



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

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

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

### CHAPTER 2

TREATMENT OF RELEVANT STEP FOR INCOME TAX PURPOSES

*[<sup>F1</sup>Employment income*

#### 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](#)

#### **554Z2 Value of relevant step to count as employment income**

- (1) If this Chapter applies by reason of a relevant step, the value of the relevant step (see section 554Z3) counts as employment income of A in respect of A's employment with B—
- if the relevant step is taken before A's employment with B starts, for the tax year in which the employment starts, or
  - otherwise, for the tax year in which the relevant step is taken.

[ But subsection (1) is subject to section 554Z2A (close companies).]  
<sup>F2</sup>(1AA)

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[ Where the value of a relevant step would (apart from this subsection) count as <sup>F3</sup>(1A) employment income of more than one person—

- (a) the value of the relevant step is to be apportioned between each of those persons on a just and reasonable basis, and
- (b) subsection (1) applies as if the reference to the value of the relevant step in relation to A were a reference to so much of the value of the relevant step that is apportioned to A.]

(2) If the relevant step gives rise to—

- (a) an amount which (apart from this subsection) would be treated as earnings of A under a provision of the benefits code, or
- (b) any income of A which (apart from this subsection) would be dealt with under Chapter 3 of Part 4 of ITTOIA 2005,

subsection (1) applies instead of that provision of the benefits code or Chapter 3 of Part 4 of ITTOIA 2005 (as the case may be).

(3) In particular, in a case in which the relevant step is the making of an employment-related loan (within the meaning of Chapter 7 of Part 3), the effect of subsection (2) (a) is that the loan is not to be treated for any tax year as a taxable cheap loan for the purposes of that Chapter.

[ See paragraph 37 of Schedule 11 to F(No. 2)A 2017 for provision about the effect <sup>F4</sup>(4) of subsection (2)(a) in a case in which the relevant step is within paragraph 1 of that Schedule.]

#### Textual Amendments

- F2** S. 554Z2(1AA) inserted (with effect in accordance with Sch. 1 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 1 para. 3(1)**
- F3** S. 554Z2(1A) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 18(2)**
- F4** S. 554Z2(4) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 38**

#### 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)**
- C6** Pt. 7A Ch. 2 excluded (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 29(1)**
- C7** Pt. 7A Ch. 2 excluded (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 27(1)**
- C8** Pt. 7A Ch. 2 excluded (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 35(1)**
- C9** Pt. 7A Ch. 2 excluded (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 25**
- C10** Pt. 7A Ch. 2 excluded (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 31**
- C12** S. 554Z2(2)(a) modified (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 11 para. 37(2)**

#### **Exception to section 554Z2(1): close companies**

<sup>F5</sup>554Z2A

(1) Section 554Z2(1) does not apply in the case of a relevant step if—

- (a) this Chapter applies in the case of the relevant step only by reason of section 554AA (close companies),
- (b) the relevant step is a step within section 554B, 554C or 554D,
- (c) the relevant step gives rise to a charge to tax under either—

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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income. (See end of Document for details)

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- (i) section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participator), or
  - (ii) section 415 of ITTOIA 2005 (release of loan to participator in a close company), and
- (d) in a case within paragraph (c)(i), either the payment condition or the consent condition is met in relation to the charge under section 455 of CTA 2010.
- (2) The payment condition is met in relation to a charge to tax under section 455 of CTA 2010 if—
  - (a) the net section 455 charge is paid in full on or before the due date, or
  - (b) the net section 455 charge is nil.
- (3) The “net section 455 charge” means the amount of the charge to tax under section 455 of CTA 2010 less the amount of section 458 relief from that charge.
- (4) In subsection (3) “section 458 relief” means relief given under section 458 of that Act—
  - (a) in respect of a repayment made, or a release or writing-off occurring, on or before the due date, and
  - (b) on a claim made on or before the due date.
- (5) The consent condition is met in relation to a charge to tax under section 455 of CTA 2010 if—
  - (a) the charge to tax is reported, in a company tax return of B's, as required under Schedule 18 to FA 1998 (company tax returns etc),
  - (b) the payment condition is not met in relation to that charge, and
  - (c) an officer of Revenue and Customs considers that section 554Z2(1) should not apply in the case of the relevant step concerned.
- (6) In this section, references to the “due date” in relation to a charge to tax under section 455 of CTA 2010 are references to the day on which the tax is due and payable (see section 455(3) of CTA 2010).]

