
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Double taxation. (See end of Document for details)

SCHEDULES

SCHEDULE 1

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

PART 2

CLOSE COMPANIES

Double taxation

- 3 (1) In section 554Z2 of ITEPA 2003 (value of relevant step to count as employment income), after subsection (1) insert—

“(1AA) But subsection (1) is subject to section 554Z2A (close companies).”

- (2) After section 554Z2 of ITEPA 2003, insert—

“554Z2A Exception to section 554Z2(1): close companies

- (1) Section 554Z2(1) does not apply in the case of a relevant step if—
- (a) this Chapter applies in the case of the relevant step only by reason of section 554AA (close companies),
 - (b) the relevant step is a step within section 554B, 554C or 554D,
 - (c) the relevant step gives rise to a charge to tax under either—
 - (i) section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participator), or
 - (ii) section 415 of ITTOIA 2005 (release of loan to participator in a close company), and
 - (d) in a case within paragraph (c)(i), either the payment condition or the consent condition is met in relation to the charge under section 455 of CTA 2010.
- (2) The payment condition is met in relation to a charge to tax under section 455 of CTA 2010 if—
- (a) the net section 455 charge is paid in full on or before the due date, or
 - (b) the net section 455 charge is nil.
- (3) The “net section 455 charge” means the amount of the charge to tax under section 455 of CTA 2010 less the amount of section 458 relief from that charge.
- (4) In subsection (3) “section 458 relief” means relief given under section 458 of that Act—
- (a) in respect of a repayment made, or a release or writing-off occurring, on or before the due date, and

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- (b) on a claim made on or before the due date.
- (5) The consent condition is met in relation to a charge to tax under section 455 of CTA 2010 if—
 - (a) the charge to tax is reported, in a company tax return of B's, as required under Schedule 18 to FA 1998 (company tax returns etc),
 - (b) the payment condition is not met in relation to that charge, and
 - (c) an officer of Revenue and Customs considers that section 554Z2(1) should not apply in the case of the relevant step concerned.
- (6) In this section, references to the “due date” in relation to a charge to tax under section 455 of CTA 2010 are references to the day on which the tax is due and payable (see section 455(3) of CTA 2010).”
- 4 (1) Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) is amended as follows.
- (2) Before paragraph 37 (but after the italic heading preceding that paragraph) insert—
 - “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.

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

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