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## SCHEDULES

### SCHEDULE 2

#### EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

##### *Main provision*

1 After Part 7 of ITEPA 2003 insert—

#### **“PART 7A**

#### EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

#### **CHAPTER 1**

#### APPLICATION ETC

##### *Application*

#### **Application of Chapter 2**

554A Chapter 2 applies if—

- (a) a person (“A”) is an employee, or a former or prospective employee, of another person (“B”),
- (b) there is an arrangement (“the relevant arrangement”) to which A is a party or which otherwise (wholly or partly) covers or relates to A,
- (c) it is reasonable to suppose that, in essence—
  - (i) the relevant arrangement, or
  - (ii) the relevant arrangement so far as it covers or relates to A, is (wholly or partly) a means of providing, or is otherwise concerned (wholly or partly) with the provision of, rewards or recognition or loans in connection with A's employment, or former or prospective employment, with B,
- (d) a relevant step is taken by a relevant third person, and
- (e) it is reasonable to suppose that, in essence—
  - (i) the relevant step is taken (wholly or partly) in pursuance of the relevant arrangement, or
  - (ii) there is some other connection (direct or indirect) between the relevant step and the relevant arrangement.

(2) In this Part “relevant step” means a step within section 554B, 554C or 554D.

(3) Subsection (1) is subject to subsection (4) and sections 554E to 554Y.

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- (4) Chapter 2 does not apply by reason of a relevant step within section 554B taken on or after A's death.
- (5) In subsection (1)(b) and (c)(ii) references to A include references to any person linked with A.
- (6) For the purposes of subsection (1)(c) it does not matter if the relevant arrangement does not include details of the steps which will or may be taken in connection with providing, in essence, rewards or recognition or loans as mentioned (for example, details of any sums of money or assets which will or may be involved or details of how or when or by whom or in whose favour any step will or may be taken).
- (7) In subsection (1)(d) “relevant third person” means—
  - (a) A acting as a trustee,
  - (b) B acting as a trustee, or
  - (c) any person other than A and B.
- (8) If B is a company and is a member of a group of companies at the time the relevant step is taken, in subsection (7) references to B are to be read as including references to any other company which is a member of that group at that time.
- (9) If B is a limited liability partnership, in subsection (7) references to B are to be read as including references to any company which is a wholly-owned subsidiary (as defined in section 1159(2) of the Companies Act 2006) of B at the time the relevant step is taken.
- (10) Neither subsection (8) nor subsection (9) applies if there is a connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (11) For the purposes of subsection (1)(e)—
  - (a) the relevant step is connected with the relevant arrangement if (for example) the relevant step is taken (wholly or partly) in pursuance of an arrangement at one end of a series of arrangements with the relevant arrangement being at the other end, and
  - (b) it does not matter if the person taking the relevant step is unaware of the relevant arrangement.
- (12) For the purposes of subsection (1)(c) and (e) in particular, all relevant circumstances are to be taken into account in order to get to the essence of the matter.

*Relevant steps*

**Relevant steps: earmarking etc of sum of money or asset**

- 554B) A person (“P”) takes a step within this section if—
- (a) a sum of money or asset held by or on behalf of P is earmarked (however informally) by P with a view to a later relevant step being taken by P or any other person (on or following the meeting of any condition or otherwise) in relation to—

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- (i) that sum of money or asset, or
    - (ii) any sum of money or asset which may arise or derive (directly or indirectly) from it, or
  - (b) a sum of money or asset otherwise starts being held by or on behalf of P, specifically with a view, so far as P is concerned, to a later relevant step being taken by P or any other person (on or following the meeting of any condition or otherwise) in relation to—
    - (i) that sum of money or asset, or
    - (ii) any sum of money or asset which may arise or derive (directly or indirectly) from it.
- (2) For the purposes of subsection (1)(a) and (b) it does not matter—
  - (a) if details of the later relevant step have not been worked out (for example, details of the sum of money or asset which will or may be the subject of the step or details of how or when or by whom or in whose favour the step will or may be taken),
  - (b) if any condition which would have to be met before the later relevant step is taken might never be met, or
  - (c) if A, or any person linked with A, has no legal right to have a relevant step taken in relation to any sum of money or asset mentioned in subsection (1)(a)(i) or (ii) or (b)(i) or (ii) (as the case may be).
- (3) For the purposes of subsection (1)(b) it does not matter whether or not the sum of money or asset in question has previously been held by or on behalf of P on a basis which is different to that mentioned in subsection (1)(b).