#### Textual Amendments

**F5** [S. 554Z2A](#) inserted (with effect in accordance with Sch. 1 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 1 para. 3\(2\)](#)

#### **554Z3 Value of relevant step**

- (1) If the relevant step involves a sum of money, its value is the amount of the sum.
- (2) In any other case, the value of the relevant step is—
  - (a) the market value when the relevant step is taken of the asset which is the subject of the step, or
  - (b) if higher, the cost of the relevant step.
- (3) Subsection (2)(a) is subject to sections 437 and 452.
- (4) Subsection (2)(b) is to be ignored if—
  - (a) the relevant step is within section 554C(1)(c), and
  - (b) any of Chapters 2 to 4A of Part 7 apply by virtue of the acquisition.

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- (5) Subsection (2)(b) is also to be ignored if section 554Z7 applies.
- (6) In subsection (2)(b) the reference to the cost of the relevant step is to the expense incurred in connection with the relevant step (including a proper proportion of any expense relating partly to the relevant step and partly to other matters) by the person or persons at whose cost the relevant step is taken.
- (7) Subsections (1) and (2) are subject to sections 554Z4, 554Z5, 554Z6, 554Z7 and 554Z8, which, so far as applicable, are to be applied in that order.

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

C13 S. 554Z3(1) modified (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 13\(2\)\(b\)](#)

**554Z4 Residence issues**

- (1) After the value of the relevant step is determined under section 554Z3, the particular tax year or years which the value of the relevant step is “for” are to be determined.
- (2) For this purpose, apply sections 16(1) to (4) and 17(1) to (3) as if the value of the relevant step were general earnings.
- [<sup>F6</sup>(3) Subsection (4) applies if the value of the relevant step, or a part of it, is “for”—
  - (a) a tax year for which A is non-UK resident, or
  - (b) a tax year that is a split year as respects A.
- (4) The value, or the part of it, is to be reduced—
  - (a) in a case within subsection (3)(a), by so much of the value, or the part of it, as is not in respect of UK duties, and
  - (b) in a case within subsection (3)(b), by so much of the value, or the part of it, as is both—
    - (i) attributable to the overseas part of the tax year, and
    - (ii) not in respect of UK duties.
- (5) The extent to which—
  - (a) the value, or the part of it, is not in respect of UK duties, or
  - (b) so much of the value, or the part of it, as is attributable to the overseas part of the tax year is not in respect of UK duties,
 is to be determined on a just and reasonable basis.]
 

[ Any attribution required for the purposes of subsection (4)(b)(i) is to be done on a just and reasonable basis.]
- (5B) “UK duties” means duties performed in the United Kingdom.]
- (6) This section does not change the tax year for which the value of the relevant step counts as employment income under section 554Z2(1).
- [ Subsections (8) and (9) apply if—
  - <sup>F8</sup>(7) (a) the relevant step is the payment of a lump sum,
  - (b) the payment of the lump sum is the provision of a relevant benefit under an employer-financed retirement benefits scheme, and

**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income. (See end of Document for details)

- (c) the person by whom the lump sum is received is resident in the United Kingdom in the tax year in which the lump sum is received.
- (8) If the lump sum is wholly in respect of rights which have accrued on or after 6 April 2017, there is no reduction under subsection (4).
- (9) If the lump sum is wholly or partly in respect of rights which accrued before 6 April 2017, the amount of any reduction under subsection (4) is given by—

$$R \times \frac{A}{LS}$$

where—

A is so much of the lump sum as is in respect of rights which accrued before 6 April 2017,

LS is the amount of the lump sum, and

R is the amount which (ignoring this subsection) is given by subsection (4) as the amount of the reduction.

