
Changes to legislation: Finance Act 2011, Cross Heading: Other amendments to ITEPA 2003 is up to date with all changes known to be in force on or before 21 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

Other amendments to ITEPA 2003

- 2 ITEPA 2003 is amended as follows.
- 3 In section 1(1)(a) (overview of contents of Act) for “7” substitute “ 7A ”.
- 4 (1) Amend section 3 (structure of employment income Parts) as follows.
- (2) At the end of subsection (1) insert—
- “Part 7A deals with employment income provided through third parties.”
- (3) In subsection (2) for “7” substitute “ 7A ”.
- 5 For the “or” after section 7(6)(b) (meaning of “specific employment income”) substitute—
- “(ba) Part 7A (employment income provided through third parties), or”.
- 6 (1) Amend section 10 (provision relating to “taxable specific income”) as follows.
- (2) In subsection (3) for “or 7” substitute “ , 7 or 7A ”.
- (3) After subsection (4) insert—
- “(5) Subsection (3) is also subject to sections 554Z9 to 554Z11 (employment income under Part 7A: remittance basis).”
- 7 (1) Amend section 13 (person liable for tax) as follows.
- (2) In subsection (3) for “or 7” substitute “ , 7 or 7A ”.
- (3) After subsection (4A) insert—
- “(4B) Subject to section 554Z12, if—
- (a) the tax is on specific employment income under Chapter 2 of Part 7A, and
- (b) the relevant step is taken, or (if relevant) the income is remitted to the United Kingdom, after the death of A,
- A's personal representatives are liable for the tax.
- (4C) Terms used in subsection (4B) have the same meaning as in Part 7A.”
- (4) In subsection (5) for “or (4A)” substitute “ , (4A) or (4B) or section 554Z12(3) ”.
- 8 After section 63(4) (the benefits code) insert—
- “(5) The benefits code has effect subject to section 554Z2(2).”

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- 9 Under Step 1 in section 218(1) (exclusion of lower-paid employments from benefits code: calculation of earnings rate for tax year)—
- (a) omit the “and” after paragraphs (c) and (d), and
 - (b) after paragraph (e) insert “, and
 - (f) the total amount which counts as employment income in respect of the employment for the year under Chapter 2 of Part 7A.”
- 10 In section 222(1)(a) and (3) (payments treated as earnings: payments by employer on account of tax where deduction not possible) after “687,” insert “ 687A,”.
- 11 After section 227(4) (scope of exemptions to income tax under Part 4) insert—
- “(5) In relation to the interaction between this Part and Part 7A, see section 554P(1).”
- 12 (1) Amend section 271 (income tax exemptions: removal benefits and expenses) as follows.
- (2) In subsection (1) after “earnings” insert “ or by virtue of Part 7A ”.
 - (3) In subsection (2) for “Subsection” substitute “ In relation to earnings, subsection ”.
 - (4) After subsection (2) insert—
 - “(2A) In relation to Part 7A, subsection (1) does not apply to any amount so far as the amount (disregarding this section and section 554P) would count as employment income to which section 554Z9 or 554Z10 would apply.”
- 13 (1) Amend section 287 (income tax exemptions: limit on exemption for removal benefits and expenses) as follows.
- (2) In subsection (2)—
 - (a) omit the “and” after paragraph (a), and
 - (b) after paragraph (b) insert “, and
 - (c) the Part 7A employment income”.
 - (3) After subsection (5) insert—
 - “(6) In this section “the Part 7A employment income” means the amount in respect of which section 271 (when read with section 554P) would prevent liability to income tax arising if this section were to be disregarded.”
- 14 (1) Amend section 394 (employer-financed retirement benefits: charge on benefit received) as follows.
- (2) After subsection (4) insert—
 - “(4A) Subsection (4B) applies if the receipt of a benefit to which this Chapter applies gives rise to other relevant income of the employee, or the former employee, to or in respect of whom the benefit is provided.
 - (4B) Subsection (1) or (2) (as the case may be) applies to the amount of the benefit only so far as that amount exceeds the other relevant income.
 - (4C) In subsections (4A) and (4B) “other relevant income” means—
 - (a) general earnings of the employee or former employee which are chargeable to income tax,

