



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### [<sup>F1</sup>PART 7A

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

### CHAPTER 1

APPLICATION ETC

### *[<sup>F1</sup>Exclusions*

#### 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](#)

#### **554E Exclusions: steps under certain schemes etc**

- (1) Chapter 2 does not apply by reason of a relevant step if the step is taken under any of the following—
- (a) [<sup>F2</sup>a Schedule 2]SIP (within the meaning of Chapter 6 of Part 7),
  - (b) [<sup>F3</sup>a Schedule 3]SAYE option scheme (within the meaning of Chapter 7 of Part 7),
  - (c) [<sup>F4</sup>a Schedule 4]CSOP scheme (within the meaning of Chapter 8 of Part 7),
  - (d) an arrangement the sole purpose of which is the provision of excluded benefits (as defined in section 393B(3)),
  - (e) an arrangement the sole purpose of which is the making of payments which are to be disregarded in the calculation mentioned in regulation 25 of the Social

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- Security (Contributions) Regulations 2001 (S.I. 2001/1004) by virtue of paragraph 12 of Part 10 of Schedule 3 to those Regulations (as that paragraph has effect by virtue of regulation 2(3) of the Social Security (Contributions) (Amendment No. 9) Regulations 2007 (S.I. 2007/2905)),
- (f) a pension scheme set up by a government outside the United Kingdom for the benefit of its employees or primarily for their benefit,
- (g) a registered pension scheme, or
- (h) an arrangement the sole purpose of which is the making of payments (within the meaning of Chapter 3 of Part 4 of FA 2004 (see section 161(2) of that Act))—
- (i) to which section 161(4) of FA 2004 applies in relation to a registered pension scheme (or a registered pension scheme which has been wound up), and
- (ii) which are authorised in relation to that scheme by section 160(1) of FA 2004.
- (2) Subject to subsection (4), subsection (3) applies to a relevant step taken by a person (“P”) if—
- (a) the relevant step is not taken under an arrangement mentioned in subsection (1)(a) to (c), and
- (b) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (3) Chapter 2 does not apply by reason of the relevant step if the step is taken solely for the purpose of—
- (a) acquiring or holding shares—
- (i) to be awarded under [<sup>F5</sup>a Schedule 2]SIP, or
- (ii) to be provided pursuant to options granted under [<sup>F6</sup>a Schedule 3]SAYE option scheme or [<sup>F7</sup>a Schedule 4]CSOP scheme, or
- (b) providing shares pursuant to—
- (i) an award of shares under [<sup>F8</sup>a Schedule 2]SIP, or
- (ii) an option granted under [<sup>F9</sup>a Schedule 3]SAYE option scheme or [<sup>F10</sup>a Schedule 4]CSOP scheme.
- (4) Subsection (3) does not apply to the relevant step if, immediately before or after the step is taken—
- (a) the total number of shares of any type held, in relation to the [<sup>F11</sup>Schedule 2]SIP, the [<sup>F12</sup>Schedule 3]SAYE option scheme or the [<sup>F13</sup>Schedule 4]CSOP scheme, by P and any other persons for purposes within subsection (3)(a) and (b), exceeds
- (b) the maximum number of shares of that type which might reasonably be expected to be required, in relation to the [<sup>F11</sup>Schedule 2]SIP, the [<sup>F12</sup>Schedule 3]SAYE option scheme or the [<sup>F13</sup>Schedule 4]CSOP scheme, for those purposes over the period of ten years starting with the day on which the relevant step is taken.
- (5) Terms used in subsections (2) to (4) have the same meaning as they have in Chapter 6, 7 or 8 of Part 7 (as the case may be).
- (6) Chapter 2 does not apply by reason of a relevant step taken by a person (“P”) if—
- (a) the relevant step is taken for the sole purpose of—

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- (i) granting qualifying options under an EMI arrangement,
    - (ii) acquiring or holding shares to be provided pursuant to qualifying options granted under an EMI arrangement, or
    - (iii) providing shares pursuant to qualifying options granted under an EMI arrangement, and
  - (b) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (7) But subsection (6) does not apply to the relevant step if, immediately before or after the step is taken—
- (a) the total number of shares of any type held, in relation to the EMI arrangement, by P and any other persons for purposes within subsection (6)(a)(i) to (iii), exceeds
  - (b) the maximum number of shares of that type which might reasonably be expected to be required, in relation to the EMI arrangement, for those purposes over the period of ten years starting with the day on which the relevant step is taken.
- (8) In subsections (6) and (7) “EMI arrangement” means an arrangement under which qualifying options are granted.
- (9) Terms used in subsections (6) to (8) have the same meaning as in Chapter 9 of Part 7.
- (10) Subsection (11) applies if—
- (a) a person (“P”) takes a relevant step within section 554B by reason of which Chapter 2 would apply apart from subsection (3) or (6), and
  - (b) at any time (“the relevant time”) the sum of money or asset (or any part of it) which is the subject of the relevant step—
    - (i) ceases to be held by or on behalf of P solely for purposes within subsection (3)(a) and (b) or (6)(a)(i) to (iii), but
    - (ii) continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).
- (11) This Part has effect as if a relevant step within section 554B were taken at the relevant time—
- (a) the subject of which is the sum of money or asset (or the part of it) mentioned in subsection (10)(b), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (12) Chapter 2 does not apply by reason of a relevant step taken by the Independent Parliamentary Standards Authority in relation to a member of the House of Commons.

#### Textual Amendments

- F2** Words in s. 554E(1)(a) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 49\(2\)](#), 89 (with [Sch. 8 paras. 90-96](#))
- F3** Words in s. 554E(1)(b) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 136\(2\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F4** Words in s. 554E(1)(c) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 200\(2\)](#), 204 (with [Sch. 8 paras. 205-215](#))
- F5** Words in s. 554E(3)(a)(i) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 49\(2\)](#), 89 (with [Sch. 8 paras. 90-96](#))

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- F6** Words in s. 554E(3)(a)(ii) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 136(3), 146** (with Sch. 8 paras. 147-157)
- F7** Words in s. 554E(3)(a)(ii) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 200(3), 204** (with Sch. 8 paras. 205-215)
- F8** Words in s. 554E(3)(b)(i) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 49(2), 89** (with Sch. 8 paras. 90-96)
- F9** Words in s. 554E(3)(b)(ii) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 136(3), 146** (with Sch. 8 paras. 147-157)
- F10** Words in s. 554E(3)(b)(ii) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 200(3), 204** (with Sch. 8 paras. 205-215)
- F11** Words in s. 554E(4)(a)(b) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 49(3), 89** (with Sch. 8 paras. 90-96)
- F12** Words in s. 554E(4)(a)(b) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 136(4), 146** (with Sch. 8 paras. 147-157)
- F13** Words in s. 554E(4)(a)(b) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 200(4), 204** (with Sch. 8 paras. 205-215)

#### **554F Exclusions: commercial transactions**

- (1) Chapter 2 does not apply by reason of a relevant step which is the payment of a sum of money by way of a loan if—
    - (a) the loan is a loan on ordinary commercial terms within the meaning of section 176, ignoring conditions B and C in that section, and
    - (b) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
  - (2) Chapter 2 does not apply by reason of a relevant step taken by a person (“P”), which is not the payment of a sum of money by way of a loan, if—
    - (a) the step is taken for the sole purpose of a transaction which P has with A and which P entered into in the ordinary course of P’s business,
    - (b) a substantial proportion of P’s business involves similar transactions with members of the public,
    - (c) the terms on which P entered into the transaction with A are substantially the same as the terms on which P normally enters into similar transactions with members of the public, and
    - (d) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
  - (3) For the purposes of subsection (2)(b) and (c) a transaction is “similar” if it is of the same or a similar type to the transaction which P has with A.
  - (4) In subsection (2)(b) and (c) “members of the public” means members of the public at large with whom P deals at arm’s length.
  - (5) In this section references to A include references to any person linked with A.
- [ See paragraph 25 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions
- <sup>F14</sup>(6) where a loan is made on ordinary commercial terms and the relevant step is within paragraph 1 of that Schedule.]

