



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

[^{F1}PART 7A

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

CHAPTER 2

TREATMENT OF RELEVANT STEP FOR INCOME TAX PURPOSES

[^{F1}[^{F2}*Double taxation: earlier income tax liability*

Textual Amendments

- F1** Pt. 7A inserted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 2 para. 1](#)
- F2** [Ss. 554Z11B-554Z11G](#) and cross-heading inserted (with effect in accordance with Sch. 6 para. 15(2) (3) of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 6 para. 11](#)

554Z11B Earlier income tax liability: application of section 554Z11C

- (1) Section 554Z11C applies if the conditions in subsections (2) and (3) are met.
- (2) The first condition is that there is overlap between—
 - (a) the sum of money or asset (“sum or asset P”) which is the subject of the relevant step, and
 - (b) a sum of money or asset (“sum or asset Q”) by reference to which, on an occasion that occurred before the relevant step is taken, A became subject to a liability for income tax (“the earlier tax liability”).

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Double taxation: earlier income tax liability. (See end of Document for details)

- (3) The second condition is that at the time the relevant step is taken—
 - (a) an amount is payable by a person (the “liable person”) in respect of the earlier tax liability, but the whole or part of that amount is unpaid and not otherwise accounted for, and
 - (b) the liable person has not agreed any terms with an officer of Revenue and Customs for the discharge of the earlier tax liability.
- (4) For the purposes of this section there is overlap between sum or asset P and sum or asset Q so far as it is just and reasonable to conclude that—
 - (a) they are the same sum of money or asset, or
 - (b) sum or asset P directly, or indirectly, represents sum or asset Q.
- (5) In subsection (2)(b)—
 - (a) the reference to A includes a reference to any person linked with A, and
 - (b) the reference to a liability for income tax does not include a reference to a liability for income tax arising by reason of section 175 (benefit of taxable cheap loan treated as earnings).

554Z11 Earlier income tax liability: treatment of payments

- (1) In this section—
 - (a) “the earlier charge” means so much of the earlier tax liability as relates to the overlap between sum or asset P and sum or asset Q, and
 - (b) “the Chapter 2 overlap charge” means so much of the Chapter 2 tax liability as relates to the overlap between sum or asset P and sum or asset Q.
- (2) The amount of a tax liability that relates to the overlap between sum or asset P and sum or asset Q is to be determined on a just and reasonable basis.
- (3) Subsection (4) applies where, after the relevant step is taken, an amount (the “earlier charge paid amount”) is paid in respect of all or part of—
 - (a) the earlier charge, or
 - (b) any late payment interest in respect of the charge.
- (4) An amount equal to the earlier charge paid amount is treated as a payment on account of—
 - (a) the Chapter 2 overlap charge, or
 - (b) if that charge has been paid in full, any late payment interest payable in respect of the charge.
- (5) Except where subsection (10) applies, subsection (6) applies where an amount (the “Chapter 2 paid amount”) is paid in respect of all or part of—
 - (a) the Chapter 2 overlap charge, or
 - (b) any late payment interest in respect of the charge.
- (6) An amount equal to the Chapter 2 paid amount is treated as a payment on account of—
 - (a) the earlier charge, or
 - (b) if the earlier charge has been paid in full, any late payment interest payable in respect of the charge.
- (7) Subsection (10) applies where—

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Double taxation: earlier income tax liability. (See end of Document for details)

- (a) the condition in 554Z11B(2) is met because there is overlap between sum or asset P and each of two or more items within section 554Z11B(2)(b), and
 - (b) an amount (the “Chapter 2 aggregate paid amount”) is paid in respect of all or part of—
 - (i) two or more relevant Chapter 2 overlap charges, or
 - (ii) any late payment interest in respect of any of those charges.
- (8) In subsection (7)(b), “relevant Chapter 2 overlap charge” means so much of the Chapter 2 tax liability as relates to the overlap between sum or asset P and one of those items within section 554Z11B(2)(b).
- (9) For the purposes of subsection (10)—
- (a) in the case of each of those items, the “earlier charge” in respect of the overlap between sum or asset P and the item is so much of the liability mentioned in section 554Z11B(2)(b) in the case of the item as relates to the overlap, and
 - (b) the Chapter 2 aggregate paid amount is to be allocated, in such proportions as are just and reasonable in all the circumstances, between the earlier charges given by paragraph (a).
- (10) The amount allocated to an earlier charge under subsection (9) is treated as a payment on account of—
- (a) the earlier charge to which it is allocated, and
 - (b) if the earlier charge has been paid in full, any late payment interest payable in respect of the charge.
- (11) In this section—
- “late payment interest” means interest payable under—
- (a) section 86 of TMA 1970,
 - (b) section 101 of FA 2009, or
 - (c) regulation 82 of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682);
- “Chapter 2 tax liability” means the liability for income tax arising by virtue of the application of Chapter 2 by reason of the relevant step.