### **Relevant steps: payment of sum, transfer of asset etc**

- 554(1) A person (“P”) takes a step within this section if P—
- (a) pays a sum of money to a relevant person,
  - (b) transfers an asset to a relevant person,
  - (c) takes a step by virtue of which a relevant person acquires an asset within subsection (4),
  - (d) makes available a sum of money or asset for use, or makes it available under an arrangement which permits its use—
    - (i) as security for a loan made or to be made to a relevant person, or
    - (ii) otherwise as security for the meeting of any liability, or the performance of any undertaking, which a relevant person has or will have, or
  - (e) grants to a relevant person a lease of any premises the effective duration of which is likely to exceed 21 years.
- (2) In subsection (1) “relevant person”—
- (a) means A or a person chosen by A or within a class of person chosen by A, and
  - (b) includes, if P is taking a step on A's behalf or otherwise at A's direction or request, any other person.
- (3) In subsection (2) references to A include references to any person linked with A.

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- (4) The following assets are within this subsection—
- (a) securities,
  - (b) interests in securities, and
  - (c) securities options,
- as defined in section 420 for the purposes of Chapters 1 to 5 of Part 7; and in subsection (1)(c) “acquires” is to be read in accordance with section 421B(2)(a).
- (5) For the purposes of subsection (1)(d)—
- (a) references to making a sum of money or asset available are references to making it available in any way, however informal,
  - (b) it does not matter if the relevant person has no legal right to have the sum of money or asset used as mentioned, and
  - (c) it does not matter if the sum of money or asset is not actually used as mentioned.
- (6) Subsections (7) and (8) apply for the purpose of determining the likely effective duration of a lease of any premises granted to a relevant person (“the original lease”) for the purposes of subsection (1)(e).
- (7) If there are circumstances which make it likely that the original lease will be extended for any period, the effective duration of the original lease is to be determined on the assumption that the original lease will be so extended.
- (8) Further, if—
- (a) A is, or is likely to become, entitled to a later lease, or the grant of a later lease, of the same premises, or
  - (b) it is otherwise likely that A will be granted a later lease of the same premises,
- the original lease is to be treated as continuing until the end of the later lease (and subsection (7) also applies for the purpose of determining the duration of the later lease).
- (9) In subsection (8)—
- (a) references to A include references to—
    - (i) any person linked with A, and
    - (ii) the person to whom the original lease was granted where the original lease was not granted to A or any person linked with A, and
  - (b) references to the same premises include references to any premises which include the whole or part of the same premises.
- (10) In this section “lease” and “premises” have the same meaning as they have in Chapter 4 of Part 3 of ITTOIA 2005.

**Relevant steps: making asset available**

- 554D) A person (“P”) takes a step within this section if, without transferring the asset to the relevant person, P—
- (a) at any time, makes an asset available for a relevant person to benefit from in a way which is substantially similar to the way in which the

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- relevant person would have been able to benefit from the asset had the asset been transferred to the relevant person at that time, or
- (b) at or after the end of the relevant period, makes an asset available for a relevant person to benefit from.
- (2) If—
- (a) before the end of the relevant period, P makes available an asset for a relevant person to benefit from, and
- (b) at the end of the relevant period, P continues to make the asset available for the relevant person to benefit from,
- P is treated as taking a step within this section by virtue of subsection (1)(b) at the end of the relevant period.
- (3) For the purposes of subsections (1) and (2)—
- (a) references to making an asset available are references to making it available in any way, however informal,
- (b) it does not matter if the relevant person has no legal right to benefit from the asset, and
- (c) it does not matter if the relevant person does not actually benefit from the asset.
- (4) In subsections (1) and (2) “the relevant period” means the period of two years starting with the day on which A’s employment with B ceases.
- (5) In subsections (1) and (2) “relevant person”—
- (a) means A or a person chosen by A or within a class of person chosen by A, and
- (b) includes, if P is taking a step on A’s behalf or otherwise at A’s direction or request, any other person.
- (6) In subsection (5) references to A include references to any person linked with A.
- (7) The following factors (among others) may be taken into account in determining whether a step within this section is taken by virtue of subsection (1)(a)—
- (a) any limitations on the way in which the relevant person may benefit from the asset,
- (b) the period over which the asset is being made available and (if relevant) the extent to which that period covers the expected remaining useful life of the asset,
- (c) the extent to which the relevant person has, or is to have, a say over the disposal of the asset, and
- (d) the extent to which the relevant person may benefit from any proceeds arising from the disposal of the asset or otherwise have a say in the way the proceeds are used.