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### Textual Amendments

**F14** S. 554F(6) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 26](#)

## **554G Exclusions: transactions under employee benefit packages**

- (1) Chapter 2 does not apply by reason of a relevant step taken by a person (“P”) if—
- (a) the step is not taken under a pension scheme,
  - (b) the step is taken for the sole purpose of a transaction which P has with A and which P entered into in the ordinary course of P's business,
  - (c) if the step is the payment of a sum of money by way of a loan—
    - (i) a substantial proportion of P's business involves making similar loans to members of the public,
    - (ii) the transaction with A is part of a package of benefits which is available to a substantial proportion of B's employees, and
    - (iii) subsection (3) does not apply,
  - (d) if the step is not the payment of a sum of money by way of a loan, the transaction with A is part of a package of benefits which is available—
    - (i) to a substantial proportion of B's employees, or
    - (ii) to a substantial proportion of those employees of B whose status as employees of B is comparable with A's status as an employee of B (taking into account (for example) levels of seniority, types of duties and levels of remuneration),
  - (e) the terms on which similar transactions are offered by P under the package of benefits mentioned in paragraph (c)(ii) or (d) (as the case may be) are generous enough to enable substantially all of the employees of B to whom the package is available to take advantage of what is offered (if they want to),
  - (f) the terms on which P entered into the transaction with A are substantially the same as the terms on which P normally enters into similar transactions with employees of B under the package of benefits,
  - (g) if B is a company, a majority of B's employees to whom the package of benefits is available do not have a material interest (as defined in section 68) in B, and
  - (h) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (2) For the purposes of subsection (1)(c)(i)—
- (a) a loan is “similar” if it is made for the same or similar purposes as the loan which is the subject of the relevant step, and
  - (b) “members of the public” means members of the public at large with whom P deals at arm's length.
- (3) This subsection applies if any feature of the package of benefits mentioned in subsection (1)(c)(ii) has or is likely to have the effect that, of the employees of B to whom the package is available, it is employees within subsection (4) on whom benefits under the package will be wholly or mainly conferred.
- (4) The employees within this subsection are—
- (a) directors,
  - (b) senior employees,

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- (c) employees who receive, or as a result of the package of benefits are likely to receive, the higher or highest levels of remuneration, and
  - (d) if B is a company and is a member of a group of companies, any employees not within paragraph (b) or (c) who—
    - (i) are senior employees in the group, or
    - (ii) receive, or as a result of the package of benefits are likely to receive, the higher or highest levels of remuneration in the group.
- (5) For the purposes of subsection (1)(e) and (f) a transaction is “similar” if it is of the same or a similar type to the transaction which P has with A.
- (6) If the relevant step is not the payment of a sum of money by way of a loan, in this section references to employees of B are references to those employees of B whose duties of employment are performed in the United Kingdom; and for this purpose duties performed outside the United Kingdom the performance of which is merely incidental to the performance of duties in the United Kingdom are to be treated as performed in the United Kingdom.
- (7) In this section (apart from subsection (1)(d)(ii)) references to A include references to any person linked with A.
- [ See paragraph 29 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions
- <sup>F15</sup>(8) for transactions under employee benefit packages in a case in which the relevant step is within paragraph 1 of that Schedule.]

#### Textual Amendments

**F15** S. 554G(8) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 30](#)

### 554H Exclusions: earmarking of deferred remuneration

- (1) This section applies if—
- (a) on a date (“the award date”) A is awarded remuneration (“the deferred remuneration”) in respect of A's employment with B,
  - (b) the main purpose of the award is not the provision of relevant benefits (within the meaning of Chapter 2 of Part 6, but ignoring section 393B(2)(a)),
  - (c) the deferred remuneration is awarded on terms (“the deferred remuneration terms”) the main purpose of which is to defer the provision to A of the deferred remuneration to a specified date (“the vesting date”) which is after the award date, while providing that the award of the deferred remuneration is revoked if specified conditions are not met on or before the vesting date,
  - (d) the vesting date is not more than five years after the award date,
  - (e) as at the award date, there is a reasonable chance that the award of the deferred remuneration will be revoked because not all the specified conditions will be met on or before the vesting date,
  - (f) if the deferred remuneration were to be provided to A by any person on the award date, that action would, for the purposes of Part 11, be a payment of PAYE employment income of A in respect of A's employment with B,
  - (g) before the end of the vesting date, a person (“P”) takes a relevant step within section 554B by reason of which Chapter 2 would apply apart from this section,

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- (h) on the taking of the relevant step, the sum of money or asset which is the subject of the step represents the deferred remuneration or any part of it (and nothing else), and
  - (i) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (2) In addition to the provision relating to revocation required by subsection (1)(c) (which must be included), the deferred remuneration terms may also provide that the award of the deferred remuneration is partly revoked if specified conditions are not met on or before the vesting date.
- (3) Chapter 2 does not apply by reason of the relevant step mentioned in subsection (1)(g).
- (4) In the following subsections “the earmarked deferred remuneration” means the deferred remuneration so far as, on the taking of the relevant step mentioned in subsection (1)(g), it is represented by the sum of money or asset which is the subject of the step as mentioned in subsection (1)(h).
- (5) Subsection (6) applies if, at any time (“the relevant time”)—
  - (a) any sum of money or asset held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b) which represents any of the earmarked deferred remuneration ceases to represent that earmarked deferred remuneration or a part of it (because the remuneration is to be provided to A in another way or its award has been revoked or for any other reason), but
  - (b) the sum of money or asset continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).
- (6) This Part has effect as if a relevant step within section 554B were taken at the relevant time—
  - (a) the subject of which is—
    - (i) the sum of money or asset mentioned in subsection (5), and
    - (ii) a just and reasonable proportion of any relevant income (see subsection (12)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (7) Subsection (8) applies if neither subsection (10) nor subsection (11) applies to the earmarked deferred remuneration or to a part of it.
- (8) This Part has effect as if a relevant step within section 554B were taken at the end of the vesting date—
  - (a) the subject of which is—
    - (i) a sum of money of the notional PAYE amount, and
    - (ii) a just and reasonable proportion of any relevant income (see subsection (12)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (9) In subsection (8)(a) “the notional PAYE amount” means the amount which the payment of PAYE employment income would have been had, as the case may be—
  - (a) the earmarked deferred remuneration, or
  - (b) the part of it to which neither subsection (10) nor subsection (11) applies, been provided to A at the end of the vesting date in a way which is, for the purposes of Part 11, a payment of PAYE employment income of A in respect of A's employment with B.

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- (10) This subsection applies to the earmarked deferred remuneration so far as it is provided to A before the end of the vesting date in a way which is, for the purposes of Part 11, a payment of PAYE employment income of A in respect of A's employment with B.
- (11) This subsection applies to the earmarked deferred remuneration so far as, before the end of the vesting date, the award of the earmarked deferred remuneration is revoked in accordance with the deferred remuneration terms.
- (12) In subsections (6)(a)(ii) and (8)(a)(ii) “relevant income” means any income—
- (a) which, before the relevant time or the end of the vesting date (as the case may be)—
    - (i) arises (directly or indirectly) from a sum of money or asset held by or on behalf of P representing any of the earmarked deferred remuneration, and
    - (ii) is the subject of a relevant step within section 554B taken by P by reason of which Chapter 2 would apply apart from section 554Q, and
  - (b) which, at the relevant time or the end of the vesting date (as the case may be), continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).

#### **554I Exclusions: introduction to sections 554J to 554M**

- (1) Sections 554J and 554K are about steps within section 554B taken in relation to awards of certain shares or securities or of sums of money determined by reference to the market value of certain shares or securities.
- (2) Sections 554L and 554M are about steps within section 554B taken in relation to grants of rights to acquire certain shares or securities or to receive sums of money determined by reference to the market value of certain shares or securities.
- (3) Sections 554J to 554M apply only if B is a company.
- (4) In those sections—
 

“relevant benefits” has the same meaning as in Chapter 2 of Part 6, but ignoring section 393B(2)(a),

“relevant shares” means—

  - (a) shares (including stock) in B,
  - (b) instruments issued by B which are securities for the purposes of Chapters 1 to 5 of Part 7 within section 420(1)(b), or
  - (c) units in a collective investment scheme (as defined in section 420(2)) managed by B which are securities for the purposes of Chapters 1 to 5 of Part 7 within section 420(1)(e), and

“trading company” means a company the business of which consists wholly or mainly in the carrying on of a trade.
- (5) If B is a member of a group of companies, in the definition of “relevant shares” in subsection (4) references to B are to be read as including references to any other company which is a member of that group.
- (6) For the purposes of sections 554K and 554M an exit event occurs if—
  - (a) shares in the relevant company are admitted to trading on a stock exchange,



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- (b) all the shares in the relevant company, or a substantial proportion of them, are disposed of to persons none of whom is connected with any of the persons making any disposal,
  - (c) if the relevant company is a trading company (as defined in subsection (4)), the company's trade, or a substantial proportion of it, is transferred to a person who is not a relevant connected person,
  - (d) the relevant company's assets, or a substantial proportion of them, are disposed of to a person who is not a relevant connected person,
  - (e) the winding up of the relevant company starts, or
  - (f) a person ("P") who controls the relevant company ceases to control it, so long as no person connected with P starts to control it.
- (7) For the purposes of subsection (6)—
- (a) "the relevant company" means—
    - (i) if the relevant shares mentioned in section 554K(1)(a)(i) or (ii) or 554M(1)(a)(i) or (ii) are shares (including stock), the company in which they are shares, or
    - (ii) if the relevant shares so mentioned are instruments within paragraph (b) of the definition of "relevant shares" in subsection (4), the company by which those instruments are issued,
  - (b) "relevant connected person" means a person who—
    - (i) is connected with the relevant company, or
    - (ii) is a shareholder in the relevant company or is connected with a shareholder in the relevant company,
  - (c) the relevant company's trade, or a substantial proportion of it, is transferred to another person if—
    - (i) the relevant company ceases to carry on the trade or the proportion of it, and
    - (ii) on that occurring, the other person starts to carry on the trade or the proportion of it, and
  - (d) section 12(7) of CTA 2009 applies for the purpose of determining when the winding up of the relevant company starts.