- (10) In subsection (7)—
- “employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A), and
- “relevant benefit” has the same meaning as in that Chapter (see section 393B).]

#### Textual Amendments

- F6** S. 554Z4(3)-(5) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 68\(2\)](#)
- F7** S. 554Z4(5A)(5B) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 68\(3\)](#)
- F8** S. 554Z4(7)-(10) inserted (27.4.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 3 para. 7](#)

#### <sup>F9</sup> 554Z4A Temporary non-residents

- (1) This section applies if A is temporarily non-resident.
- (2) Any relevant step within subsection (3) is to be treated for the purposes of section 554Z2 as if it were taken in the period of return.
- (3) A relevant step is within this subsection if—
- (a) it is the payment of a lump sum to a relevant person (see section 554C(2)),
- (b) the lump sum is a relevant benefit provided under a relevant scheme,
- (c) the step is taken in the temporary period of non-residence, and
- (d) ignoring this section—
- (i) no charge to tax arises by virtue of section 554Z2 by reason of the step, but
- (ii) such a charge would arise if the existence of any double taxation relief arrangements were disregarded.

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- (4) Subsection (3)(d)(i) includes a case where the charge could be prevented by making a DTR claim, even if no claim is in fact made.
- (5) Nothing in any double taxation relief arrangements is to be read as preventing A from being chargeable to income tax in respect of any relevant step treated by virtue of this section as taken in the period of return (or as preventing a charge to that tax from arising as a result).
- (6) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
- (a) when an individual is to be regarded as “temporarily non-resident”, and
  - (b) what “the temporary period of non-residence” and “the period of return” mean.
- (7) In this section—
- “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
- “DTR claim” means a claim for relief under section 6 of that Act;
- “relevant benefit” has the same meaning as in Chapter 2 of Part 6;
- “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.]

#### Textual Amendments

- F9** S. 554Z4A inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 126](#)

#### [<sup>F10</sup>554Z5] **Overlap with money or asset subject to earlier tax liability**

- (1) This section applies if there is overlap between—
- (a) the sum of money or asset (“sum or asset P”) which is the subject of the relevant step, and
  - (b) a sum of money or asset (“sum or asset Q”) by reference to which, on an occasion that occurred before the relevant step is taken, A became subject to a liability for income tax (“the earlier tax liability”).
- (2) But this section does not apply where—
- (a) the earlier tax liability arose by reason of a step within section 554B taken in a tax year before 6 April 2011, and
  - (b) the value of the relevant step is (or if large enough would be) reduced under paragraph 59 of Schedule 2 to FA 2011.
- (3) Where either the payment condition or the liability condition is met, the value of the relevant step is reduced (but not below nil) by an amount equal to so much of the sum of money, or (as the case may be) the value of so much of the asset, as is within the overlap.
- (4) The payment condition is that, at the time the relevant step is taken—
- (a) the earlier tax liability has become due and payable, and
  - (b) either—
    - (i) it has been paid in full, or

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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income. (See end of Document for details)