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### *Exclusions*

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

554E) Chapter 2 does not apply by reason of a relevant step if the step is taken under any of the following—

- (a) an approved SIP (within the meaning of Chapter 6 of Part 7),
  - (b) an approved SAYE option scheme (within the meaning of Chapter 7 of Part 7),
  - (c) an approved 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 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 an approved SIP, or
    - (ii) to be provided pursuant to options granted under an approved SAYE option scheme or an approved CSOP scheme, or
  - (b) providing shares pursuant to—
    - (i) an award of shares under an approved SIP, or

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- (ii) an option granted under an approved SAYE option scheme or an approved 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 approved SIP, the approved SAYE option scheme or the approved 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 approved SIP, the approved SAYE option scheme or the approved 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—
    - (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

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- (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.

**Exclusions: commercial transactions**

- 554(F) 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.

**Exclusions: transactions under employee benefit packages**

- 554(G) 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—



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- (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,
  - (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.

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- (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.

**Exclusions: earmarking of deferred remuneration**

554(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,
  - (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).

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- (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.
- (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.

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- (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).

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

- 554I) 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.

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

554(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

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- (“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,
- (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

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- (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 (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—

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- (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
  - (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).

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

554K(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—



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- (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—
  - (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—

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- (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—
- (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).

**Exclusions: earmarking for employee share schemes (3)**

554(1) This section applies if—

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- (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—
- (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—

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- (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—
  - (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)).

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- (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 section 474, 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
  - (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

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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).

**Exclusions: earmarking for employee share schemes (4)**

554M(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—
- (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.

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- (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—
- (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

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- (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 section 474, 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 section 474, 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.
- (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



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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).

**Exclusions: other cases involving employment-related securities etc**

554N) 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, or would apply apart from section 421E(1), 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, or would apply apart from section 474(1), 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), 421E(1), 429, 443, 474(1) 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
  - (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 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

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- (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, but ignoring section 474(1)) 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 or would be a chargeable event apart from section 474(1).
- (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 section 474, or
      - (ii) which is exempt income, and
    - (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.

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- (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.

### **Exclusions: employee car ownership schemes**

554C(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 a licensed lender,
    - (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—

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- (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
  - “licensed lender” means a person—
    - (a) who is a licensee under the Consumer Credit Act 1974 acting within the terms of the person's licence, and
    - (b) who is not acting as a trustee.

**Exclusions: employment income exemptions under Part 4**

554P(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.

**Exclusions: income arising from earmarked sum or asset**

554Q(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,

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- (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,
  - (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.

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

554R(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,

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- (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—
- (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: pension income chargeable under Part 9 etc**

- 554(S) 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.

**Exclusions: employee pension contributions**

- 554(T) 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

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- (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
  - (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.

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

- 554(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

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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.

**Exclusions: purchases of annuities out of pension scheme rights**

554M) 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



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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
  - (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.

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

554W) 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.

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- (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.

**Exclusions: transfers between certain foreign pension schemes**

- 554X1) 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—
- (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

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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,
  - “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.

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

- 554(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.

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- (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.

### *Interpretation*

#### **Interpretation: general**

- 554Z1) This section applies for the purposes of this Part.
- (2) “A” and “B” are defined in section 554A(1)(a).
  - (3) “Arrangement” includes any agreement, scheme, settlement, transaction, trust or understanding (whether or not it is legally enforceable).
  - (4) “Market value” has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.
  - (5) Section 170(2) to (11) of TCGA 1992 applies for the purpose of determining whether a company is a member of a group of companies.
  - (6) And for that purpose, section 170(2) to (11) is to be read as if for “75 per cent” (wherever occurring) there were substituted “ 51 per cent ” (with section 1154(2) of CTA 2010 applying accordingly).
  - (7) References to the payment of a sum of money include (in particular) references to the payment of a sum of money by way of a loan.
  - (8) “Pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(1) of that Act).
  - (9) “Relevant step” is defined in section 554A(2).

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- (10) References to a relevant step which involves a sum of money are references to—
- (a) a step within section 554B where the subject of the relevant step is a sum of money,
  - (b) a step within section 554C(1)(a), or
  - (c) a step within section 554C(1)(d) where the subject of the relevant step is a sum of money.
- (11) References to the asset which is the subject of a relevant step are, in the case of a step within section 554C(1)(e), references to the lease granted.
- (12) For this purpose, the lease granted is to be treated as including any extensions of the lease, or any later lease, which by virtue of section 554C(7) or (8) is taken into account in determining the likely effective duration of the lease for the purposes of section 554C(1)(e).
- (13) “Tax avoidance arrangement” means an arrangement which has a tax avoidance purpose.
- (14) For the purposes of subsection (13) an arrangement has a tax avoidance purpose if subsection (15) applies to a person who is a party to the arrangement.
- (15) This subsection applies to a person if the main purpose, or one of the main purposes, of the person in entering into the arrangement is the avoidance of tax or national insurance contributions.
- (16) The following paragraphs apply for the purpose of determining whether any relevant step or any other step is connected with a tax avoidance arrangement—
- (a) the step is connected with a tax avoidance arrangement if (for example) the step is taken (wholly or partly) in pursuance of—
    - (i) the tax avoidance arrangement, or
    - (ii) an arrangement at one end of a series of arrangements with the tax avoidance arrangement being at the other end, and
  - (b) it does not matter if the person taking the step is unaware of the tax avoidance arrangement.

