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SCHEDULES

SCHEDULE 11

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES: LOANS ETC OUTSTANDING ON 5 APRIL 2019

PART 4

SUPPLEMENTARY PROVISION

Double taxation

[^{F1}36A(1) Sub-paragraphs (2) to (8) apply if—

- (a) a person (“P”) would, apart from this paragraph, be treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and
- (b) the loan gives rise to a charge to tax under section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participators).

(2) In this paragraph “the key date” means the later of—

- (a) 5 April 2019, and
- (b) the day on which the tax referred to in sub-paragraph (1)(b) is due and payable (see section 455(3) of CTA 2010).

(3) Paragraph 1(2) has effect as if it treated P as taking the relevant step immediately before the end of the key date, but this is subject to sub-paragraphs (4) and (5).

(4) Paragraph 1(1) does not apply in the case of the loan if the payment condition is met.

(5) Paragraph 1(1) does not apply in the case of the loan if—

- (a) the payment condition is not met,
- (b) the charge to tax mentioned in sub-paragraph (1)(b) is reported, in a company tax return of B’s, as required under Schedule 18 to FA 1998 (company tax returns etc), and
- (c) an officer of Revenue and Customs considers that paragraph 1(1) should not apply in the case of the loan.

(6) The payment condition is met if—

- (a) the net section 455 charge is paid in full on or before the key date, or
- (b) the net section 455 charge is nil.

(7) The “net section 455 charge” is the amount of the tax referred to sub-paragraph (1)(b) less the amount of section 458 relief from that tax.

(8) In sub-paragraph (7) “section 458 relief” means relief given under section 458 of CTA 2010—

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- (a) in respect of a repayment made, or a release or writing-off occurring, on or before the key date, and
- (b) on a claim made on or before the key date.]

Textual Amendments

F1 Sch. 11 para. 36A inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 1 para. 4\(2\)](#)

- 37 (1) Sub-paragraph (2) applies where—
- (a) P is treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and
 - (b) the loan is an employment-related loan (within the meaning of Chapter 7 of Part 3 of ITEPA 2003).
- (2) The effect of section 554Z2(2)(a) of ITEPA 2003 (value of relevant step to count as employment income: application of Part 7A instead of the benefits code) is that the loan is not be treated as a taxable cheap loan for the purposes of Chapter 7 of Part 3 of that Act for—
- (a) the tax year in which the relevant step is treated as being taken, and
 - (b) any subsequent tax year.
- 38 In section 554Z2 of ITEPA 2003, at the end insert—
- “(4) See paragraph 37 of Schedule 11 to F(No. 2)A 2017 for provision about the effect of subsection (2)(a) in a case in which the relevant step is within paragraph 1 of that Schedule.”

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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. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)