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- (b) an amount which counts as employment income of the employee or former employee under Chapter 2 of Part 7A, or
 - (c) an amount which would be within paragraph (a) or (b) apart from the employee or former employee having been non-UK resident for any tax year.”
- (3) After subsection (5) insert—
 - “(6) Subsection (5) does not affect—
 - (a) any liability to income tax on general earnings, or
 - (b) any liability to income tax on an amount which counts as employment income under Chapter 2 of Part 7A.”
- 15 After section 428(6) (restricted employment-related securities: amount of charge) insert—
 - “(6A) CE also includes any amount that has counted as employment income of the employee in respect of the employment under Chapter 2 of Part 7A in relation to the employment-related securities where the relevant step (within the meaning of that Part) was taken before the chargeable event occurred.”
- 16 In section 431(3) (restricted employment-related securities: election for disapplication of Chapter 2 of Part 7)—
 - (a) omit the “and” after paragraph (c), and
 - (b) after paragraph (d) insert “, and
 - (c) determining any amount that counts as employment income of the employee in respect of the employment under Chapter 2 of Part 7A (employment income provided through third parties)”.
- 17 In section 437(1)(a) (convertible employment-related securities: market value) after “option)” insert “ or Chapter 2 of Part 7A (employment income provided through third parties) ”.
- 18 After section 441(9) (convertible employment-related securities: amount of gain realised) insert—
 - “(10) Subsection (11) applies for the purposes of subsection (2) or (3) if—
 - (a) prior to the acquisition, the employment-related securities were the subject of a relevant step within the meaning of Part 7A by reason of which Chapter 2 of that Part applied in respect of the employment, and
 - (b) the amount mentioned in subsection (11)(a) is higher than the amount mentioned in subsection (11)(b).
 - (11) The amount of the gain realised is reduced (but not below nil) by the amount equal to—
 - (a) the amount that counted as employment income of the employee in respect of the employment under Chapter 2 of Part 7A, less
 - (b) the market value of the employment-related securities when the relevant step was taken determined as if they were not convertible securities or an interest in convertible securities.”
- 19 In section 446B(4) (employment-related securities with artificially depressed market value: charge on acquisition)—

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- (a) omit the “or” after paragraph (d), and
 - (b) after paragraph (e) insert “, or
 - (f) Chapter 2 of Part 7A (employment income provided through third parties)”.

- 20 After section 446C(4) (employment-related securities with artificially depressed market value: amount of charge) insert—
 - “(4A) Subsection (4B) applies if, prior to the acquisition, the employment-related securities were the subject of a relevant step within the meaning of Part 7A by reason of which Chapter 2 of that Part applied in respect of the employment.
 - (4B) If what would be MV in accordance with subsection (3) or (4) (as the case may be) is less than the amount that counted as employment income of the employee in respect of the employment under Chapter 2 of Part 7A, MV is the amount of that employment income instead of the amount determined in accordance with subsection (3) or (4).”

- 21 After section 446S(3) (employment-related securities acquired for less than market value: notional loan) insert—
 - “(4) This section is not affected by section 554Z2(2).”

- 22 In section 446T(3) (employment-related securities acquired for less than market value: amount of notional loan)—
 - (a) omit the “and” after paragraph (d), and
 - (b) after paragraph (e) insert “, and
 - (f) any amount that has counted as employment income of the employee in respect of the employment under Chapter 2 of Part 7A in relation to the employment-related securities.”

- 23 In section 446V (employment-related securities acquired for less than market value: charges under Chapter 3C of Part 4 to be additional to other charges)—
 - (a) omit the “or” after paragraph (d), and
 - (b) after paragraph (e) insert “, or
 - (f) Chapter 2 of Part 7A (employment income provided through third parties)”.

- 24 In section 452(2) (shares in research institution spin-out companies: market value on acquisition)—
 - (a) omit the “and” after paragraph (c), and
 - (b) after paragraph (d) insert “, and
 - (e) determining any amount that counts as employment income of the employee in respect of the employment under Chapter 2 of Part 7A (employment income provided through third parties)”.

- 25 In section 480(5) (employment-related securities options: deductible amounts)—
 - (a) omit the “and” after paragraph (b), and
 - (b) after paragraph (c) insert “, and
 - (d) any amount that has counted as employment income of the employee in respect of the employment under Chapter 2 of Part 7A in relation to the employment-related securities

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option or to any sum of money or asset held solely for the purposes of the option.”