**Interpretation: persons linked with A**

- 554Z(1) In this Part references to any person linked with A are references to—
- (a) any person who is or has been connected with A,
  - (b) a close company in which A or a person within any other paragraph of this subsection is or has been a participator,
  - (c) a company in which A or a person within any other paragraph of this subsection is or has been a participator and which would be a close company if it were a UK resident company, or
  - (d) a company which is a 51% subsidiary of a company within paragraph (b) or (c).
- (2) In applying section 993 of ITA 2007 for the purposes of subsection (1)—

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- (a) a man and woman living together as if they were spouses of each other are treated as if they were spouses of each other, and
  - (b) two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.
- (3) In subsection (1) “participator”—
- (a) in relation to a close company, means a person who is a participator in relation to the company for the purposes of section 455 of CTA 2010 (see sections 454 and 455(5) of that Act), and
  - (b) in relation to a company which would be a close company if it were a UK resident company, means a person who would be such a participator if the company were a close company.

## CHAPTER 2

### TREATMENT OF RELEVANT STEP FOR INCOME TAX PURPOSES

#### *Employment income*

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

- 554Z(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—
- (a) if the relevant step is taken before A's employment with B starts, for the tax year in which the employment starts, or
  - (b) otherwise, for the tax year in which the relevant step is taken.
- (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.

#### **Value of relevant step**

- 554Z(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.

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- (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.
- (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.

### Residence issues

- 554Z(4) 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.
  - (3) Subsection (4) applies if the value of the relevant step, or a part of it, is “for” a tax year in which A is non-UK resident.
  - (4) The value, or the part of it, is to be reduced so far as it is not in respect of duties performed in the United Kingdom.
  - (5) The question of the extent to which the value, or the part of it, is not in respect of duties performed in the United Kingdom is to be determined on a just and reasonable basis.
  - (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).

### Overlap with earlier relevant step

- 554Z(5) 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) the sum of money or asset (“sum or asset Q”) which was the subject of an earlier relevant step (“the earlier relevant step”) by reason of which this Chapter applied in respect of A's employment with B.
- (2) The value of the relevant step (after any reductions under section 554Z4) is reduced (but not below nil)—
- (a) if the overlap covers the whole of sum or asset Q, by the value of the earlier relevant step, or
  - (b) if the overlap covers only part of sum or asset Q, by the part of the value of the earlier relevant step which corresponds to the part of

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sum or asset Q covered by the overlap as determined on a just and reasonable basis.

- (3) In subsection (2) references to the value of the earlier relevant step are to that value—
  - (a) after any reductions made to it under section 554Z4 or this section or section 554Z7, but
  - (b) before any reductions made to it under section 554Z6 or 554Z8.
- (4) For the purposes of this section there is overlap between sum or asset P and sum or asset Q so far as—
  - (a) they are the same sum of money or asset, or
  - (b) sum or asset P, essentially, replaces sum or asset Q.
- (5) Further, if any reductions were made under this section to the value of the earlier relevant step, 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.

#### **Overlap with certain earnings**

- 554Z(6) 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, 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”.

#### **Exercise price of share options**

- 554Z(7) 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



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- (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—
    - (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.

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- (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)—
- (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).

### Cases where consideration given for relevant step

- 554Z~~8~~) 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

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- (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, and
  - (c) the payment is made before, or at or about, the time the relevant step is taken.
- (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.
- (8) In this section references to A include references to any person linked with A.

#### *Remittance basis*

##### **Remittance basis: A is ordinarily UK resident**

- 554Z9) Subsection (2) applies if—
- (a) the value of the relevant step, or a part of it, is “for” a tax year (“the relevant tax year”) as determined under section 554Z4,
  - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to A for the relevant tax year,
  - (c) A is ordinarily UK resident in the relevant tax year,
  - (d) A's employment with B in the relevant tax year is employment with a foreign employer, and
  - (e) the duties of A's employment with B in the relevant tax year are performed wholly outside the United Kingdom.
- (2) A's employment income by virtue of section 554Z2(1), or the relevant part of it, is “taxable specific income” in a tax year so far as it is remitted to the United Kingdom in that year.
  - (3) For this purpose, any income which is remitted before A's employment with B starts is treated as being remitted in the tax year in which the employment starts.
  - (4) Subsection (5) applies if in the relevant tax year—
    - (a) A has associated employments, and

