
Changes to legislation: Finance Act 2011, Cross Heading: Commencement and transitional provision relating to Part 7A of ITEPA 2003 is up to date with all changes known to be in force on or before 19 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

Commencement and transitional provision relating to Part 7A of ITEPA 2003

- 52 (1) Part 7A of ITEPA 2003 (as inserted by paragraph 1 of this Schedule) has effect in relation to relevant steps taken on or after 6 April 2011; and the other amendments made by this Schedule have effect accordingly.
- (2) Sub-paragraph (1) is subject to the following paragraphs.
- 53 (1) This paragraph applies if—
- (a) on or after 9 December 2010 but before 6 April 2011 a relevant step (“the early step”) within section 554C(1)(a) of ITEPA 2003 is taken,
 - (b) Chapter 2 of Part 7A of ITEPA 2003 would have applied by reason of the early step had the reference in paragraph 52(1) of this Schedule to 6 April 2011 been a reference to 9 December 2010, and
 - (c) the early step is not chargeable to income tax by virtue of Schedule 34 to FA 2004 in whole or in part.
- (2) Subject to what follows, Chapter 2 of Part 7A of ITEPA 2003 is to apply by reason of the early step; and the amendments made by this Schedule have effect accordingly.
- (3) In determining the tax year for which the employment income of A counts for the purposes of section 554Z2(1) of ITEPA 2003, the early step is treated as having been taken on 6 April 2012; but otherwise Chapter 2 of Part 7A of that Act applies by reference to when the early step was actually taken.
- (4) The amount which (apart from this sub-paragraph) would count as employment income of A is to be reduced by an amount to reflect so much of the sum paid as has been repaid to P before 6 April 2012 by the person to whom the payment was made; and the Tax Acts are to apply in relation to the sum paid so far as repaid to P before that date by that person as if Chapter 2 of Part 7A of ITEPA 2003 had never applied by reason of the early step, with any adjustments that need to be made to any assessment to tax being made accordingly.
- (5) The amount of the reduction (if any) under sub-paragraph (4)—
- (a) is to be determined on a just and reasonable basis, and
 - (b) may be the full amount of the employment income or nil or an amount in between (depending on the circumstances).
- (6) Section 554Z5 of ITEPA 2003 does not apply in relation to the early step and, in the application of that section in relation to any other relevant step (whenever taken), the early step is to be ignored.
- (7) Section 554Z12 of ITEPA 2003 does not apply in relation to the early step.

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- (8) For the purposes of section 687A(3)(a) of ITEPA 2003 (as inserted by paragraph 29 of this Schedule), the early step is treated as having been taken on 6 April 2012.
- (9) For the purposes of section 41(1A) of ITTOIA 2005 (as inserted by paragraph 38(3) of this Schedule), the early step is treated as having been taken on 6 April 2012; and for the purpose of determining whether section 41(1A) of that Act applies, section 41(1) is to be read as substituted by paragraph 38(2) of this Schedule.
- (10) For the purposes of section 1293(1A) of CTA 2009 (as inserted by paragraph 47(3) of this Schedule), the early step is treated as having been taken on 6 April 2012; and for the purpose of determining whether section 1293(1A) of that Act applies, section 1293(1) is to be read as substituted by paragraph 47(2) of this Schedule.
- 54 (1) This paragraph applies if—
- (a) on or after 9 December 2010 but before 6 April 2011 a relevant step (“the early step”) within section 554C(1)(d) of ITEPA 2003 is taken,
 - (b) the relevant step does not involve a sum of money within the meaning of section 554Z(10) of ITEPA 2003,
 - (c) the asset which is the subject of the early step is a readily convertible asset which P makes available to secure the payment of a sum of money,
 - (d) Chapter 2 of Part 7A of ITEPA 2003 would have applied by reason of the early step had the reference in paragraph 52(1) of this Schedule to 6 April 2011 been a reference to 9 December 2010, and
 - (e) the early step is not chargeable to income tax by virtue of Schedule 34 to FA 2004 in whole or in part.
- (2) For the purposes of sub-paragraph (1)(a) section 554C(1)(d) of ITEPA 2003 is to be read as if the words “or makes it available under an arrangement which permits its use” were omitted.
- (3) In this paragraph “readily convertible asset” means anything mentioned in section 702(1)(a) to (c) of ITEPA 2003 (ignoring section 702(3)).
- (4) Subject to what follows, Chapter 2 of Part 7A of ITEPA 2003 is to apply by reason of the early step; and the amendments made by this Schedule have effect accordingly.
- (5) In determining the tax year for which the employment income of A counts for the purposes of section 554Z2(1) of ITEPA 2003, the early step is treated as having been taken on 6 April 2012; but otherwise Chapter 2 of Part 7A of that Act applies by reference to when the early step was actually taken.
- (6) The amount which (apart from this sub-paragraph) would count as employment income of A is to be reduced to nil if—
- (a) before 6 April 2012 the readily convertible asset has been returned to P, and
 - (b) as at that date the asset is not being used to secure the payment of the sum of money (or any part of it),
- and the Tax Acts are to apply in relation to the early step as if Chapter 2 of Part 7A of ITEPA 2003 had never applied by reason of it, with any adjustments that need to be made to any assessment to tax being made accordingly.
- (7) Section 554Z5 of ITEPA 2003 does not apply in relation to the early step and, in the application of that section in relation to any other relevant step (whenever taken), the early step is to be ignored.

