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SCHEDULES

SCHEDULE 3

Section 15

RESTRICTIONS ON REMITTANCE BASIS

- 1 ITEPA 2003 is amended as follows.
- 2 In section 23 (taxable earnings: calculation of “chargeable overseas earnings”) after subsection (1) insert—
- “(1A) But none of an employee's general earnings from an employment for a tax year are to be “chargeable overseas earnings” if section 24A applies in relation to the employment for the tax year.”
- 3 After section 24 insert—

“24A Restrictions on remittance basis

- (1) This section applies in relation to an employment (“the relevant employment”) for a tax year (“the relevant tax year”) if—
- (a) one or more of the paragraphs in subsection (5) applies,
 - (b) conditions 1 to 4 are met, and
 - (c) condition 5 is not met.
- (2) The consequences of this section applying are set out in sections 23(1A), 41C(4A), 41H(5) and 554Z9(1A).
- (3) But, for the purpose of determining if, and the extent to which, any provision of Part 11 (PAYE), or of PAYE regulations, applies in relation to any income, the application of any provision mentioned in subsection (2) in relation to the income is to be ignored.
- (4) In this section—
- (a) “the relevant employee” means the employee in respect of the relevant employment,
 - (b) “the relevant employer” means the employer in respect of the relevant employment, and
 - (c) “UK employment” means an employment the duties of which are not performed wholly outside the United Kingdom and “UK employer” is to be read accordingly,
- and the rules in section 24(5) (“associated” persons) apply for the purposes of this section.
- (5) The paragraphs referred to in subsection (1)(a) are—
- (a) general earnings from the relevant employment which are for the relevant tax year would, apart from section 23(1A) and step 3 in section 23(3), be “chargeable overseas earnings” under section 23(3);

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- (b) employment income in respect of the relevant employment which is treated as accruing in the relevant tax year under section 41C(2) would, apart from sections 41C(4A), 41D and 41E, be “foreign” under section 41C(3);
 - (c) employment income in respect of the relevant employment which is treated as accruing in the relevant tax year under section 41H(2) would, apart from sections 41H(5), 41I and 41L, be “chargeable foreign securities income” under section 41H(3);
 - (d) section 554Z9(2) would, apart from section 554Z9(1A) and (4) and (5), apply to employment income in respect of the relevant employment which corresponds to the value of a relevant step, or a part of the value of a relevant step, which is “for” the relevant tax year as determined under section 554Z4.
- (6) Condition 1 is that the relevant employee holds a UK employment—
 - (a) at a time in the relevant tax year when the relevant employee also holds the relevant employment, or
 - (b) if the relevant tax year is a split year as respects the relevant employee, at a time in the UK part of the relevant tax year when the relevant employee also holds the relevant employment.
- (7) Condition 2 is that the UK employer is the same as, or is associated with, the relevant employer.
- (8) Condition 3 is that the UK employment and the relevant employment are related to each other.
- (9) Without prejudice to the generality of subsection (8), the UK employment and the relevant employment are to be assumed to be related to each other if one or more of the following paragraphs applies—
 - (a) it is reasonable to suppose that—
 - (i) the relevant employee would not hold one employment without holding the other employment, or
 - (ii) the employments will cease at the same time or one employment will cease in consequence of the other employment ceasing;
 - (b) the terms of one employment operate to any extent by reference to the other employment;
 - (c) the performance of duties of one employment is (wholly or partly) dependent upon, or otherwise linked (directly or indirectly) to, the performance of duties of the other employment;
 - (d) the duties of the employments are wholly or mainly of the same type (ignoring the fact that they may be performed (wholly or partly) in different locations);
 - (e) the duties of the employments involve (wholly or partly) the provision of goods or services to the same customers or clients;
 - (f) the relevant employee is—
 - (i) a director (as defined in section 67) of the UK employer or the relevant employer who has a material interest (as defined in section 68) in the UK employer or the relevant employer,