#### **554J Exclusions: earmarking for employee share schemes (1)**

- (1) This section applies if—
- (a) there is an arrangement ("B's employee share scheme") under which, in respect of A's employment with B, an award may be made to A of—
    - (i) relevant shares, or
    - (ii) a sum of money the amount of which is to be determined by reference to the market value of any relevant shares at the time the sum is to be paid,
  - (b) the main purpose of the award of the relevant shares or sum of money would not be the provision of relevant benefits,
  - (c) the award of the relevant shares or sum of money would be on terms ("the deferred award terms") the main purpose of which is to defer the receipt of the shares by A, or the payment of the sum of money to A, to a specified date ("the vesting date") which is after the date ("the award date") on which the award is made, while providing that the award is revoked if specified conditions are not met on or before the vesting date,

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- (d) the vesting date would not be more than ten years after the award date, and
  - (e) as at the award date, there would be a reasonable chance that the award of the relevant shares or sum of money will be revoked because not all the specified conditions will be met on or before the vesting date.
- (2) In addition to the provision relating to revocation required by subsection (1)(c) (which must be included), the deferred award terms may also provide that the award of the relevant shares or sum of money is partly revoked if specified conditions are not met on or before the vesting date.
- (3) Chapter 2 does not apply by reason of a relevant step within section 554B (by reason of which it would otherwise apply) taken by a person (“P”) if—
- (a) the subject of the relevant step is relevant shares (“earmarked shares”) which are earmarked, or otherwise start being held, solely with a view to the meeting of—
    - (i) an award of relevant shares or a sum of money made to A under B's employee share scheme as mentioned in subsection (1)(a) in relation to which the requirements of subsection (1)(b) to (e) are met, or
    - (ii) an award of relevant shares or a sum of money which is expected to be made to A under B's employee share scheme as mentioned in subsection (1)(a) and in relation to which the requirements of subsection (1)(b) to (e) would be met,
  - (b) the number of relevant shares of any type which are earmarked shares does not exceed the maximum number of relevant shares of that type which might reasonably be expected to be needed for meeting the award or expected award, and
  - (c) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (4) If the relevant step mentioned in subsection (3) is taken in relation to an expected award as mentioned in subsection (3)(a)(ii), subsection (5) applies if—
- (a) the award is not made before the end of the date (“the final award date”) falling immediately after the period of three months starting with the date on which P takes the relevant step, and
  - (b) as at the end of the final award date, any of the earmarked shares continue to be held by or on behalf of P solely on the basis mentioned in subsection (3)(a).
- (5) This Part has effect as if a relevant step within section 554B were taken at the end of the final award date—
- (a) the subject of which is—
    - (i) the shares which continue to be held as mentioned in subsection (4)(b), and
    - (ii) any relevant income in relation to those shares (see subsection (13)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (6) Subsection (7) applies if, at any time (“the relevant time”)—
- (a) any of the earmarked shares cease to be held by or on behalf of P solely on the basis mentioned in subsection (3)(a), but
  - (b) the shares continue to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).

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- (7) This Part has effect as if a relevant step within section 554B were taken at the relevant time—
- (a) the subject of which is—
    - (i) the shares mentioned in subsection (6), and
    - (ii) any relevant income in relation to those shares (see subsection (13)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (8) Subsection (9) applies if—
- (a) the relevant step mentioned in subsection (3) is taken in relation to an award which has been made as mentioned in subsection (3)(a)(i), or
  - (b) the relevant step mentioned in subsection (3) is taken in relation to an expected award as mentioned in subsection (3)(a)(ii) and the award is made before the end of the final award date.
- (9) This Part has effect as if a relevant step within section 554B were taken at the end of the vesting date—
- (a) the subject of which is—
    - (i) any of the earmarked shares to which none of subsections (10) to (12) applies, and
    - (ii) any relevant income in relation to any of the earmarked shares mentioned in sub-paragraph (i) (see subsection (13)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (10) This subsection applies to any earmarked shares if—
- (a) A receives the shares before the end of the vesting date, and
  - (b) the receipt of the shares by A gives rise to employment income of A which is chargeable to income tax or which is exempt income.
- (11) This subsection applies to any earmarked shares if—
- (a) the sum of money mentioned in subsection (1)(a)(ii) (or a part of it) is paid to A before the end of the vesting date,
  - (b) the payment of the sum to A gives rise to employment income of A which is chargeable to income tax or which is exempt income, and
  - (c) the payment represents the proceeds of the disposal of the shares, or the payment is made from another source and, correspondingly, the shares are no longer held by any person in relation to the award.
- (12) This subsection applies to any earmarked shares if—
- (a) before the end of the vesting date, the award (or any part of it) is revoked in accordance with the deferred award terms, and
  - (b) correspondingly, the shares are no longer held by any person in relation to the award.
- (13) In subsections (5)(a)(ii), (7)(a)(ii) and (9)(a)(ii) “relevant income”, in relation to any earmarked shares, means any income—
- (a) which, before the relevant step is treated as being taken by subsection (5), (7) or (9) (as the case may be)—
    - (i) arises (directly or indirectly) from the shares, and
    - (ii) is the subject of a relevant step within section 554B taken by P by reason of which Chapter 2 would apply apart from section 554Q, and

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- (b) which, at the time the relevant step is treated as being taken, continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).

#### **554K Exclusions: earmarking for employee share schemes (2)**

- (1) This section applies if—
- (a) there is an arrangement (“B’s employee share scheme”) under which, in respect of A’s employment with B, an award may be made to A of—
    - (i) relevant shares, or
    - (ii) a sum of money the amount of which is to be determined by reference to the market value of any relevant shares at the time the sum is to be paid,
  - (b) the main purpose of the award would not be the provision of relevant benefits,
  - (c) the relevant shares would be—
    - (i) shares (including stock) in, or
    - (ii) instruments within paragraph (b) of the definition of “relevant shares” in section 554I(4) issued by,
 

a trading company or a company which controls a trading company,
  - (d) the award would be on terms the main purpose of which is to ensure—
    - (i) that the relevant shares are received, or
    - (ii) that the sum of money is paid,

only if a specified exit event, or an exit event within a specified description, occurs, and
  - (e) as at the time the award is made, there would be a reasonable chance that the specified exit event, or an exit event within the specified description, will occur.
- (2) Chapter 2 does not apply by reason of a relevant step within section 554B (by reason of which it would otherwise apply) taken by a person (“P”) if—
- (a) the subject of the relevant step is relevant shares (“earmarked shares”) which are earmarked, or otherwise start being held, solely with a view to the meeting of—
    - (i) an award of relevant shares or a sum of money made to A under B’s employee share scheme as mentioned in subsection (1)(a) in relation to which the requirements of subsection (1)(b) to (e) are met, or
    - (ii) an award of relevant shares or a sum of money which is expected to be made to A under B’s employee share scheme as mentioned in subsection (1)(a) and in relation to which the requirements of subsection (1)(b) to (e) would be met,
  - (b) the number of relevant shares of any type which are earmarked shares does not exceed the maximum number of relevant shares of that type which might reasonably be expected to be needed for meeting the award or expected award, and
  - (c) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (3) If the relevant step mentioned in subsection (2) is taken in relation to an expected award as mentioned in subsection (2)(a)(ii), subsection (4) applies if—

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- (a) the award is not made before the end of the date (“the final award date”) falling immediately after the period of three months starting with the date on which P takes the relevant step, and
  - (b) as at the end of the final award date, any of the earmarked shares continue to be held by or on behalf of P solely on the basis mentioned in subsection (2)(a).
- (4) This Part has effect as if a relevant step within section 554B were taken at the end of the final award date—
- (a) the subject of which is—
    - (i) the shares which continue to be held as mentioned in subsection (3)(b), and
    - (ii) any relevant income in relation to those shares (see subsection (12)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (5) Subsection (6) applies if, at any time (“the relevant time”)—
- (a) any of the earmarked shares cease to be held by or on behalf of P solely on the basis mentioned in subsection (2)(a), but
  - (b) the shares continue to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).
- (6) This Part has effect as if a relevant step within section 554B were taken at the relevant time—
- (a) the subject of which is—
    - (i) the shares mentioned in subsection (5), and
    - (ii) any relevant income in relation to those shares (see subsection (12)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (7) Subsection (8) applies if—
- (a) the relevant step mentioned in subsection (2) is taken in relation to an award which has been made as mentioned in subsection (2)(a)(i), or
  - (b) the relevant step mentioned in subsection (2) is taken in relation to an expected award as mentioned in subsection (2)(a)(ii) and the award is made before the end of the final award date,
- and the specified exit event, or an exit event within the specified description, occurs.
- (8) This Part has effect as if a relevant step within section 554B were taken at the end of the exit period—
- (a) the subject of which is—
    - (i) any of the earmarked shares to which neither subsection (9) nor subsection (10) applies, and
    - (ii) any relevant income in relation to any of the earmarked shares mentioned in sub-paragraph (i) (see subsection (12)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (9) This subsection applies to any earmarked shares if—
- (a) A receives the shares before the end of the exit period, and
  - (b) the receipt of the shares by A gives rise to employment income of A which is chargeable to income tax or which is exempt income.
- (10) This subsection applies to any earmarked shares if—

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- (a) the sum of money mentioned in subsection (1)(a)(ii) (or a part of it) is paid to A before the end of the exit period,
  - (b) the payment of the sum to A gives rise to employment income of A which is chargeable to income tax or which is exempt income, and
  - (c) the payment represents the proceeds of the disposal of the shares, or the payment is made from another source and, correspondingly, the shares are no longer held by any person in relation to the award.
- (11) In subsections (8), (9)(a) and (10)(a) “the exit period” means the period of six months starting with the date on which the exit event occurs.
- (12) In subsections (4)(a)(ii), (6)(a)(ii) and (8)(a)(ii) “relevant income”, in relation to any earmarked shares, means any income—
- (a) which, before the relevant step is treated as being taken by subsection (4), (6) or (8) (as the case may be)—
    - (i) arises (directly or indirectly) from the shares, and
    - (ii) is the subject of a relevant step within section 554B taken by P by reason of which Chapter 2 would apply apart from section 554Q, and
  - (b) which, at the time the relevant step is treated as being taken, continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).