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- (8) Section 554Z8 of ITEPA 2003 applies in relation to the early step as if subsection (6) (b) were omitted.
- (9) Section 554Z12 of ITEPA 2003 does not apply in relation to the early step.
- (10) For the purposes of section 695A(3)(a) of ITEPA 2003 (as inserted by paragraph 31 of this Schedule), the early step is treated as having been taken on 6 April 2012.
- (11) For the purposes of section 41(1A) of ITTOIA 2005 (as inserted by paragraph 38(3) of this Schedule), the early step is treated as having been taken on 6 April 2012; and for the purpose of determining whether section 41(1A) of that Act applies, section 41(1) is to be read as substituted by paragraph 38(2) of this Schedule.
- (12) For the purposes of section 1293(1A) of CTA 2009 (as inserted by paragraph 47(3) of this Schedule), the early step is treated as having been taken on 6 April 2012; and for the purpose of determining whether section 1293(1A) of that Act applies, section 1293(1) is to be read as substituted by paragraph 47(2) of this Schedule.
- 55 (1) For the purpose of determining whether Chapter 2 of Part 7A of ITEPA 2003 would have applied by reason of the early step as mentioned in paragraph 53(1)(b) or 54(1) (d), section 554G of ITEPA 2003 is to be read—
- (a) as if subsection (1)(a) were omitted, and
 - (b) as if the definition contained in sub-paragraph (2) applied for the purposes of the reference to a group of companies in subsection (4)(d) instead of section 554Z(5) of ITEPA 2003.
- (2) The definition referred to in sub-paragraph (1)(b) is—
- ““group of companies” means a company and any other companies of which it has control (as defined in section 995 of ITA 2007)”.
- (3) For the purpose of determining whether Chapter 2 of Part 7A of ITEPA 2003 would have applied by reason of the early step, Chapter 1 of that Part is to be read as if section 554N(13) to (16) were omitted.
- (4) If, by virtue of section 554O of ITEPA 2003, Chapter 2 of Part 7A of that Act would not have applied by reason of the early step, section 554O(3) and (4) have effect in relation to the car loan.
- (5) But, for this purpose, if the repayment date is before 6 April 2012, in section section 554O(3) and (4) references to the repayment date are to be read as references to 6 April 2012.
- 56 (1) This paragraph applies for the purposes of section 554Q of ITEPA 2003 in a case in which—
- (a) the relevant step mentioned in subsection (2)(a) of that section was taken before 6 April 2011, and
 - (b) the requirement of subsection (2)(b) of that section would have been met had Part 7A of ITEPA 2003 had effect in relation to relevant steps within section 554B of that Act taken before that date.
- (2) The requirement of subsection (2)(b) of that section is to be treated as met in that case.
- 57 (1) This paragraph applies for the purposes of section 554R of ITEPA 2003 in a case in which—