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- (b) the duties of the associated employments are not performed wholly outside the United Kingdom.
- (5) The amount of A's employment income to which subsection (2) applies is limited to such amount as is just and reasonable, having regard to—
- (a) A's employment income for the relevant tax year from all associated employments, together with A's employment with B,
  - (b) the proportion of that income which is general earnings to which section 22 applies or is employment income to which section 41A applies,
  - (c) the nature of and time devoted to the duties performed outside the United Kingdom, and those performed in the United Kingdom, in the relevant tax year, and
  - (d) all other relevant circumstances,
- and, if the amount of A's employment income to which subsection (2) would otherwise apply exceeds that limit, the amount of A's employment income to which that subsection applies is instead to be such amount as is just and reasonable.
- (6) In this section “associated employments” means employments with B or with employers associated with B; and section 24(5) and (6) applies for the purposes of this subsection.

**Remittance basis: A is not ordinarily resident**

554Z1(1) Subsection (2) applies if—

- (a) the value of the relevant step, or a part of it—
    - (i) is “for” a tax year (“the relevant tax year”) as determined under section 554Z4, and
    - (ii) is not in respect of duties performed in the United Kingdom,
  - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to A for the relevant tax year, and
  - (c) A is not ordinarily UK resident in the relevant tax year.
- (2) A's employment income by virtue of section 554Z2(1), or the relevant part of it, is “taxable specific income” in a tax year so far as it is remitted to the United Kingdom in that year.
- (3) For this purpose, any income which is remitted before A's employment with B starts is treated as being remitted in the tax year in which the employment starts.
- (4) The question of the extent to which the value of the relevant step, or any part of it, is not in respect of duties performed in the United Kingdom is to be determined on a just and reasonable basis.

**Remittance basis: supplementary**

554Z1(1) Subsection (2) applies if section 554Z9(1)(a) or 554Z10(1)(a) applies to a part (“the relevant part”) of the value of the relevant step.

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- (2) Any reduction to the value of the relevant step to be made under any of sections 554Z5 to 554Z8 is to be made so that X% of the reduction is made by way of reducing the relevant part.
- (3) In subsection (2) “X%” means the proportion of the value of the relevant step represented by the relevant part before any reductions under any of sections 554Z5 to 554Z8.
- (4) For the purpose of applying section 554Z9(2) or 554Z10(2), see Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.
- (5) If the relevant step involves a sum of money, for the purposes of that Chapter the sum of money is treated as deriving from A's employment income (or the relevant part of it) to which section 554Z9(2) or 554Z10(2) applies.
- (6) In any other case, for the purposes of that Chapter the asset which is the subject of the relevant step is treated as deriving from A's employment income (or the relevant part of it) to which section 554Z9(2) or 554Z10(2) applies.
- (7) Subsection (8) applies if—
  - (a) after the relevant step is taken, there is another relevant step (“the later relevant step”) by reason of which this Chapter applies in respect of A's employment with B, and
  - (b) within the meaning of section 554Z5, there is overlap between the sum of money or asset (“sum or asset R”) which is the subject of the relevant step and the sum of money or asset (“sum or asset S”) which is the subject of the later relevant step.
- (8) Except so far as, in any event—
  - (a) sum or asset S and sum or asset R are the same sum of money or asset, or
  - (b) sum or asset S derives from sum or asset R,for the purposes of Chapter A1 of Part 14 of ITA 2007 sum or asset S is treated, to the extent of the overlap, as deriving from sum or asset R.
- (9) Subsections (10) and (11) apply if—
  - (a) the relevant tax year within the meaning of section 554Z9 or 554Z10 is the tax year 2007-08 or any earlier tax year, and
  - (b) A—
    - (i) was UK resident in that year, but
    - (ii) was not domiciled in the United Kingdom, or was not ordinarily UK resident, in that year.
- (10) Section 554Z9 or 554Z10 (as the case may be) applies as if section 809B of ITA 2007 applied to A for the relevant tax year.
- (11) In section 554Z9(1)(d) the reference to a foreign employer is to be read as not including a person resident in the Republic of Ireland.

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### Supplementary

#### Relevant step taken after A's death etc

554Z1(2) Subsection (3), (4) or (5) (as the case may be) applies if the relevant step is a step within section 554C or 554D and—

- (a) the relevant step is taken on or after A's death, or
- (b) if relevant, any of A's employment income by virtue of section 554Z2(1) is remitted to the United Kingdom on or after A's death.

But none of those subsections applies if A's employment with B never started before A's death.