#### **554L Exclusions: earmarking for employee share schemes (3)**

- (1) This section applies if—
- (a) there is an arrangement (“B’s employee share scheme”) under which, in respect of A’s employment with B, a right (“a relevant share option”) may be granted to A—
    - (i) to acquire relevant shares, or
    - (ii) to receive a sum of money the amount of which is to be determined by reference to the market value of any relevant shares at the time the sum is to be paid,
  - (b) the main purpose of the grant of the relevant share option would not be the provision of relevant benefits,
  - (c) the grant would be made on terms (“the deferred grant terms”) the main purpose of which is to ensure that the relevant share option is not exercisable by A before a specified date (“the vesting date”) which is after the date (“the grant date”) on which the grant is made, while providing that the relevant share option is not to be exercisable at all by A if specified conditions are not met on or before the vesting date,
  - (d) the vesting date would not be more than ten years after the grant date, and
  - (e) as at the grant date, there would be a reasonable chance that the relevant share option will not be exercisable at all by A because not all the specified conditions will be met on or before the vesting date.
- (2) In addition to the provision relating to revocation required by subsection (1)(c) (which must be included), the deferred grant terms may also provide that the relevant share option may be exercised by A only in part if specified conditions are not met on or before the vesting date.
- (3) Chapter 2 does not apply by reason of a relevant step within section 554B (by reason of which it would otherwise apply) taken by a person (“P”) if—

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- (a) the subject of the relevant step is relevant shares (“earmarked shares”) which are earmarked, or otherwise start being held, solely with a view to providing relevant shares, or paying a sum of money, pursuant to—
    - (i) a relevant share option granted to A under B's employee share scheme as mentioned in subsection (1)(a) in relation to which the requirements of subsection (1)(b) to (e) are met, or
    - (ii) a relevant share option which is expected to be granted to A under B's employee share scheme as mentioned in subsection (1)(a) and in relation to which the requirements of subsection (1)(b) to (e) would be met,
  - (b) the number of relevant shares of any type which are earmarked shares does not exceed the maximum number of relevant shares of that type which might reasonably be expected to be needed for providing shares, or paying a sum of money, pursuant to the relevant share option which is granted or expected to be granted, and
  - (c) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (4) If the relevant step mentioned in subsection (3) is taken in relation to an expected grant of a relevant share option as mentioned in subsection (3)(a)(ii), subsection (5) applies if—
- (a) the grant is not made before the end of the date (“the final grant date”) falling immediately after the period of three months starting with the date on which P takes the relevant step, and
  - (b) as at the end of the final grant date, any of the earmarked shares continue to be held by or on behalf of P solely on the basis mentioned in subsection (3)(a).
- (5) This Part has effect as if a relevant step within section 554B were taken at the end of the final grant date—
- (a) the subject of which is—
    - (i) the shares which continue to be held as mentioned in subsection (4)(b), and
    - (ii) any relevant income in relation to those shares (see subsection (15)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (6) Subsection (7) applies if, at any time (“the relevant time”)—
- (a) any of the earmarked shares cease to be held by or on behalf of P solely on the basis mentioned in subsection (3)(a), but
  - (b) the shares continue to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).
- (7) This Part has effect as if a relevant step within section 554B were taken at the relevant time—
- (a) the subject of which is—
    - (i) the shares mentioned in subsection (6), and
    - (ii) any relevant income in relation to those shares (see subsection (15)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (8) Subsection (9) applies if—

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- (a) the relevant step mentioned in subsection (3) is taken in relation to a grant of a relevant share option made as mentioned in subsection (3)(a)(i), or
  - (b) the relevant step mentioned in subsection (3) is taken in relation to an expected grant of a relevant share option as mentioned in subsection (3)(a)(ii) and the grant is made before the end of the final grant date.
- (9) This Part has effect as if a relevant step within section 554B were taken at the end of the final exercise date—
- (a) the subject of which is—
    - (i) any of the earmarked shares to which none of subsections (10) to (13) applies, and
    - (ii) any relevant income in relation to any of the earmarked shares mentioned in sub-paragraph (i) (see subsection (15)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (10) This subsection applies to any earmarked shares if—
- (a) the relevant share option becomes exercisable (in whole or in part) by A before the end of the vesting date,
  - (b) A exercises the option (wholly or partly) before the end of the final exercise date and, as a result, receives the shares, and
  - (c) the receipt of the shares gives rise to employment income of A—
    - (i) which is chargeable to income tax or would be chargeable apart from <sup>[F16]</sup>Chapter 5B of Part 2], or
    - (ii) which is exempt income.
- (11) This subsection applies to any earmarked shares if—
- (a) the relevant share option becomes exercisable (in whole or in part) by A before the end of the vesting date,
  - (b) A exercises the option (wholly or partly) before the end of the final exercise date and, as a result, a sum of money is paid to A as mentioned in subsection (1)(a)(ii),
  - (c) the payment of the sum gives rise to employment income of A—
    - (i) which is chargeable to income tax or would be chargeable apart from section 474, or
    - (ii) which is exempt income, and
  - (d) the payment represents the proceeds of the disposal of the shares, or the payment is made from another source and, correspondingly, the shares are no longer held by any person in relation to the relevant share option.
- (12) This subsection applies to any earmarked shares if—
- (a) in accordance with the deferred grant terms, before the end of the vesting date, the relevant share option ceases to be exercisable by A (in whole or in part), and
  - (b) correspondingly, the shares are no longer held by any person in relation to the relevant share option.
- (13) This subsection applies to any earmarked shares if—
- (a) the relevant share option becomes exercisable by A (in whole or in part) before the end of the vesting date but the option lapses (in whole or in part) before the end of the final exercise date, and



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- (b) correspondingly, the shares are no longer held by any person in relation to the relevant share option.
- (14) In subsections (9) to (13) “the final exercise date” means the date which is ten years after the grant date.
- (15) In subsections (5)(a)(ii), (7)(a)(ii) and (9)(a)(ii) “relevant income”, in relation to any earmarked shares, means any income—
- (a) which, before the relevant step is treated as being taken by subsection (5), (7) or (9) (as the case may be)—
    - (i) arises (directly or indirectly) from the shares, and
    - (ii) is the subject of a relevant step within section 554B taken by P by reason of which Chapter 2 would apply apart from section 554Q, and
  - (b) which, at the time the relevant step is treated as being taken, continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).

#### Textual Amendments

**F16** Words in s. 554L(10)(c)(i) substituted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 18, 47](#)

#### 554M Exclusions: earmarking for employee share schemes (4)

- (1) This section applies if—
- (a) there is an arrangement (“B’s employee share scheme”) under which, in respect of A’s employment with B, a right (“a relevant share option”) may be granted to A—
    - (i) to acquire relevant shares, or
    - (ii) to receive a sum of money the amount of which is to be determined by reference to the market value of any relevant shares at the time the sum is to be paid,
  - (b) the main purpose of the grant of the relevant share option would not be the provision of relevant benefits,
  - (c) the relevant shares would be—
    - (i) shares (including stock) in, or
    - (ii) instruments within paragraph (b) of the definition of “relevant shares” in section 554I(4) issued by,  
a trading company or a company which controls a trading company,
  - (d) the grant would be made on terms (“the deferred grant terms”) the main purpose of which is to ensure that the relevant share option is exercisable by A only if a specified exit event, or an exit event within a specified description, occurs, and
  - (e) as at the time the grant is made, there would be a reasonable chance that the specified exit event, or an exit event within the specified description, will occur.
- (2) Chapter 2 does not apply by reason of a relevant step within section 554B (by reason of which it would otherwise apply) taken by a person (“P”) if—