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- (a) the relevant step mentioned in subsection (6)(a) of that section was taken before 6 April 2011, and
 - (b) the requirement of subsection (6)(b) of that section would have been met had Part 7A of ITEPA 2003 had effect in relation to relevant steps within section 554B of that Act taken before that date.
- (2) The requirement of subsection (6)(b) of that section is to be treated as met in that case.
- 58 (1) This paragraph applies if—
- (a) B takes a step within section 554Z19 of ITEPA 2003 before 6 April 2011 by providing security (“the early security”) for the performance of an undertaking (“the early undertaking”),
 - (b) on or after 6 April 2011 at a time when B is continuing to provide the early security, there is a change in the terms of the early undertaking which does not amount to the giving of a new undertaking, and
 - (c) as a result of the change, the amount to be paid as a contribution (“the early contribution”) under the early undertaking increases, or will increase.
- (2) Chapter 3 of Part 7A of ITEPA 2003 has effect—
- (a) as if the change in the terms of the early undertaking were a new undertaking to pay a contribution covering the increase in the amount of the early contribution as determined on a just and reasonable basis, and
 - (b) as if B, in continuing to provide the early security, provides security for the performance of the new undertaking at the time of the change in the terms.
- (3) Section 554Z17(7) of ITEPA 2003 applies for the purposes of this paragraph as it applies for the purposes of Chapter 3 of Part 7A of that Act.
- 59 (1) This paragraph applies if—
- (a) a relevant step within section 554C or 554D of ITEPA 2003 [^{F1}or paragraph 1 of Schedule 11 to F(No. 2)A 2017] (“the chargeable step”) is taken,
 - (b) Chapter 2 of Part 7A of ITEPA 2003 applies by reason of the chargeable step,
 - (c) in a tax year before 6 April 2011 (“the pre-6 April 2011 tax year”) a relevant step (“the pre-6 April 2011 step”) within section 554B of ITEPA 2003 was taken,
 - (d) before the chargeable step is taken—
 - (i) an agreement was made between Her Majesty's Revenue and Customs and either A or B (or both) under which it was agreed that the pre-6 April 2011 step was to be treated as giving rise to earnings of A from A's employment with B within Chapter 1 of Part 3 of ITEPA 2003 for the pre-6 April 2011 tax year, or
 - (ii) the tax payable by A for the pre-6 April 2011 tax year was otherwise decided on the basis that the pre-6 April 2011 step was to be treated as giving rise to earnings of A from A's employment with B within Chapter 1 of Part 3 of ITEPA 2003 for that tax year,
 - (e) before the chargeable step is taken, A or B has paid, or otherwise accounted for, any tax which A or B is required to pay or otherwise account for as a consequence of—
 - (i) the agreement mentioned in paragraph (d)(i), or
 - (ii) the tax payable by A for the pre-6 April 2011 tax year having otherwise been decided on the basis mentioned in paragraph (d)(ii), and

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- (f) after any reductions under sections 554Z4 [^{F2} and 554Z6] to 554Z8 of ITEPA 2003, it is determined on a just and reasonable basis that the value of the chargeable step represents (or still represents after any such reductions) to any extent—
- (i) the earnings treated as arising from the pre-6 April 2011 step as mentioned in paragraph (d)(i) or (ii), or
 - (ii) any return on those earnings since the taking of the pre-6 April 2011 step (whether income or capital, direct or indirect or realised or unrealised).
- (2) After any reductions under sections 554Z4 [^{F3} and 554Z6] to 554Z8 of ITEPA 2003, the value of the chargeable step is to be reduced (but not below nil) by an amount reflecting the extent to which, as determined under sub-paragraph (1)(f), that value represents (or still represents)
- [^{F4}(a) where sub-paragraph (2A) or (2B) applies, the earnings mentioned in sub-paragraph (1)(f)(i) or any return on those earnings mentioned in sub-paragraph (1)(f)(ii), and
 - (b) in any other case, the earnings mentioned in sub-paragraph (1)(f)(i).]
- [^{F5}(2A) This sub-paragraph applies where—
- (a) the agreement mentioned in sub-paragraph (1)(d)(i) is made before 1 April 2017, and
 - (b) A or B pays, or otherwise accounts for, any tax as mentioned in sub-paragraph (1)(e) in accordance with that agreement.
- (2B) This sub-paragraph applies where—
- (a) the decision mentioned in sub-paragraph (1)(d)(ii) is made before 1 April 2017, and
 - (b) A or B pays, or otherwise accounts for, any tax as mentioned in sub-paragraph (1)(e) before 1 April 2017.]
- (3) In sub-paragraph (1)(f)(ii) “return” does not include any return so far as, it is reasonable to suppose, the return exceeds the return which might have been expected applying the assumption that all relevant connected persons are acting at arm’s length of each other.
- (4) In sub-paragraph (3) “relevant connected person” means a person with a connection (direct or indirect) to an arrangement (within the meaning of Part 7A of ITEPA 2003) by virtue of which the return arises.
- [^{F6}(5) For the purposes of sub-paragraph (1)(e), a person is not to be regarded as having paid, or otherwise accounted for, any tax by reason only of making—
- (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 .]

Textual Amendments

F1 Words in [Sch. 2 para. 59\(1\)\(a\)](#) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 47](#)

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- F2** Words in Sch. 2 para. 59(1)(f) inserted (with effect in accordance with Sch. 6 para. 16 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 6 para. 12(2)**
- F3** Words in Sch. 2 para. 59(2) inserted (with effect in accordance with Sch. 6 para. 16 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 6 para. 12(3)**
- F4** Words in Sch. 2 para. 59(2) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 18(5)**
- F5** Sch. 2 para. 59(2A)(2B) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 18(6)**
- F6** Sch. 2 para. 59(5) inserted (with effect in accordance with s. 18(10) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **s. 18(7)**

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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.)