- (2) In subsections (3) to (5) “the relevant person” means the relevant person (within the meaning of section 554C(1) or 554D(1) or (2)) in relation to the relevant step.
- (3) If the relevant person is A, A's personal representatives are liable for, as the case may be, the income tax on—
  - (a) A's employment income by virtue of section 554Z2(1), or
  - (b) so much of that income as is remitted.
- (4) If the relevant person is an individual other than A, the amount which, as the case may be—
  - (a) counts as employment income of A, or
  - (b) is remitted,
 is to count as an amount of employment income of the relevant person for the tax year in which the relevant step is taken or the income is remitted.
- (5) If the relevant person is not an individual, the relevant taxable person is chargeable to income tax on the amount which, as the case may be—
  - (a) counts as employment income of A, or
  - (b) is remitted.
- (6) In subsection (5) “the relevant taxable person” is to be read as follows—
  - (a) if the person (or any of the persons) who took the relevant step is UK resident, “the relevant taxable person” is the person (or each of the UK resident persons) who took the relevant step,
  - (b) if paragraph (a) does not apply and B is still alive or in existence when the relevant step is taken, “the relevant taxable person” is B, or
  - (c) if neither paragraph (a) nor paragraph (b) applies, “the relevant taxable person” is the non-UK resident person (or each of the non-UK resident persons) who took the relevant step.
- (7) For the purposes of subsection (5)—
  - (a) the rate of tax is the rate applying for the purposes of section 394(2) (see section 394(4)) at the time of the relevant step or remittance of income, and
  - (b) the tax is charged for the tax year in which the relevant step is taken or the income is remitted.

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- (8) If there is more than one relevant person in relation to the relevant step, the amount which, as the case may be—
- (a) counts as employment income of A, or
  - (b) is remitted,
- is to be apportioned between the relevant persons on a just and reasonable basis with subsections (3) to (5) applying accordingly.

### **Subsequent income tax liability**

- 554Z1(3) This section applies if—
- (a) after the relevant step is taken, another event (“the later event”) occurs,
  - (b) other than by virtue of—
    - (i) this Chapter,
    - (ii) Chapters 2 to 5 of Part 7, or
    - (iii) Part 9,the later event would (apart from this section) give rise to a liability for income tax of A or any other person on an amount (“the later amount”), and
  - (c) it is just and reasonable for this section to apply in order to avoid a double charge to income tax in respect of the sum of money or asset which is the subject of the relevant step.
- (2) So far as it is just and reasonable in order to avoid a double charge to income tax as mentioned in subsection (1)(c), there is to be no liability to income tax on the later amount by virtue of the later event.

### **Relief where earmarking not followed by further relevant step**

- 554Z1(4) An application for relief may be made by A (or, if A has died, A's personal representatives) to an officer of Revenue and Customs if—
- (a) this Chapter has applied by reason of a relevant step (“the original relevant step”) within section 554B taken by a person (“P”),
  - (b) there occurs an event (“the relevant event”) which is not a relevant step in relation to a relevant sum or asset,
  - (c) by reason of the relevant event no further relevant step is or will be taken by P or any other person in relation to any relevant sum or asset, and
  - (d) there is no connection (direct or indirect) between the relevant event and a tax avoidance arrangement.
- (2) In section 554Z(15) the reference to the avoidance of tax includes (in particular) a reference to the avoidance of tax by way of obtaining relief under this section.
- (3) In subsection (1) “relevant sum or asset” means—
- (a) the sum of money or asset which is the subject of the original relevant step, or

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- (b) a sum of money or asset which (directly or indirectly) has arisen or derived, or may arise or derive, from the sum of money or asset mentioned in paragraph (a).
- (4) The application for relief must be made within four years from the time when the relevant event occurs.
- (5) If an officer of Revenue and Customs is satisfied that the requirements in subsection (1) are met, the officer must give such relief as the officer considers just and reasonable (if any) in respect of income tax paid on any previously charged amount.
- (6) In subsection (5) “previously charged amount” means—
  - (a) the amount which counted as employment income of A under this Chapter as a result of this Chapter applying by reason of the original relevant step, or
  - (b) any amount treated by section 222 as earnings of A in relation to the notional payment (within the meaning of that section) which B is treated as having made by virtue of the original relevant step.
- (7) Subsection (8) applies if, by virtue of this Chapter having applied by reason of the original relevant step, any tax liability of A or any other person arising from another event is reduced (including to nil) by virtue of section 554Z5 or 554Z13 or otherwise.
- (8) In determining what is a just and reasonable amount of relief, the officer of Revenue and Customs must have regard (in particular) to the reduction in the tax liability and reduce the amount of relief which would otherwise have been given accordingly (including to nil).
- (9) The relief is to be given by repayment or otherwise as appropriate.
- (10) In relation to times after the relief is given, the Tax Acts have effect as if this Chapter had never applied by reason of the original relevant step.