554Z11E Earlier income tax liability: provisional payments of tax

- (1) Subsection (2) applies for the purposes of—
- (a) section 554Z11B(3)(a), and
 - (b) section 554Z11C(3), (4)(b), (7)(b) and (10)(b).
- (2) A person is not to be regarded as having paid, or otherwise accounted for, any tax by reason only of making a provisional payment of tax, except in accordance with an application granted under section 554Z11E.
- (3) In this Part, “provisional payment of tax” means—
- (a) a payment on account of income tax,
 - (b) a payment that is treated as a payment on account under section 223(3) of FA 2014 (accelerated payments), or
 - (c) a payment pending determination of an appeal made in accordance with section 55 of TMA 1970.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Double taxation: earlier income tax liability. (See end of Document for details)

- (4) The reference in subsection (3)(a) to a payment on account of income tax does not include a reference to a payment treated under section 554Z11C as a payment on account of a tax liability.

554Z11E Application for provisional payments to be treated as payment of tax

- (1) A person may make an application to Her Majesty's Revenue and Customs for a provisional payment of tax to be treated for the purposes of section 554Z11C as—
- (a) an earlier charge paid amount,
 - (b) a Chapter 2 paid amount, or
 - (c) a Chapter 2 aggregate paid amount.
- (2) Where an application under subsection (1) is granted, the provisional payment of tax to which it relates may not be repaid.
- (3) An application for approval must be made in such form and manner, and contain such information, as may be specified by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs.
- (4) An officer of Revenue and Customs must notify the applicant of the decision on an application.

554Z11F Provisional payments of tax: further provision

- (1) This section applies in a case to which section 554Z11C applies (see section 554Z11B(1)).
- (2) If a provisional payment of tax is made in respect of an earlier charge in relation to an overlap, it is to be treated as also being made in respect of the Chapter 2 overlap charge in relation to the overlap.
- (3) If a provisional payment of tax is made in respect of a Chapter 2 overlap charge in relation to an overlap, it is to be treated as also being made in respect of the earlier charge in relation to the overlap.
- (4) If section 554Z11C(10) applies in a case (see section 554Z11C(7)) and a provisional payment of tax is made in respect of two or more relevant Chapter 2 overlap charges—
- (a) the amount of the provisional payment of tax is to be allocated, in such proportions as are just and reasonable in all the circumstances, between those relevant Chapter 2 overlap charges, and
 - (b) a provisional payment of tax, equal to the amount allocated to the relevant Chapter 2 overlap charge relating to any particular overlap, is to be treated as also being made in respect of the earlier charge given by section 554Z11C(9) in respect of that overlap.
- (5) Subsection (6) applies if—
- (a) the provisional payment of tax is repaid, and
 - (b) late payment interest on the earlier charge or the Chapter 2 overlap charge would have accrued during the relevant period if the provisional payment of tax had not been made.
- (6) The late payment interest mentioned in subsection (5) is treated as having accrued as if the provisional payment of tax had not been made.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Double taxation: earlier income tax liability. (See end of Document for details)

- (7) For the purposes of subsection (5), the “relevant period” is the period beginning on the day on which the provisional payment of tax is made and ending with the day on which the repayment is made.

554Z11C Earlier income tax liability: supplementary provision

- (1) This section applies in a case to which section 554Z11C applies (see section 554Z11B(1)).
- (2) Subsection (3) applies where an employer is treated by virtue of section 687A or 695A as making a payment of income (“the notional payment”) by reason of the value of the relevant step, of which sum or asset P is the subject, counting as employment income.
- (3) The reference in section 222 (payments by employer on account of tax where deduction not possible) to the notional payment is to be treated as a reference to that payment reduced by an amount equal to so much of the sum of money or (as the case may be) the value of so much of the asset—
- (a) as is within the overlap, and
 - (b) in relation to which an amount is treated under section 554Z11C as a payment on account of either the earlier charge or the Chapter 2 overlap charge.
- (3) Subsection (4) applies for the purposes of sections 65(5)(b) and 70(3)(b) of the Inheritance Tax Act 1984 (tax relief for payments which are income of a person for income tax purposes etc).
- (4) The value of the relevant step of which sum or asset P is the subject is to be treated as reduced by an amount equal to so much of the sum of money or (as the case may be) the value of so much of the asset —
- (a) as is within the overlap, and
 - (b) in relation to which an amount is treated under section 554Z11C as a payment on account of either the earlier charge or the Chapter 2 overlap charge.]]

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Double taxation: earlier income tax liability.