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- (a) the subject of the relevant step is relevant shares (“earmarked shares”) which are earmarked, or otherwise start being held, solely with a view to providing relevant shares, or paying a sum of money, pursuant to—
    - (i) a relevant share option granted to A under B's employee share scheme as mentioned in subsection (1)(a) in relation to which the requirements of subsection (1)(b) to (e) are met, or
    - (ii) a relevant share option which is expected to be granted to A under B's employee share scheme as mentioned in subsection (1)(a) and in relation to which the requirements of subsection (1)(b) to (e) would be met,
  - (b) the number of relevant shares of any type which are earmarked shares does not exceed the maximum number of relevant shares of that type which might reasonably be expected to be needed for providing shares, or paying a sum of money, pursuant to the relevant share option which is granted or expected to be granted, and
  - (c) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (3) If the relevant step mentioned in subsection (2) is taken in relation to an expected grant of a relevant share option as mentioned in subsection (2)(a)(ii), subsection (4) applies if—
- (a) the grant is not made before the end of the date (“the final grant date”) falling immediately after the period of three months starting with the date on which P takes the relevant step, and
  - (b) as at the end of the final grant date, any of the earmarked shares continue to be held by or on behalf of P solely on the basis mentioned in subsection (2)(a).
- (4) This Part has effect as if a relevant step within section 554B were taken at the end of the final grant date—
- (a) the subject of which is—
    - (i) the shares which continue to be held as mentioned in subsection (3) (b), and
    - (ii) any relevant income in relation to those shares (see subsection (14)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (5) Subsection (6) applies if, at any time (“the relevant time”)—
- (a) any of the earmarked shares cease to be held by or on behalf of P solely on the basis mentioned in subsection (2)(a), but
  - (b) the shares continue to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).
- (6) This Part has effect as if a relevant step within section 554B were taken at the relevant time—
- (a) the subject of which is—
    - (i) the shares mentioned in subsection (5), and
    - (ii) any relevant income in relation to those shares (see subsection (14)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (7) Subsection (8) applies if—

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- (a) the relevant step mentioned in subsection (2) is taken in relation to a grant of a relevant share option made as mentioned in subsection (2)(a)(i), or
  - (b) the relevant step mentioned in subsection (2) is taken in relation to an expected grant of a relevant share option as mentioned in subsection (2)(a)(ii) and the grant is made before the end of the final grant date,
- and the specified exit event, or an exit event within the specified description, occurs.
- (8) This Part has effect as if a relevant step within section 554B were taken at the end of the exit period—
- (a) the subject of which is—
    - (i) any of the earmarked shares to which none of subsections (9) to (11) applies, and
    - (ii) any relevant income in relation to any of the earmarked shares mentioned in sub-paragraph (i) (see subsection (14)), and
  - (b) by reason of which Chapter 2 is to apply (subject only to section 554A(4)).
- (9) This subsection applies to any earmarked shares if—
- (a) A exercises the relevant share option (wholly or partly) before the end of the exit period and, as a result, receives the shares, and
  - (b) the receipt of the shares gives rise to employment income of A—
    - (i) which is chargeable to income tax or would be chargeable apart from <sup>[F17]</sup>Chapter 5B of Part 2], or
    - (ii) which is exempt income.
- (10) This subsection applies to any earmarked shares if—
- (a) A exercises the relevant share option (wholly or partly) before the end of the exit period and, as a result, a sum of money is paid to A as mentioned in subsection (1)(a)(ii),
  - (b) the payment of the sum gives rise to employment income of A—
    - (i) which is chargeable to income tax or would be chargeable apart from <sup>[F18]</sup>Chapter 5B of Part 2], or
    - (ii) which is exempt income, and
  - (c) the payment represents the proceeds of the disposal of the shares, or the payment is made from another source and, correspondingly, the shares are no longer held by any person in relation to the relevant share option.
- (11) This subsection applies to any earmarked shares if—
- (a) the relevant share option becomes exercisable by A before the end of the exit period but the option lapses (in whole or in part) at or before the end of that period, and
  - (b) correspondingly, the shares are no longer held by any person in relation to the relevant share option.
- (12) In subsections (8), (9)(a), (10)(a) and (11)(a) “the exit period” means—
- (a) the period of six months starting with the date on which the exit event occurs, or
  - (b) if it ends earlier, the period during which the relevant share option is exercisable by A in accordance with the deferred grant terms.
- (13) If the exit event is an event within section 554I(6)(a), in subsection (12)(a) the reference to six months is to be read as a reference to five years.

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- (14) In subsections (4)(a)(ii), (6)(a)(ii) and (8)(a)(ii) “relevant income”, in relation to any earmarked shares, means any income—
- (a) which, before the relevant step is treated as being taken by subsection (4), (6) or (8) (as the case may be)—
    - (i) arises (directly or indirectly) from the shares, and
    - (ii) is the subject of a relevant step within section 554B taken by P by reason of which Chapter 2 would apply apart from section 554Q, and
  - (b) which, at the time the relevant step is treated as being taken, continues to be held by or on behalf of P on the basis mentioned in section 554B(1)(a) or (b).

#### Textual Amendments

- F17** Words in s. 554M(9)(b)(i) substituted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 19\(2\), 47](#)
- F18** Words in s. 554M(10)(b)(i) substituted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 19\(3\), 47](#)

#### **554N Exclusions: other cases involving employment-related securities etc**

- (1) Chapter 2 does not apply by reason of a relevant step the subject of which is employment-related securities if—
  - (a) by virtue of the step, the securities are acquired by a person, and
  - (b) section 425(2) applies<sup>F19</sup>... to the acquisition.
- (2) Chapter 2 does not apply by reason of a relevant step the subject of which is an employment-related securities option if—
  - (a) by virtue of the step, the option is acquired by a person, and
  - (b) section 475(1) applies<sup>F20</sup>... to the acquisition.
- (3) Terms used in subsection (1) or (2) have the same meaning as they have in Chapter 2 or 5 of Part 7 (as the case may be).
- (4) Chapter 2 does not apply by reason of an event within subsection (5) if by virtue of the event an amount counts as employment income of A in respect of A's employment with B.
- (5) The events within this subsection are—
  - (a) a chargeable event for the purposes of section 426, 438 or 476,
  - (b) an event which gives rise to the discharge of a notional loan for the purposes of section 446U, or
  - (c) a disposal to which Chapter 3D of Part 7 applies.
- (6) Chapter 2 does not apply by reason of an event to which subsection (4) would apply apart from section 421B(6),<sup>F21</sup>... 429, [<sup>F22</sup>430A(5)(b),] 443<sup>F23</sup>... or 477(2) or apart from an election under section 430 or 431.
- (7) Subsection (11) applies if there is an acquisition of an asset within section 554C(4)(a) or (b) (“the relevant asset”) and—
  - (a) relevant consideration is given by A for the relevant asset of an amount equal to or greater than the market value of the relevant asset at the time of the acquisition, or

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- (b) ignoring any relevant consideration given for the relevant asset, the acquisition gives rise (or would give rise) to earnings of A within Chapter 1 of Part 3 [<sup>F24</sup>, or an amount treated under section 226A as earnings of A,] from A's employment with B—
  - (i) the amount of which is equal to or greater than the market value of the relevant asset at the time of the acquisition, and
  - (ii) which are not exempt income.
- (8) In subsection (7) “relevant consideration”—
  - (a) means consideration—
    - (i) which is given before, or at or about, the time of the acquisition, and
    - (ii) which is money or money's worth, but
  - (b) does not include—
    - (i) a promise to do anything, or
    - (ii) the performance of any duties of, or in connection with, an employment.
- (9) If section 437(1) or 452(1) applies in relation to the acquisition, or would apply if Chapter 3 or 4A of Part 7 (as the case may be) applied in relation to the acquisition, in subsection (7) references to the market value of the relevant asset are to be read as references to that value determined on the basis mentioned in section 437(1) or 452(1) (as the case may be).
- (10) Subsection (11) also applies if—
  - (a) there is an acquisition of an asset within section 554C(4)(a) or (b) (“the relevant asset”),
  - (b) the acquisition is pursuant to an employment-related securities option (within the meaning of Chapter 5 of Part 7<sup>F25</sup>...) acquired by reason of A's employment, or former or prospective employment, with B, and
  - (c) the acquisition is a chargeable event for the purposes of section 476<sup>F26</sup>....
- (11) Chapter 2 does not apply by reason of a relevant step taken after the acquisition if—
  - (a) the subject of the relevant step is the relevant asset, and
  - (b) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (12) In subsections (7) to (11) “acquisition” is to be read in accordance with section 421B(2) (a).
- (13) Chapter 2 does not apply by reason of a relevant step within section 554C(1)(a) taken by a person if—
  - (a) the payment of the sum of money is by way of a loan (“the relevant loan”),
  - (b) the relevant loan is made and used solely for the purpose of enabling A to exercise an employment-related securities option (within the meaning of Chapter 5 of Part 7),
  - (c) the exercise of the option by A gives rise to employment income of A in respect of A's employment with B—
    - (i) which is chargeable to income tax or would be chargeable apart from [<sup>F27</sup>Chapter 5B of Part 2], or
    - (ii) which is exempt income, and

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- (d) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (14) Subsection (15) applies if—
- (a) apart from subsection (13), Chapter 2 would apply by reason of the relevant step mentioned in that subsection, and
  - (b) by the end of the relevant period, the relevant loan has not been fully repaid.
- (15) This Part has effect as if a relevant step within section 554C(1)(a) were taken at the end of the relevant period—
- (a) the subject of which is a sum of money of an amount equal to the outstanding amount of the relevant loan as at the end of the relevant period,
  - (b) in relation to which the relevant person (within the meaning of section 554C(1)) is the person to whom the relevant loan is made, and
  - (c) by reason of which Chapter 2 is to apply.
- (16) In subsections (14) and (15) “the relevant period” means the period of 40 days starting with the day on which the relevant step mentioned in subsection (13) is taken.

