

**Changes to legislation:** Finance Act 2011, Cross Heading: Amendments to ITTOIA 2005 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 2

#### EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

##### *Amendments to ITTOIA 2005*

- 35 ITTOIA 2005 is amended as follows.
- 36 (1) Amend section 39 (employee benefit contributions: meaning of “employee benefit scheme” etc) as follows.
- (2) In subsection (2) after “employer” insert “ or persons linked with present or former employees of the employer ”.
- (3) After subsection (2) insert—
- “(3) Section 554Z1 of ITEPA 2003 applies for the purposes of subsection (2) but as if references to A were to a present or former employee of the employer.
- (4) So far as it is not covered by subsection (2), “employee benefit scheme” also means—
- (a) an arrangement (“the relevant arrangement”) within subsection (1) (b) of section 554A of ITEPA 2003 to which subsection (1)(c) of that section applies, or
- (b) any other arrangement connected (directly or indirectly) with the relevant arrangement.”
- 37 (1) Amend section 40 (employee benefit contributions: provision of qualifying benefits) as follows.
- (2) In subsection (5) after “scheme” insert “and the payment or transfer—
- (a) gives rise to an employment income tax charge under Chapter 2 of Part 6 of ITEPA 2003 or under Part 9 of that Act, or
- (b) is an excluded benefit as defined in section 393B(3) of that Act.”
- (3) After subsection (6) insert—
- “(6A) For the purposes of section 38 qualifying benefits are also provided if—
- (a) a relevant step within the meaning of Part 7A of ITEPA 2003 is taken, and
- (b) Chapter 2 of that Part applies by reason of the step.”
- 38 (1) Amend section 41 (employee benefit contributions: timing of qualifying benefits etc) as follows.
- (2) For subsection (1) substitute—
- “(1) If the provision of a qualifying benefit takes the form of a payment of money, the benefit, so far as Chapter 4 of Part 2 of ITEPA 2003 applies to the money,

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is provided for the purposes of section 38 when the money is treated as received for the purposes of that Chapter (applying the rules in section 18 of that Act (receipt of money earnings)).”

(3) After subsection (1) insert—

“(1A) Except so far as subsection (1) applies to the provision of the qualifying benefit, if the provision of a qualifying benefit is a chargeable relevant step, for the purposes of section 38—

- (a) the benefit is provided when A's employment with B starts if the chargeable relevant step is taken before then, or
- (b) otherwise, the benefit is provided when the chargeable relevant step is taken.”

(4) In subsection (2)—

- (a) after “an asset” insert “ which meets condition A, B, C or D in section 40 ”,
- (b) omit the “and” after paragraph (a), and
- (c) after paragraph (b) insert “, and
  - (c) if the transfer is a chargeable relevant step, the cost of the relevant step so far as not covered by paragraph (a) or (b)”.

(5) After subsection (3) insert—

“(4) If the provision of a qualifying benefit is a chargeable relevant step which does not involve a sum of money (see section 554Z(10) of ITEPA 2003) and is not covered by subsection (2), the amount provided for the purposes of section 38 is the cost of the relevant step (subject to subsection (5)).

(5) If the provision of a qualifying benefit is a chargeable relevant step which is not covered by subsection (2) (whether or not it involves a sum of money), the amount provided for the purposes of section 38 is not to exceed the amount that—

- (a) is charged to tax under ITEPA 2003 in relation to the relevant step (whether under Part 7A of that Act or otherwise), or
- (b) would be charged had not A been non-UK resident in any tax year.

(6) In this section—

- (a) “chargeable relevant step” means a relevant step within the meaning of Part 7A of ITEPA 2003 by reason of which Chapter 2 of that Part applies (and references to A and B are to be read accordingly), and
- (b) references to the cost of a chargeable relevant step are to be read in accordance with section 554Z3(6) of that Act.”

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In section 44(1) (employee benefit contributions: interpretation)—

- (a) in the definition of “employee benefit scheme” for “39(2)” substitute “ 39(2) to (4) ”, and
- (b) in the definition of “employer-financed retirement benefits scheme” after “Act)” insert “ but ignoring section 393B(2)(a) and (c) of that Act ”.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)