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SCHEDULES

SCHEDULE 8

EMPLOYEE SHARE SCHEMES

PART 5

OTHER EMPLOYEE SHARE SCHEMES

Amendments to Chapter 1 of Part 7 of ITEPA 2003

- 226 Chapter 1 of Part 7 of ITEPA 2003 (employment income: income and exemptions relating to securities: general) is amended as follows.
- 227 (1) Section 421J (duty to provide information) is amended as follows.
- (2) Omit subsections (3), (7), (8), (11) and (12).
- (3) In subsection (10) for “by, or by a notice under,” substitute “ by a notice under ”.
- 228 After section 421J insert—

“421JA Annual returns

- (1) This section applies in relation to a person who is (or has been) a responsible person (see section 421L) in relation to reportable events (see section 421K).
- (2) The person must give to Her Majesty's Revenue and Customs (“HMRC”) a return for each tax year falling (wholly or partly) in the person's reportable event period.
- (3) The person's “reportable event period” is the period—
 - (a) beginning when the first reportable event occurs in relation to which the person is a responsible person, and
 - (b) ending when the person will no longer be a responsible person in relation to reportable events.
- (4) The return for a tax year must—
 - (a) contain, or be accompanied by, such information as HMRC may require, and
 - (b) be given on or before 6 July in the following tax year.
- (5) The information which may be required under subsection (4)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of any employee.
- (6) If the person becomes aware that—

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- (a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,
 - (b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or
 - (c) any other error or inaccuracy has occurred in relation to a return for a tax year,
- the person must give an amended return correcting the position to HMRC without delay.
- (7) A person's return for a tax year under this section need not contain, or be accompanied by, duplicate information and a person is not required to give a return for a tax year under this section if it would only contain, or be accompanied by, duplicate information.
- (8) “Duplicate information” means information which is contained in or accompanies—
- (a) a return which another person gives for the tax year under this section, or
 - (b) a return which any person gives for the tax year under any of the following provisions—
 - (i) paragraph 81B of Schedule 2 (annual return for Schedule 2 SIP);
 - (ii) paragraph 40B of Schedule 3 (annual return for Schedule 3 SAYE option scheme);
 - (iii) paragraph 28B of Schedule 4 (annual return for Schedule 4 CSOP scheme);
 - (iv) paragraph 52 of Schedule 5 (annual return for company whose shares are subject to qualifying options under the EMI code).

421JB Returns to be given electronically

- (1) A return under section 421JA, and any information accompanying the return, must be given electronically.
- (2) But, if HMRC consider it appropriate to do so, HMRC may allow a person to give a return or any accompanying information in another way; and, if HMRC do so, the return or information must be given in that other way.
- (3) The Commissioners for Her Majesty's Revenue and Customs—
 - (a) must prescribe how returns and accompanying information are to be given electronically;
 - (b) may make different provision for different cases or circumstances.

421JC Penalties for late returns

- (1) This section applies if a person fails to give a return under section 421JA for a tax year (containing, or accompanied by, all required information) on or before the date mentioned in section 421JA(4)(b) (“the date for delivery”).

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- (2) The person is liable for a penalty of £100.
- (3) If the person's failure continues after the end of the period of 3 months beginning with the date for delivery, the person is liable for a further penalty of £300.
- (4) If the person's failure continues after the end of the period of 6 months beginning with the date for delivery, the person is liable for a further penalty of £300.
- (5) The person is liable for a further penalty under this subsection if—
 - (a) the person's failure continues after the end of the period of 9 months beginning with the date for delivery,
 - (b) HMRC decide that such a penalty should be payable, and
 - (c) HMRC give notice to the person specifying the period in respect of which the penalty is payable.

(The person may be liable for more than one penalty under this subsection.)
- (6) The penalty under subsection (5) is £10 for each day that the failure continues during the period specified in the notice under subsection (5)(c).
- (7) The period specified in the notice under subsection (5)(c)—
 - (a) may begin earlier than the date on which the notice is given, but
 - (b) may not begin until after the end of the period mentioned in subsection (5)(a) or, if relevant, the end of any period specified in any previous notice under subsection (5)(c) given in relation to the failure.
- (8) Liability for a penalty under this section does not arise if the person satisfies HMRC (or, on an appeal under section 421JF, the tribunal) that there is a reasonable excuse for the person's failure.
- (9) For the purposes of subsection (8)—
 - (a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside the person's control,
 - (b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the (first mentioned) person took reasonable care to avoid the failure, and
 - (c) where the person had a reasonable excuse for the failure but the excuse ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

421JD Penalty if information not given correctly

- (1) This section applies if a return under section 421JA, or any information accompanying such a return—
 - (a) is given otherwise than in accordance with section 421JB, or
 - (b) contains a material inaccuracy—
 - (i) which is careless or deliberate, or
 - (ii) which is not corrected as required by section 421JA(6).

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- (2) The person in question is liable for a penalty of an amount decided by HMRC.
- (3) The penalty must not exceed £5,000.
- (4) For the purposes of subsection (1)(b)(i) an inaccuracy is careless if it is due to a failure by the person in question to take reasonable care.

421JE Assessment of penalties

- (1) This section applies if a person is liable for a penalty under section 421JC or 421JD.
- (2) HMRC must assess the penalty and notify the person of the assessment.
- (3) Subject to subsection (4), the assessment must be made no later than 12 months after the date on which the person becomes liable for the penalty.
- (4) In the case of a penalty under section 421JD(1)(b), the assessment must be made no later than—
 - (a) 12 months after the date on which HMRC become aware of the inaccuracy, and
 - (b) 6 years after the date on which the person becomes liable for the penalty.
- (5) A penalty payable under this Part must be paid—
 - (a) no later than 30 days after the date on which the notice under subsection (2) is given to the person, or
 - (b) if notice of appeal is given against the penalty under section 421JF(1) or (2), no later than 30 days after the date on which the appeal is determined or withdrawn.
- (6) The penalty may be enforced as if it were income tax or, if the person is a company within the charge to corporation tax, corporation tax charged in an assessment and due and payable.
- (7) Sections 100 to 103 of TMA 1970 do not apply to a penalty under section 421JC or 421JD.

421JF Appeals

- (1) A person may appeal against a decision of HMRC that the person is liable for a penalty under section 421JC or 421JD.
- (2) A person may appeal against a decision of HMRC as to the amount of a penalty payable by the person under section 421JC or 421JD.
- (3) Notice of appeal must be given to HMRC no later than 30 days after the date on which the notice under section 421JE(2) is given to the person.
- (4) On an appeal under subsection (1) which is notified to the tribunal, the tribunal may affirm or cancel the decision.
- (5) On an appeal under subsection (2) which is notified to the tribunal, the tribunal may—

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- (a) affirm the amount of the penalty decided, or
 - (b) substitute another amount for that amount.
- (6) Subject to this section and section 421JE, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this section as they have effect in relation to an appeal against an assessment to income tax or, if the person is a company within the charge to corporation tax, corporation tax.”
- 229 In section 421K (reportable events) in subsection (1) for “section 421J (duty to provide information)” substitute “ sections 421J and 421JA (duties to provide information and annual returns) ”.
- 230 In section 421L (responsible persons) in subsection (1) for “section 421J (duty to provide information)” substitute “ sections 421J and 421JA (duties to provide information and annual returns) ”.

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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):

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)