[ See paragraph 31 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions <sup>F28</sup>(17) where a loan is made for the purpose of enabling the exercise of an employment-related securities option and the relevant step is within paragraph 1 of that Schedule.]

#### Textual Amendments

- F19** Words in s. 554N(1)(b) omitted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(2\)](#), 47
- F20** Words in s. 554N(2)(b) omitted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(3\)](#), 47
- F21** Word in s. 554N(6) omitted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(4\)\(a\)](#), 47
- F22** Word in s. 554N(6) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 9 para. 38](#)
- F23** Word in s. 554N(6) omitted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(4\)\(b\)](#), 47
- F24** Words in s. 554N(7)(b) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 15](#), 38; [S.I. 2013/1755](#), art. 2
- F25** Words in s. 554N(10)(b) omitted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(5\)\(a\)](#), 47
- F26** Words in s. 554N(10)(c) omitted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(5\)\(b\)](#), 47
- F27** Words in s. 554N(13)(c)(i) substituted (with effect in accordance with Sch. 9 para. 48 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 20\(6\)](#), 47
- F28** [S. 554N\(17\)](#) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 32](#)

#### 554O Exclusions: employee car ownership schemes

- (1) This section applies if—
- (a) there is an arrangement (“the car ownership arrangement”) which—
    - (i) provides for A to purchase a new car from another person (“P”) using a loan (“the car loan”) to be made to A by [<sup>F29</sup>an authorised lender] ,

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- (ii) specifies the date (“the repayment date”) by which the car loan must be fully repaid which must be no later than four years after the date on which the car loan is made, and
      - (iii) permits A, in order to obtain funds to repay the car loan, to sell the car back to P on a specified date at a specified price based on an estimate (made at the time the car ownership arrangement is made) of the likely outstanding amount of the car loan on the specified date, and
    - (b) as provided for by the car ownership arrangement, A purchases the car using the car loan.
  - (2) Chapter 2 does not apply by reason of a relevant step taken for the sole purpose of—
    - (a) the purchase of the car or its sale-back as provided for by the car ownership arrangement, or
    - (b) the making of the car loan as so provided,so long as the car ownership arrangement is not a tax avoidance arrangement and there is no other connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
  - (3) Subsection (4) applies if—
    - (a) apart from subsection (2), Chapter 2 would apply by reason of the making of the car loan, and
    - (b) by the end of the repayment date, the car loan has not been fully repaid.
  - (4) This Part has effect as if a relevant step within section 554C(1)(a) were taken at the end of the repayment date—
    - (a) the subject of which is a sum of money of an amount equal to the outstanding amount of the car loan as at the end of the repayment date,
    - (b) in relation to which the relevant person (within the meaning of section 554C(1)) is A, and
    - (c) by reason of which Chapter 2 is to apply.
  - (5) In this section—
    - “car” has the meaning given by section 235(2), and
    - [<sup>F30</sup>“authorised lender” means a person who—
      - (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to enter into, or to exercise or have the right to exercise rights and duties under, a contract of the kind mentioned in paragraph 23 of Schedule 2 to that Act, and
      - (b) is not acting as a trustee.]
- [ The definition of “authorised lender” must be read with—
- <sup>F31</sup>(6) (a) section 22 of the 2000 Act,
  - (b) any relevant order under that section, and
  - (c) Schedule 2 to that Act.]
- [ See paragraph 33 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions for
- <sup>F32</sup>(7) car loans in a case in which the relevant step is within paragraph 1 of that Schedule.]

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### Textual Amendments

- F29** Words in s. 554O(1)(a)(i) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 9(a)**
- F30** Words in s. 554O(5) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 9(b)**
- F31** S. 554O(6) inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 9(c)**
- F32** S. 554O(7) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 34**

### Exclusions: transfer of employment-related loans

<sup>F33</sup>

**554OA**

- (1) Chapter 2 does not apply by reason of a relevant step taken by a person (“P”) if—
- (a) the step is acquiring a right to payment of an amount equal to the whole or part of a payment made by way of a loan to a relevant person (the “borrower”),
  - (b) the loan, at the time it was made, was an employment-related loan,
  - (c) at the time the relevant step is taken, the section 180 threshold is not exceeded in relation to the loan,
  - (d) at the time the relevant step is taken, the borrower is an employee, or a prospective employee, of P, and
  - (e) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (2) For the purposes of this section, the section 180 threshold is not exceeded in relation to a loan if, at all times in the relevant tax year—
- (a) the amount outstanding on the loan, or
  - (b) if two or more employment-related loans are made by the same employer, the aggregate of the amount outstanding on them,
- does not exceed the amount specified at the end of section 180(2) (normal threshold for benefit of a loan to be treated as earnings).
- (3) Subsection (4) applies if—
- (a) two or more employment-related loans are made by the same employer, and
  - (b) during the relevant tax year, a person acquires a right to payment of an amount (the “transfer amount”) equal to the whole or part of the payment made by way of any of the loans.
- (4) The transfer amount is to be treated as an “amount outstanding” on that loan for the purposes of subsection (2)(b).
- (5) In this section—
- (a) “employment-related loan” has the same meaning as it has for the purposes of Chapter 7 of Part 3;
  - (b) “relevant tax year” means the tax year in which the relevant step is taken.]

[ See paragraph 27 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions  
<sup>F34</sup>(6) where a loan is an employment-related loan and the relevant step is within paragraph 1 of that Schedule.]



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#### Textual Amendments

- F33** S. 554OA inserted (with effect in accordance with Sch. 6 para. 13 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 6 para. 5](#)
- F34** S. 554OA(6) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 28](#)

#### Modifications etc. (not altering text)

- C1** Pt. 7A modified (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 35\(6\)](#)
- C2** Pt. 7A modified (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 1\(8\)](#)
- C3** Ss. 554OA(2)-(5) applied (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 27\(2\)](#)

### **554P Exclusions: employment income exemptions under Part 4**

- (1) Chapter 2 does not apply by reason of a relevant step if an employment income exemption under Part 4 applies to the subject of the relevant step.
- (2) If the employment income exemption applies to the subject of the relevant step in part only, the relevant step is to be treated for the purposes of this Part as being two separate relevant steps—
  - (a) one in relation to the subject of the step so far as the exemption applies to it, and
  - (b) one in relation to the subject of the step so far as the exemption does not apply to it,with subsection (1) applying only in relation to the separate relevant step mentioned in paragraph (a).
- (3) In order to give effect to subsection (2), the sum of money or asset which is the subject of the relevant step is to be apportioned between the two separate relevant steps on a just and reasonable basis.
- (4) In this section “employment income exemption” includes the exemption under section 271.

### **554Q Exclusions: income arising from earmarked sum or asset**

- (1) This section applies if—
  - (a) a sum of money or asset (“sum or asset R”) is held by or on behalf of a person (“P”),
  - (b) income arises from sum or asset R, and
  - (c) when the income arises, it—
    - (i) is received by or on behalf of P, and
    - (ii) is the subject of a relevant step within section 554B taken by P.
- (2) Chapter 2 does not apply by reason of the relevant step mentioned in subsection (1) (c)(ii) if—
  - (a) before the income arises, sum or asset R was the subject of a relevant step within section 554B taken by P,
  - (b) Chapter 2 applied by reason of the relevant step mentioned in paragraph (a) in respect of A's employment with B or would have so applied apart from this section or section 554R or any of sections 554H to 554M or section 554T,

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- (c) immediately before the income arises, sum or asset R is still earmarked or otherwise held on the basis mentioned in section 554B(1)(a) or (b), and
  - (d) subsection (3) does not apply.
- (3) This subsection applies if it is reasonable to suppose that, taking into account the type of investments from which the income derives (directly or indirectly), in essence, the income represents a return from sum or asset R which exceeds the return which might be expected applying the assumption that all relevant connected persons are acting at arm's length of each other.
- (4) In subsection (3) “relevant connected person” means a person with a connection (direct or indirect) to the arrangement under which the income arises.