#### **Location of employment duties**

- 554Z15 The following provisions apply for the purposes of this Chapter—
- (a) section 38 (but as if references to general earnings were to the value of the relevant step or a part of it),
  - (b) section 39(1) and (2),
  - (c) section 40 (but as if in subsections (3) and (4) references to section 24(1)(b) were to section 554Z9(4)(b)), and
  - (d) section 41 (but as if references to general earnings were to the value of the relevant step or a part of it).



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## CHAPTER 3

### UNDERTAKINGS GIVEN BY EMPLOYERS ETC IN RELATION TO RETIREMENT BENEFITS ETC

#### Application etc

554Z1(6) This Chapter applies if there is an undertaking (“the relevant undertaking”) that a contribution to which subsection (2) would apply will be paid.

- (2) This subsection applies to a contribution if—
- (a) the contribution is paid to an arrangement which is not a registered pension scheme,
  - (b) in connection with that arrangement (directly or indirectly), relevant benefits are to be provided (directly or indirectly) out of the contribution by a relevant third person,
  - (c) the provision of the relevant benefits would be a relevant step, and
  - (d) the contribution is neither a tax-relieved contribution nor tax-exempt provision.

- (3) In subsection (2)—
- “relevant benefits” has the same meaning as in Chapter 2 of Part 6, but ignoring section 393B(2)(a),
  - “relevant third person” means a person within section 554A(7)(a) to (c) (ignoring this Chapter), and
  - “tax-exempt provision” and “tax-relieved contribution” have the meaning given by paragraph 3(3) and (4) of Schedule 34 to FA 2004.

- (4) In this Chapter references to an undertaking include references to—
- (a) an undertaking which is not legally enforceable, and
  - (b) an undertaking which is to be performed only on or following the meeting of a condition (including a condition which might never be met).

#### Employer etc to be treated as relevant third person etc

554Z1(7) If B takes a step within section 554Z18 or 554Z19, Chapters 1 and 2 have effect in relation to the step—

- (a) as if B were a relevant third person for the purposes of section 554A(1)(d), and
  - (b) as if the step were a relevant step within section 554B (if it would not otherwise be).
- (2) For the purpose of determining whether Chapter 2 applies by reason of the step, Chapter 1 has effect—
- (a) as if sections 554F to 554O, 554S to 554U, 554W and 554X were omitted,
  - (b) if the step is within section 554Z18, as if sections 554Q(2)(d), (3) and (4) and 554R(1)(c) and (d), (2) and (3) were omitted, and

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- (c) if the step is within section 554Z19, as if sections 554Q and 554R were omitted.
- (3) If Chapter 2 applies by reason of the step, Chapter 2 has effect as if sections 554Z7 to 554Z12 were omitted.
- (4) If Chapter 2 does not apply by reason of the step by virtue of section 554E(3) or (6), section 554E(10) and (11) does not apply in relation to the step.
- (5) For further modifications of Chapters 1 and 2, see sections 554Z18(3) and (4), 554Z19(5) and (6), 554Z20 and 554Z21.
- (6) Regulations under section 554Y may (in particular) make provision covering cases in which Chapters 1 and 2 have effect as provided for by this section.
- (7) In this Chapter—
  - (a) references to B do not include references to B acting as a trustee,
  - (b) if B is a company and is a member of a group of companies, references to B are to be read as including references to any other company which is a member of that group, and
  - (c) if B is a limited liability partnership, references to B are to be read as including references to any company which is a wholly-owned subsidiary (as defined in section 1159(2) of the Companies Act 2006) of B.

### **Earmarking etc**

554Z1(8) B takes a step within this section if—

- (a) a sum of money or asset held by or on behalf of B is earmarked (however informally) by B with a view to the relevant undertaking being performed at a later time (wholly or partly) out of—
  - (i) that sum of money or asset, or
  - (ii) any sum of money or asset which may arise or derive (directly or indirectly) from it, or
- (b) a sum of money or asset otherwise starts being held by or on behalf of B, specifically with a view, so far as B is concerned, to the relevant undertaking being performed at a later time (wholly or partly) out of—
  - (i) that sum of money or asset, or
  - (ii) any sum of money or asset which may arise or derive (directly or indirectly) from it.
- (2) For the purposes of subsection (1)(b) it does not matter whether or not the sum of money or asset in question has previously been held by or on behalf of B on a basis which is different to that mentioned in subsection (1)(b).
- (3) Subsection (4) applies if, in the application of section 554Q or 554R in any case, the relevant step mentioned in section 554Q(2)(a) or 554R(6)(a) is a step within this section taken by B.
- (4) In section 554Q(2)(c) or 554R(6)(c) (as the case may be) the reference to section 554B(1)(a) or (b) is to be read as a reference to subsection (1)(a) or (b) above.

