2)</sup>, including any trust established for the purposes of the plan under paragraph 71(3) of that Schedule; or
- (b) an approved SAYE option scheme under Schedule 3 to that Act<sup>(3)</sup> or an approved CSOP scheme under Schedule 4 to that Act<sup>(4)</sup>, together with any trust established solely for the purposes of that scheme or those schemes.

(4) For the purposes of sub-paragraph (3), a plan or scheme (as the case may be) for which approval has been sought from the Board is to be treated as approved during the period while the application for approval is before them.

(5) This paragraph does not apply to arrangements to the extent that they would involve the issue of shares to persons to whom it is reasonably expected that certificates in relation to those shares would be issued under section 306(2) of ICTA 1988<sup>(5)</sup> (including that subsection as it is applied by paragraph 6 of Schedule 5B to the Taxation of Chargeable Gains Act 1992<sup>(6)</sup>).

(6) This paragraph does not apply if the arrangements in their entirety comprise—

- (a) the grant of one or more qualifying options which meet the requirements of Schedule 5 to ITEPA 2003 and fall to be notified to the Board in accordance with Part 7 of that Schedule; or
- (b) such a grant as is mentioned in paragraph (a) together only with such other steps as are reasonably necessary in all the circumstances for the purpose of facilitating it.

#### **Arrangements involving payments to trustees and intermediaries**

4.—(1) This paragraph applies to any arrangements under which a payment is to be made by the employer or a person connected with him to—

- (a) a trust for the benefit of an employee or a person associated with an employee;

---

(1) Section 420 was substituted by paragraph 2 of Schedule 22 to the Finance Act 2003 (c. 14).

(2) Schedule 2 was amended by section 142(3) of, and Part 1 of Schedule 21, paragraph 43 of Schedule 22 and Part 3(3) of Schedule 43 to, the Finance Act 2003.

(3) Schedule 3 was amended by Part 2 of Schedule 21, paragraph 44 of Schedule 22 and Part 3(3) of Schedule 43 to the Finance Act 2003.

(4) Schedule 4 was amended by paragraphs 15 to 17 of Schedule 21 to the Finance Act 2003.

(5) Chapter 3 of Part 7 of ICTA 1988 was substituted in respect of shares issued on or after 1st January 1994 by section 137 of, and Schedule 15 to, the Finance Act 1994 (c. 9). Section 306(2) was amended by paragraph 22 of Schedule 20 to the Finance Act 1996 (c. 8) and paragraph 19 of Schedule 13 to the Finance Act 1998 (c. 36).

(6) 1992 c. 12. Schedule 5B was inserted by paragraph 4 of Schedule 13 to the Finance Act 1995. Paragraph 6 was substituted by paragraph 33 of Schedule 13 to the Finance Act 1998 and was amended by paragraph 4 of Schedule 8 to the Finance Act 1999 (c. 16).

*Status:* This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) a trust for a class of persons which includes an employee or a person so associated; or
- (c) a third party who is entitled or required, under the terms of an employee benefit scheme, within the meaning of Schedule 24 to the Finance Act 2003, to hold or use the payment for or in connection with the provision of benefits to employees of the employer or persons associated with any of those employees.

This is subject to the qualification in sub-paragraph (2).

For the purposes of paragraphs (a) and (b), it is immaterial whether the trust is established under the law of any part of the United Kingdom or of a country or territory overseas.

(2) This paragraph does not apply to payments to the extent that they are made to—

- (a) a pension fund listed in sub-paragraph (4);
- (b) a fund to which section 329AA of ICTA 1988 (personal injury damages in the form of periodical payments)(7) applies;
- (c) the trustees of a trust established for the purposes of—
  - (i) an approved share incentive plan under Schedule 2 to ITEPA 2003; or
  - (ii) an approved SAYE option scheme under Schedule 3, or an approved CSOP scheme under Schedule 4, to that Act or both.

(3) Paragraph 3(4) applies to the construction of references in sub-paragraph (2)(c) to approved share plans and schemes as it applies to such references in paragraph 3(3).

(4) The pensions funds are—

- (a) those approved under Chapter 1 of Part 14 of ICTA 1988 (retirement benefit schemes);
- (b) relevant statutory schemes within section 611A of ICTA 1988 (definition of relevant statutory scheme)(8);
- (c) those approved under Chapter 4 of Part 14 of ICTA 1988 (personal pension schemes); and
- (d) overseas pension schemes in respect of which tax relief is granted in the United Kingdom under—
  - (i) section 615 of ICTA 1988 (exemption from tax for superannuation payments in respect of persons not resident in the United Kingdom or in respect of trades carried on wholly or partly outside the United Kingdom)(9);
  - (ii) arrangements specified in an Order in Council under section 788 of that Act (double taxation agreements)(10); or
  - (iii) section 390 of ITEPA 2003 (exception from the charge on payments to non-approved schemes for non-domiciled employees with foreign employers).

(5) For the purposes of paragraphs (a) and (c) of sub-paragraph (4), a pension fund for which approval has been sought from the Board is to be treated as if it were approved during the period while the application for approval is before them.

---

(7) Section 329AA was inserted by section 150 of, and Schedule 26 to, the Finance Act 1996 and was amended by section 100(2) of the Courts Act 2003 (c. 39).

(8) Section 611A was inserted by paragraph 18(1) of Schedule 6 to the Finance Act 1989 (c. 26) and was amended by paragraph 5 of Schedule 5 to the Finance Act 1999.

(9) Section 615 was amended by section 2 of the Overseas Superannuation Act 1991 (c. 16), paragraph 11 of Schedule 10 to the Finance Act 1999, paragraph 9 of Schedule 3 to the International Development Act 2002 (c. 1) and paragraph 85 of Schedule 6, and the relevant entry in Part 1 of Schedule 8, to ITEPA 2003.

(10) Section 788 was amended by paragraphs 1 and 2 of Schedule 30, and Part 2(13) of Schedule 40, to the Finance Act 2000 (c. 17), section 88 of the Finance Act 2002 (c. 23) and section 198 of the Finance Act 2003.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Arrangements involving loans**

**5.—(1)** This paragraph applies to any arrangements which include the making, release or writing off of any loan by an employer, or a person connected with an employer, to or for the benefit of an employee or any other person by reason of the employee's employment.

This is subject to the following qualification.

- (2) This paragraph does not apply if the arrangements are in their entirety ones—
  - (a) to which Chapter 7 of Part 3 of ITEPA 2003 (employment income: taxable benefits: loans) applies unless it is the intention of the parties to the loan that the loan should not be repaid either in whole or in part; or
  - (b) in respect of which no liability under that Chapter arises by virtue of section 288 or 289 of that Act (limited exemption for bridging loans connected with employment).
- (3) The reference in sub-paragraph (1) to making a loan includes arranging, guaranteeing or in any way facilitating a loan.