#### **554R Exclusions: acquisitions out of sums or assets**

- (1) This section applies if—
- (a) a sum of money or asset (“sum or asset S”) is held by or on behalf of a person (“P”),
  - (b) a sum of money or asset (“sum or asset T”) is acquired by or on behalf of P wholly out of sum or asset S,
  - (c) sum or asset T is not acquired (directly or indirectly) from A or any person linked with A, and
  - (d) subsection (2) does not apply.
- (2) This subsection applies if it is reasonable to suppose that, in essence—
- (a) at the time of the acquisition of sum or asset T, the value of sum or asset T is greater or less than the value of sum or asset S, and
  - (b) the difference (or any part of the difference) in the values might not have been expected applying the assumption that all relevant connected persons are acting at arm's length of each other.
- (3) In subsection (2)—
- (a) the reference to sum or asset S is to sum or asset S so far as sum or asset T is acquired out of it, and
  - (b) “relevant connected person” means a person with a connection (direct or indirect) to the arrangement under which sum or asset T is acquired.
- (4) The cases covered by subsection (1)(b) include (in particular) cases in which sum or asset T represents the proceeds of the disposal of sum or asset S.
- (5) Subsection (6) applies if, on its acquisition, sum or asset T is the subject of a relevant step within section 554B taken by P.
- (6) Chapter 2 does not apply by reason of the relevant step if—
- (a) before the acquisition, sum or asset S was the subject of a relevant step within section 554B taken by P,
  - (b) Chapter 2 applied by reason of the relevant step mentioned in paragraph (a) in respect of A's employment with B or would have applied apart from this section or section 554Q or 554T, and
  - (c) immediately before the acquisition, sum or asset S is still earmarked or otherwise held on the basis mentioned in section 554B(1)(a) or (b).
- (7) Subsection (8) applies if—

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- (a) on its acquisition, sum or asset T—
    - (i) is the subject of a relevant step within section 554B taken by P by reason of which Chapter 2 applies or would apply apart from subsection (6) above or any of sections 554H to 554M, 554Q or 554T, or
    - (ii) if sub-paragraph (i) does not apply, is held by or on behalf of P on the same basis as that on which sum or asset S was held by or on behalf of P immediately before the acquisition, and
  - (b) for the sole purpose of the acquisition, sum or asset S or sum or asset T is the subject of a relevant step within section 554C(1)(a) to (c).
- (8) Chapter 2 does not apply by reason of the relevant step mentioned in subsection (7)(b).

### **Exclusions: relevant repayments**

**F35 554RA**

- (1) This section applies (subject to subsection (5)) if—
- (a) a right to repayment of principal under a relevant loan (the “repayment right”) is held by or on behalf of a person (“P”), and
  - (b) on or after 9 December 2010, a sum of money (the “repayment sum”) is acquired by or on behalf of P by way of repayment of principal under the relevant loan.
- (2) In this section “relevant loan” means a loan made on or after 6 April 1999.
- (3) Subsection (4) applies if—
- (a) on its acquisition, the repayment sum is the subject of a relevant step within section 554B taken by P, or
  - (b) for the sole purpose of the acquisition, the making of the payment of the repayment sum is a relevant step within section 554C(1)(a).
- (4) Chapter 2 does not apply by reason of the relevant step if, on its acquisition, the repayment sum is held by or on behalf of P on the same basis as that on which the repayment right was held by or on behalf of P immediately before the acquisition.
- (5) This section does not apply where there is any connection (direct or indirect) between the acquisition by or on behalf of P of the repayment sum and a tax avoidance arrangement (other than the arrangement under which the relevant loan was made).]

#### **Textual Amendments**

**F35** S. 554RA inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 6 para. 8](#)

### **554S Exclusions: pension income chargeable under Part 9 etc**

- (1) Chapter 2 does not apply by reason of a relevant step within section 554C or 554D if the step is the provision of pension income which is chargeable to income tax under Part 9 or is exempt income (within the meaning of that Part).
- (2) Sections 554T, 554U, 554V, 554W and 554X contain further provision relating to retirement benefits etc and are to be applied, so far as applicable, in that order.

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**Modifications etc. (not altering text)**

- C4** S. 554S(2) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Employment Income Provided Through Third Parties \(Excluded Relevant Steps\) Regulations 2011 \(S.I. 2011/2696\)](#), regs. 1(1), 5

**554T Exclusions: employee pension contributions**

- (1) Chapter 2 does not apply by reason of a relevant step within section 554B if the sum of money or asset which is the subject of the step arises or derives (whether wholly or partly or directly or indirectly) from an excluded pension contribution paid by A on or after 6 April 2011.
- (2) If the sum of money or asset arises or derives from the excluded pension contribution only partly, the relevant step is to be treated for the purposes of this Part as being two separate relevant steps—
  - (a) one in relation to the sum of money or asset so far as it arises or derives from the excluded pension contribution, and
  - (b) one in relation to the sum of money or asset so far as it does not arise or derive from the excluded pension contribution,
 with subsection (1) applying only in relation to the separate relevant step mentioned in paragraph (a).
- (3) Chapter 2 does not apply by reason of a relevant step within section 554C or 554D if the sum of money or asset which is the subject of the step—
  - (a) represents relevant benefits, and
  - (b) arises or derives (whether wholly or partly or directly or indirectly) from an excluded pension contribution paid by A.
- (4) If the sum of money or asset arises or derives from the excluded pension contribution only partly, the relevant step is to be treated for the purposes of this Part as being two separate relevant steps—
  - (a) one in relation to the sum of money or asset so far as it arises or derives from the excluded pension contribution, and
  - (b) one in relation to the sum of money or asset so far as it does not arise or derive from the excluded pension contribution,
 with subsection (3) applying only in relation to the separate relevant step mentioned in paragraph (a).
- (5) In order to give effect to subsection (2) or (4), the sum of money or asset which is the subject of the relevant step is to be apportioned between the two separate relevant steps on a just and reasonable basis.
- (6) For the purposes of this section an excluded pension contribution is a contribution—
  - (a) which is made to an arrangement by A by way of a payment of a sum of money,
  - (b) by virtue of which A acquires rights to receive relevant benefits under the arrangement (and nothing else),
  - (c) which is neither a relievable pension contribution nor a tax-relieved contribution, and

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(d) which is not a repayment of any loan and otherwise has nothing to do with any loan and has nothing to do with a sum of money or asset which has been the subject of a relevant step within section 554C(1)(d).

(7) In this section—

“relevant benefits” has the same meaning as in Chapter 2 of Part 6, but ignoring section 393B(2)(a),

“relievable pension contribution” means a contribution in respect of which an individual is entitled to relief under section 188 of FA 2004, and

“tax-relieved contribution” has the meaning given by paragraph 3(3) of Schedule 34 to FA 2004.

#### **554U Exclusions: pre-6 April 2006 contributions to employer-financed retirement benefit schemes**

(1) This section applies if the subject of a relevant step is a sum of money or asset which has (wholly or partly) arisen or derived (directly or indirectly) from a sum of money (“the taxed sum”)—

- (a) which was paid by B in accordance with an employer-financed retirement benefits scheme (within the meaning of Chapter 2 of Part 6) with a view to the provision of benefits under the scheme, and
- (b) in respect of which A is taxed.

(2) For the purpose of determining whether A is taxed in respect of a sum of money, paragraph 53(3) of Schedule 36 to FA 2004 applies as it applies for the purpose of determining whether an employee is taxed for the purposes of paragraph 53(1)(b) of that Schedule.

(3) Chapter 2 does not apply by reason of the relevant step.

(4) Subsection (5) applies if the sum of money or asset which is the subject of the relevant step only partly arises or derives from the taxed sum.

(5) The relevant step is to be treated for the purposes of this Part as being two separate relevant steps—

- (a) one in relation to the sum of money or asset so far as it arises or derives from the taxed sum, and
- (b) one in relation to the sum of money or asset so far as it does not arise or derive from the taxed sum,

with subsection (3) applying only in relation to the separate relevant step mentioned in paragraph (a).

(6) In order to give effect to subsection (5), the sum of money or asset which is the subject of the relevant step is to be apportioned between the two separate relevant steps on a just and reasonable basis.

(7) If B is a company and is a member of a group of companies at any time (“the relevant time”), in subsection (1)(a), in relation to any sum of money paid at the relevant time, the reference to B is to be read as including a reference to any other company which is a member of that group at the relevant time.

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#### **554V Exclusions: purchases of annuities out of pension scheme rights**

- (1) This section applies if—
- (a) an annuity contract is purchased from an insurance company wholly out of rights which A has under a pension scheme, and
  - (b) A's rights out of which the annuity contract is purchased are, wholly or partly, pre-6 April 2011 annuity rights.

- (2) If the purchaser—
- (a) takes a relevant step for the sole purpose of purchasing the annuity contract or transferring the beneficiary's rights under the annuity contract to A or a person linked with A, or
  - (b) on the purchase of the annuity contract, otherwise takes a relevant step within section 554B the subject of which is the beneficiary's rights under the annuity contract,

Chapter 2 does not apply by reason of the relevant step.

- (3) If the insurance company—
- (a) takes a relevant step for the sole purpose of selling the annuity contract, or
  - (b) on the sale of the annuity contract, otherwise takes a relevant step within section 554B the subject of which is a sum of money or asset representing the purchase price received for the annuity contract,

Chapter 2 does not apply by reason of the relevant step.