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### **Provision of security**

- 554Z1~~(1)~~) B takes a step within this section if B provides security for the performance of the relevant undertaking.
- (2) For the purposes of this Part, the sum of money or asset which is the subject of the step is to be taken to be—
- (a) any sums of money which, as at the time the step is taken, are the subject of the security, and
  - (b) any assets which, as at that time, are the subject of the security, and references to the sum of money or asset which is the subject of a relevant step are to be read accordingly.
- (3) If, when the step is taken, the security covers other undertakings as well as the relevant undertaking, the sums of money and assets within subsection (2) (a) and (b) are to be apportioned between the relevant undertaking and the other undertakings on a just and reasonable basis.
- (4) Subsections (2) and (3) are subject to section 554Z20(7).
- (5) Section 554Q does not apply in any case in which the relevant step mentioned in section 554Q(2)(a) would be a step within this section taken by B.
- (6) Section 554R(6) does not apply in any case in which the relevant step mentioned in section 554R(6)(a) would be a step within this section taken by B.
- (7) In this Chapter references to providing security for the performance of an undertaking are references to providing such security in any way, however informal.

### **Valuation of step within section 554Z19**

- 554Z2~~(1)~~) This section applies if, by virtue of section 554Z17, Chapter 2 applies by reason of a step taken by B within section 554Z19.
- (2) Section 554Z3 has effect as if subsections (3) and (4) below were substituted for subsections (1) to (6) of that section.
- (3) The value of the relevant step is—
- (a) the amount to be paid as a contribution under the relevant undertaking determined, as at the time the step is taken, on a just and reasonable basis assuming that any condition to be met before any payment is made will be met, or
  - (b) if lower, the value of the security.
- (4) For the purposes of subsection (3)(b) the value of the security—
- (a) consists of—
    - (i) the total amount of the sums of money included in the subject of the step (see section 554Z19(2)(a)), and

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- (ii) the total market value, as at the time the step is taken, of the assets included in the subject of the step (see section 554Z19(2)(b)), but
  - (b) is to be subject to a just and reasonable reduction to take account of any term of the security which limits the total amount which may be made available under the security for the performance of the relevant undertaking to an amount which is lower than the amount determined under paragraph (a).
- (5) The following subsections apply if, as at the end of the day of an anniversary of the taking of the step (“the anniversary day”), B continues to provide the security for the performance of the relevant undertaking.
- (6) This Part has effect as if B's continuing to provide the security were a new step (“the anniversary step”) within section 554Z19—
- (a) which is taken by B at the end of the anniversary day, and
  - (b) by reason of which Chapter 2 is to apply by virtue of section 554Z17 (subject only to section 554A(4)).
- (7) If the total amount of the sums of money which are the subject of the security (“the security sums”) varies from time to time, for the purpose of determining the sums of money included in the subject of the anniversary step, in section 554Z19(2)(a) the reference to the time the step is taken is to be read as a reference to the time during the preceding year at which the total amount of the security sums is at its highest.
- (8) For the purposes of subsection (4)(a)(ii) the market value of any asset included in the subject of the anniversary step may be determined as at any time during the preceding year (so long as the asset is the subject of the security, or one of the assets which is the subject of the security, as at that time).
- (9) In subsections (7) and (8) “the preceding year” means the year ending with the anniversary day.

**Relief for earmarking or security not followed by contribution or relevant benefit**

- 554Z2(1) This section applies if, by virtue of section 554Z17, Chapter 2 applies by reason of a step taken by B within section 554Z18 or 554Z19.
- (2) Section 554Z14 has effect in relation to the step with the following modifications.
  - (3) Subsection (1)(b) has effect as if for “not a relevant step in relation to a relevant sum or asset” there were substituted “neither the payment of the relevant contribution (or any part of it) nor the provision of any relevant benefit”.
  - (4) Subsection (1)(c) has effect as if for the words from “no further relevant step” to “any relevant sum or asset” there were substituted “the relevant contribution (or any part of it) will not be paid or a relevant benefit will not be provided”.

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(5) Subsection (1) has effect as if subsection (6) below were substituted for subsection (3).

(6) In subsection (1)—

- (a) “the relevant contribution” means the contribution to be paid under the relevant undertaking (within the meaning of Chapter 3), and
- (b) “relevant benefit” means a relevant benefit to be provided out of the relevant contribution as mentioned in section 554Z16(2)(b) and (c).”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)