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- (ii) a senior employee of the UK employer or the relevant employer, or
 - (iii) one of the employees of the UK employer or the relevant employer who receives the higher or highest levels of remuneration.
- (10) In subsection (9)(f) references to the UK employer or the relevant employer include references to—
 - (a) any person with which the UK employer or the relevant employer (as the case may be) is associated, and
 - (b) if the UK employer or the relevant employer (as the case may be) is a company, the following companies taken together as if they were one company—
 - (i) the UK employer or the relevant employer (as the case may be), and
 - (ii) all the companies with which the UK employer or the relevant employer (as the case may be) is associated.
- (11) The Treasury may by regulations amend this section so as to add to, reduce or modify the cases in which the UK employment and the relevant employment are to be assumed to be related to each other.
- (12) A statutory instrument containing regulations under subsection (11) may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.
- (13) Condition 4 is that X% is less than Y%.
- (14) “X%” is given by the following formula—

$$\frac{C}{I} \times 100\%$$

See section 24B for the definitions of “C” and “I”.

- (15) “Y%” is 65% of the additional rate for the relevant tax year.
- (16) The Treasury may by regulations amend this section so as to amend the definition of “Y%”.
- (17) Condition 5 is that—
 - (a) were the duties of the relevant employment to be duties of the UK employment instead, all or substantially all of them could not lawfully be performed in the relevant territory (whether on the meeting of any condition or otherwise) by virtue of any regulatory requirements imposed by or under the law of that territory, and
 - (b) were the UK duties of the UK employment to be duties of the relevant employment instead, all or substantially all of them could not lawfully be performed in the part of the United Kingdom in which they are performed (whether on the meeting of any condition or otherwise) by virtue of any regulatory requirements imposed by or under the law of that part of the United Kingdom.

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(18) In subsection (17)—

“the relevant territory” means the territory in which the duties of the relevant employment are performed, and

“UK duties” means duties performed in the United Kingdom.

24B Definitions of “C” and “I” for the purposes of section 24A(14)

(1) This section applies for the purposes of section 24A(14).

(2) “C” is the total amount of credit which would be allowed under section 18(2) of TIOPA 2010 (double taxation relief by way of credit) against income tax in respect of all the employment income falling within section 24A(5)(a) to (d) were none of that income to be, as relevant—

- (a) “chargeable overseas earnings”,
- (b) “foreign”,
- (c) “chargeable foreign securities income”, or
- (d) income to which section 554Z9(2) applies.

(3) For this purpose, assume—

- (a) that all relief is claimed within the applicable time limit given by section 19 of TIOPA 2010, and
- (b) that all reasonable steps are taken to minimise any amounts of tax payable as mentioned in section 33 of that Act.

(4) “I” is the total amount of all the employment income falling within section 24A(5)(a) to (d).”

4 (1) Section 41C (taxable specific income from employment-related securities etc: foreign securities income) is amended as follows.

(2) After subsection (4) insert—

“(4A) But subsection (4) does not apply to a tax year if section 24A applies in relation to the employment for the tax year.”

(3) After subsection (8) insert—

“(9) If subsection (4) does not apply to a tax year by virtue of subsection (4A), it is to be assumed for the purposes of section 41E that it is just and reasonable for none of the securities income treated as accruing in the tax year to be “foreign”.”

5 In section 554Z9 (employment income provided through third parties: remittance basis) after subsection (1) insert—

“(1A) But subsection (2) does not apply if section 24A applies in relation to A’s employment with B for the relevant tax year.”

6 In section 717 (orders and regulations) in subsection (4) after “under” insert “section 24A(11) (assumptions about related employments), ”.

7 (1) Section 23(1A) of ITEPA 2003 (as inserted by paragraph 2) has effect in relation to general earnings which are general earnings from an employment for the tax year 2014-15 or any subsequent tax year.

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- (2) Section 41C(4A) of ITEPA 2003 (as inserted by paragraph 4(2)) has effect for cases where the tax year in question is the tax year 2014-15 or any subsequent tax year.
- (3) Section 41H(5) of ITEPA 2003 (as inserted by Part 1 of Schedule 9 to this Act) has effect for cases where the tax year in question is the tax year 2014-15 or any subsequent tax year.
- (4) Section 554Z9(1A) of ITEPA 2003 (as inserted by paragraph 5) has effect for cases where the relevant tax year (see section 554Z9(1)(a) of that Act) is the tax year 2014-15 or any subsequent tax year.

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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):

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)