- (4) If A's rights out of which the annuity contract is purchased are only partly pre-6 April 2011 annuity rights, any relevant step mentioned in subsection (2)(a) or (b) or (3)(a) or (b) is to be treated for the purposes of this Part as being two separate relevant steps—
- (a) one in relation to the annuity contract so far as it is purchased out of rights which are pre-6 April 2011 annuity rights, and
  - (b) one in relation to the annuity contract so far as it is purchased out of rights which are not pre-6 April 2011 annuity rights,

with subsection (2) or (3) (as the case may be) applying only in relation to the separate relevant step mentioned in paragraph (a) of this subsection.

- (5) In order to give effect to subsection (4), the sum of money or asset which is the subject of the relevant step mentioned in subsection (2)(a) or (b) or (3)(a) or (b) is to be apportioned between the two separate relevant steps on a just and reasonable basis.

- (6) In this section—

“annuity contract” means a contract for the provision of an annuity—

- (a) granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, and
- (b) payable for a term ending at a time ascertainable only by reference to the end of a human life,

although for this purpose it does not matter that the annuity may in some circumstances end before or after the life,

“insurance company” means—

- (a) a person or EEA firm within section 275(1)(a) or (b) of FA 2004, or
- (b) a person resident in a territory outside the European Economic Area—
  - (i) whose normal business includes the provision of annuities, and

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- (ii) who is regulated in the conduct of that business by the government of that territory or by a body established under the law of that territory for the purpose of regulating such business, and

“pre-6 April 2011 annuity rights” means rights, which accrued before 6 April 2011, specifically to receive an annuity.

#### **554W Exclusions: certain retirement benefits etc**

- (1) This section applies if—
- (a) a relevant benefit is provided under a relevant scheme by way of a payment of a lump sum wholly out of rights which A has under the scheme,
  - (b) A's rights out of which the lump sum is paid are, wholly or partly, pre-6 April 2011 lump sum rights, and
  - (c) the payment of the lump sum is a relevant step within section 554C.
- (2) Chapter 2 does not apply by reason of the relevant step.
- (3) If A's rights out of which the lump sum is paid are only partly pre-6 April 2011 lump sum rights, the relevant step is to be treated for the purposes of this Part as being two separate relevant steps—
- (a) one in relation to the lump sum so far as it is paid out of rights which are pre-6 April 2011 lump sum rights, and
  - (b) one in relation to the lump sum so far as it is paid out of rights which are not pre-6 April 2011 lump sum rights,
- with subsection (2) applying only in relation to the separate relevant step mentioned in paragraph (a).
- (4) In order to give effect to subsection (3), the lump sum is to be apportioned between the two separate relevant steps on a just and reasonable basis.
- (5) In this section—
- “pre-6 April 2011 lump sum rights” means rights, which accrued before 6 April 2011, specifically to receive relevant benefits by way of lump sum payments,
  - “relevant benefit” has the same meaning as in Chapter 2 of Part 6, and
  - “relevant scheme” means an employer-financed retirement benefits scheme (within the meaning of that Chapter) or a superannuation fund to which section 615(3) of ICTA applies.

#### **554X Exclusions: transfers between certain foreign pension schemes**

- (1) This section applies if rights which A has under a section 390 scheme are transferred to another section 390 scheme or to an overseas pension scheme.
- (2) This section also applies if—
- (a) rights which A has under an overseas pension scheme are transferred to another overseas pension scheme, and
  - (b) some or all of the rights transferred are section 390 scheme rights.
- (3) Chapter 2 does not apply by reason of—

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- (a) a relevant step within section 554C taken for the sole purpose of transferring the rights, or
  - (b) a relevant step within section 554B taken by the transferee in relation to the transferred rights on their transfer.
- (4) Subsection (5) applies in relation to a transfer within subsection (2) if not all the transferred rights are section 390 scheme rights.
- (5) Any relevant step mentioned in subsection (3) is to be treated for the purposes of this Part as being two separate relevant steps—
- (a) one in relation to the section 390 scheme rights, and
  - (b) one in relation to the rest of the transferred rights,
- with subsection (3) applying only in relation to the separate relevant step mentioned in paragraph (a) of this subsection.
- (6) In order to give effect to subsection (5), the sum of money or asset which is the subject of the relevant step mentioned in subsection (3) is to be apportioned between the two separate relevant steps on a just and reasonable basis.
- (7) Subsection (8) applies if any of the transferred rights arise or derive (directly or indirectly) from contributions to any scheme which—
- (a) are paid by B on or after 6 April 2006, and
  - (b) are neither tax-relieved contributions nor tax-exempt provision.
- (8) Any relevant step mentioned in subsection (3) is to be treated for the purposes of this Part as being two separate relevant steps—
- (a) one in relation to the rights mentioned in subsection (7), and
  - (b) one in relation to the rest of the transferred rights,
- with subsection (3) applying only in relation to the separate relevant step mentioned in paragraph (b) of this subsection.
- (9) In order to give effect to subsection (8), the sum of money or asset which is the subject of the relevant step mentioned in subsection (3) is to be apportioned between the two separate relevant steps on a just and reasonable basis.
- (10) If subsection (5) applies in relation to a transfer—
- (a) in subsection (7) the reference to the transferred rights is to be read as a reference to the transferred section 390 scheme rights only, and
  - (b) in subsections (8) and (9) references to any relevant step mentioned in subsection (3) are to be read as references to the separate relevant step mentioned in subsection (5)(a).
- (11) If B is a company and is a member of a group of companies at any time (“the relevant time”), in subsection (7)(a), in relation to any contribution paid at the relevant time, the reference to B is to be read as including a reference to any other company which is a member of that group at the relevant time.
- (12) In this section—
- “overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act),
  - “section 390 scheme” means a scheme in relation to which a claim was accepted under section 390,



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“section 390 scheme rights” means rights which A has under an overseas pension scheme and which—

- (a) have been transferred to the scheme (directly or indirectly) from a section 390 scheme, or
- (b) have arisen or derived (directly or indirectly) from rights that have been so transferred, and

“tax-exempt provision” and “tax-relieved contribution” have the meaning given by paragraph 3(3) and (4) of Schedule 34 to FA 2004.

### **Exclusions: payments in respect of a tax liability**

**F36 554XA**

- (1) Chapter 2 does not apply by reason of a relevant step which is the payment of a sum of money if—
  - (a) the payment is a relevant tax payment, or
  - (b) where the payment is not a relevant tax payment—
    - (i) the payment is made to a person for the purpose of the person making a relevant tax payment,
    - (ii) the person makes a relevant tax payment of an amount equal to the amount of the first payment, and
    - (iii) the relevant tax payment is made before the end of the period of 60 days beginning with the day on which the first payment is made.
- (2) “Relevant tax payment” means a payment made to Her Majesty's Revenue and Customs in respect of a relevant liability for—
  - <sup>F37</sup>(a) .....
  - <sup>F37</sup>(b) .....
  - (c) inheritance tax, or
  - (d) corporation tax.
- (3) But a provisional payment of tax (see section 554Z11D) is not a relevant tax payment.
- (4) A liability is a “relevant liability” if—
  - (a) under the terms of an agreement for the discharge of the liability, or
  - (b) by way of a decision on an application under this section,an officer of Revenue and Customs agrees that the liability is to be treated as arising in respect of the relevant arrangement concerned.
- (5) A person may make an application to Her Majesty's Revenue and Customs for a liability to be treated, for the purposes of this section, as arising in respect of the relevant arrangement concerned.
- (6) An application under this section 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.
- (7) An officer of Revenue and Customs must notify the applicant of the decision on an application under this section.]

#### **Textual Amendments**

**F36** S. 554XA inserted (with effect in accordance with Sch. 6 para. 13 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 6 para. 9](#)

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**F37** S. 554XA(2)(a)(b) omitted (with effect in accordance with s. 34(2) of the amending Act) by virtue of Finance (No. 2) Act 2017 (c. 32), s. 34(1)

#### **554Y Power to exclude other relevant steps**

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide for Chapter 2 not to apply—
  - (a) by reason of a relevant step falling within a specified description, or
  - (b) in the cases otherwise specified in the regulations.
- (2) Regulations under this section may, in consequence of provision within subsection (1)—
  - (a) provide—
    - (i) for a relevant step to be treated for the purposes of this Part as if it were two or more separate relevant steps,
    - (ii) for the provision within subsection (1) to apply only to one or some of the separate relevant steps, and
    - (iii) for the sum of money or asset which is the subject of the relevant step to be apportioned between the separate relevant steps on a just and reasonable basis,
  - (b) make provision, in relation to cases in which Chapter 2 does not apply by reason of a relevant step by virtue of the provision within subsection (1)—
    - (i) for a relevant step to be treated as taking place if, subsequently, specified conditions are met or not met, and
    - (ii) for Chapter 2 to apply by reason of the relevant step treated as taking place, and
  - (c) make other provision modifying the application of any provision of this Part.
- (3) Regulations under this section may contain incidental, supplemental, consequential and transitional provision and savings.
- (4) Regulations under this section may have retrospective effect.]

**Status:**

Point in time view as at 16/11/2017.

**Changes to legislation:**

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