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- (ii) the person liable for the earlier tax liability has agreed terms with an officer of Revenue and Customs for the discharge of that liability.
- (5) The liability condition is that, at the time the relevant step is taken, the earlier tax liability is not yet due and payable.
- (6) For the purposes of this section there is overlap between sum or asset P and sum or asset Q so far as it is just and reasonable to conclude that—
- (a) they are the same sum of money or asset, or
  - (b) sum or asset P directly, or indirectly, represents sum or asset Q.
- (7) Subsection (8) applies where—
- (a) the earlier tax liability arose by virtue of the application of this Chapter by reason of an earlier relevant step (the “earlier relevant step”), and
  - (b) reductions were made under this section to the value of the earlier relevant step.
- (8) Where this subsection applies, sum or asset P is treated as overlapping with any other sum of money or asset so far as the other sum of money or asset was treated as overlapping with sum or asset Q for the purposes of this section.
- (9) In subsection (1)(b)—
- (a) the reference to A includes a reference to any person linked with A, and
  - (b) the reference to a liability for income tax does not include a reference to a liability for income tax arising by reason of section 175 (benefit of taxable cheap loan treated as earnings).
- (10) In subsection (3) the reference to the value of the relevant step is a reference to that value—
- (a) after any reductions made to it under section 554Z4, this section or 554Z7, but
  - (b) before any reductions made to it under section 554Z6 or 554Z8.
- (11) For the purposes of subsection (4)(b)(i) a person is not to be regarded as having paid any tax by reason only of making—
- (a) a payment on account of income tax,
  - (b) a payment that is treated as a payment on account under section 223(3) of FA 2014 (accelerated payments), or
  - (c) a payment pending determination of an appeal made in accordance with section 55 of TMA 1970.]

[ See paragraphs 4(5) and (6) and 12(4) and (5) of Schedule 11 of F(No. 2)A 2017) for <sup>F11</sup>(12) provision about the effect of subsection (3) in certain cases where the relevant step is within paragraph 1 of that Schedule.]

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**Textual Amendments**

- F10** S. 554Z5 substituted (with effect in accordance with Sch. 6 para. 13 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 6 para. 10](#)
- F11** S. 554Z5(12) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 46\(6\)](#)
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**Modifications etc. (not altering text)**

- C14** S. 554Z5(3) excluded (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 11 para. 12\(5\)](#)



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### 554Z6 Overlap with certain earnings

- (1) This section applies if the relevant step gives rise to relevant earnings of A from A's employment with B—
  - (a) which are, in accordance with section 16 and (if applicable) section 17, “for” a tax year in which A is UK resident [<sup>F12</sup>(and, in the case of a tax year that is a split year as respects A, are not “excluded” by virtue of section 15(1A) (a) and (b)(i))], or
  - (b) which are, in accordance with section 29 and (if applicable) section 30, “for” a tax year in which A is non-UK resident but which are in respect of duties performed in the United Kingdom for the purposes of section 27(1)(a).
- (2) The value of the relevant step (after any reductions under section 554Z4 or 554Z5) is reduced (but not below nil) by the amount of the relevant earnings.
- (3) For the purposes of this section the following are “relevant” earnings—
  - (a) earnings within Chapter 1 of Part 3,
  - (b) amounts treated as earnings under Chapter 12 of Part 3, and
  - (c) a deemed employment payment under section 50 or any part of such a payment.
- (4) But anything which is exempt income, or which falls within Chapter 3 of Part 4 of ITTOIA 2005, is not “relevant”.

#### Textual Amendments

**F12** Words in s. 554Z6(1)(a) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 69](#)

### 554Z7 Exercise price of share options

- (1) Subsection (3) applies if—
  - (a) the relevant step is a step within section 554B (other than one treated as being taken by section 554L(5), (7) or (9) or 554M(4), (6) or (8)),
  - (b) B is a company,
  - (c) 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,
  - (d) in order to exercise the relevant share option so as—
    - (i) to acquire the relevant shares, or
    - (ii) to receive the sum of money,

A would, under the terms of the option, have to pay a sum of money the amount of which can be determined at the time of the grant of the option,
  - (e) 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 shares, or paying a sum of money, pursuant to—



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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income. (See end of Document for details)