26 In section 567(5) (pension income: amount charged to tax) before “section 617” insert—

“section 567A (deduction to avoid double taxation where Part 7A has applied to the source of the pension income);”.

27 After section 567 insert—

“567A Cases in which Part 7A has applied to source of pension income

(1) This section applies if—

- (a) for a tax year there is an amount (“amount TPI”) of taxable pension income for a pension, annuity or other item of pension income,
- (b) the pension, annuity or other item of pension income accrues or arises out of rights (“the relevant rights”) which represent, or have arisen or derived (directly or indirectly) from, a sum of money or asset which was the subject of a relevant step within the meaning of Part 7A, and
- (c) Chapter 2 of that Part applied by reason of the relevant step.

(2) A deduction is allowed from amount TPI.

(3) The amount of the deduction allowed is the amount (“amount EI”) which counted as employment income of A under Chapter 2 of Part 7A in relation to the relevant step (see section 554Z2(1)).

(4) If amount EI exceeds amount TPI, the excess is to be carried forward to future tax years to be deducted under this section (when applicable) until all of amount EI has been deducted.

(5) Subsection (6) applies if it is determined on a just and reasonable basis that the relevant rights represent, or have arisen or derived from, only part of the sum of money or asset which was the subject of the relevant step.

(6) In subsection (3) the reference to the amount which counted as employment income is to be read as a reference to the corresponding proportion of that amount.”

28 After section 687(4) (PAYE: payments by intermediary) insert—

“(5) This section does not apply in relation to a payment so far as the sum paid is employment income under Chapter 2 of Part 7A.”

29 After section 687 insert—

“687A Payment of employment income under Part 7A

(1) This section applies if—

- (a) the value of a relevant step counts as employment income under Chapter 2 of Part 7A, and
- (b) the relevant step is the payment of a sum of money, and references to A and B are to be read accordingly.

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- (2) For the purposes of PAYE regulations B is treated as making a payment of PAYE income of A of an amount which, on the basis of the best estimate which can reasonably be made, is the amount of the employment income.
 - (3) The payment is treated as made on the latest of the following days—
 - (a) the day on which the relevant step is taken,
 - (b) the day on which A's employment with B starts, and
 - (c) the day which is 30 days after the day on which FA 2011 is passed.
 - (4) Subsection (2) does not apply if the person who takes the relevant step (whether or not a person to whom PAYE regulations apply) deducts income tax from the payment, and accounts for it, in accordance with PAYE regulations.”
- 30 (1) Amend section 689 (PAYE: employee of non-UK employer) as follows.
- (2) After subsection (1) insert—
- “(1A) Subject to subsection (4), subsection (1)(b) does not apply in relation to a payment so far as the sum paid is employment income under Chapter 2 of Part 7A.”
- (3) In subsection (4) after “sections” insert “ 687A and ”.
- 31 Before section 696 insert—

Employment income under Part 7A

- “695A) This section applies if—
- (a) the value of a relevant step counts as employment income under Chapter 2 of Part 7A, and
 - (b) the relevant step is not the payment of a sum of money, and references to A and B are to be read accordingly.
- (2) For the purposes of PAYE regulations B is treated as making a payment of PAYE income of A of an amount which, on the basis of the best estimate which can reasonably be made, is—
- (a) the amount of the employment income, less
 - (b) so much of that amount (if any) to which section 554Z9(2) or 554Z10(2) applies.
- (3) The payment is treated as made on the latest of the following days—
- (a) the day on which the relevant step is taken,
 - (b) the day on which A's employment with B starts, and
 - (c) the day which is 30 days after the day on which FA 2011 is passed.
- (4) Subsection (2) does not apply if the person who takes the relevant step (whether or not a person to whom PAYE regulations apply) accounts for income tax on the relevant step in accordance with PAYE regulations.”
- 32 After section 696(2) (PAYE: readily convertible assets) insert—
- “(3) This section does not apply to any PAYE income so far as it is employment income under Chapter 2 of Part 7A.”

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- 33 In section 710(2)(a) (PAYE: accounting for tax on notional payments) after “687,” insert “ 687A, ”.
- 34 (1) Amend section 716A (priority rule in relation to certain dividend income) as follows.
- (2) Make the existing text subsection (1).
- (3) After subsection (1) insert—
- “(2) Subsection (1) is subject to section 554Z2(2).”

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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.)