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- (i) a relevant share option granted to A under B's employee share scheme as mentioned in paragraph (c) in relation to which the requirements of paragraph (d) 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 paragraph (c) and in relation to which the requirements of paragraph (d) would be met,
  - (f) 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
  - (g) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (2) Subsection (3) also applies if—
- (a) the relevant step is a step treated as being taken by section 554L(9) or 554M(8), and
  - (b) in order to exercise the relevant share option to which the step relates so as—
    - (i) to acquire the shares which are the subject of the relevant step, or
    - (ii) to receive the sum of money determined by reference to the market value of those shares,A would, under the terms of the option, have to pay a sum of money the amount of which can be determined at the time the option is granted.
- (3) The value of the relevant step (after any reductions under sections 554Z4 to 554Z6) is to be reduced (but not below nil) by—
- (a) the amount of the sum of money which A would have to pay as mentioned in subsection (1)(d) or (2)(b), or
  - (b) if the value of the relevant step was reduced under section 554Z4, X% of the amount of that sum of money.
- (4) In subsection (3)(b) “X%” means the proportion of the value of the relevant step (as determined under section 554Z3) left after the reduction under section 554Z4.
- (5) If subsection (3) applies by virtue of subsection (1) and the relevant step is taken in relation to an expected grant of a relevant share option as mentioned in subsection (1)(e)(ii), subsection (7) 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 the relevant step is taken, 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 (1)(e).
- (6) If subsection (3) applies by virtue of subsection (1), subsection (7) also applies if at any time after the taking of the relevant step—
- (a) any of the earmarked shares cease to be held by or on behalf of P solely on the basis mentioned in subsection (1)(e), 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 end of the final grant date or when the shares cease to be held as mentioned in subsection (6)—

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income. (See end of Document for details)*

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- (a) the subject of which is the earmarked shares mentioned in subsection (5)(b) or (6), and
- (b) by reason of which this Chapter is to apply (subject only to section 554A(4)).

(8) In this section “relevant shares” has the meaning given by section 554I(4).

### **554Z8 Cases where consideration given for relevant step**

(1) Subsection (2) applies if—

- (a) the relevant step is a step within section 554C(1)(a) to (c),
- (b) the relevant step is for consideration given by A in the form of the transfer of an asset to P from A,
- (c) the transfer by A of the asset is made before, or at or about, the time the relevant step is taken and is not by way of a loan, and
- (d) there is no connection (direct or indirect) between the transfer by A of the asset and a tax avoidance arrangement.

(2) The value of the relevant step (after any reductions under sections 554Z4 to 554Z6) is reduced (but not below nil) by—

- (a) the market value of the asset transferred by A at the time of its transfer, or
- (b) if the value of the relevant step was reduced under section 554Z4, X% of that market value.

(3) For the purposes of subsection (1)(d) it is (in particular) to be assumed that the transfer by A of the asset is connected with a tax avoidance arrangement if—

- (a) before the transfer, the asset was transferred to A by another person by way of a loan, or
- (b) the asset is, or carries with it, any rights or interests under the relevant arrangement or any arrangement which is connected (directly or indirectly) with the relevant arrangement.

(4) In subsection (3)(b) “the relevant arrangement” has the meaning given by section 554A(1)(b).

(5) Subsection (6) applies if—

- (a) the relevant step is a step within section 554C(1)(b) or (c) or (e) or 554D and does not also involve a sum of money,
- (b) the relevant step is for consideration given by A in the form of the payment of a sum of money to P by A, <sup>F13</sup> ...
- (c) the payment is made before, or at or about, the time the relevant step is taken<sup>F14</sup>, and
- (d) there is no connection (direct or indirect) between the payment and a tax avoidance arrangement.]

(6) The value of the relevant step (after any reductions under sections 554Z4 to 554Z6) is reduced (but not below nil) by—

- (a) the amount of the consideration given, or
- (b) if the value of the relevant step was reduced under section 554Z4, X% of the amount of that consideration.

(7) In subsections (2)(b) and (6)(b) “X%” means the proportion of the value of the relevant step (as determined under section 554Z3) left after the reduction under section 554Z4.

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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income. (See end of Document for details)

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(8) In this section references to A include references to any person linked with A.]

**Textual Amendments**

- F13** Word in s. 554Z8(5)(b) omitted (with effect in accordance with s. 18(9) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), s. 18\(3\)](#)
- F14** S. 554Z8(5)(d) and word inserted (with effect in accordance with s. 18(9) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 18\(3\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Employment income.