



Finance Act 2016

2016 CHAPTER 24

PART 6

APPRENTICESHIP LEVY

Anti-avoidance

103 Anti-avoidance

- (1) For the purposes of this section “avoidance arrangements” are arrangements the main purpose, or one of the main purposes, of which is to secure that a person—
 - (a) benefits, or further benefits, from an entitlement to a levy allowance for a tax year, or
 - (b) otherwise obtains an advantage in relation to apprenticeship levy.
- (2) Subsection (3) applies where, in consequence of avoidance arrangements within subsection (1)(a) or (b), a person incurs a liability to pay secondary Class 1 contributions in a particular tax year (as opposed to another tax year).
- (3) If the person would (apart from this subsection) obtain an advantage in relation to apprenticeship levy as a result of incurring the liability at the time mentioned in subsection (2), section 100 has effect as if the liability had been incurred when it would have been incurred but for the avoidance arrangements.
- (4) Subsection (6) applies where (apart from this section) a person (“P”)—
 - (a) would be in a position to use or make greater use of a levy allowance for a tax year, in consequence of avoidance arrangements within subsection (1)(a), or
 - (b) would otherwise obtain an advantage in relation to apprenticeship levy in consequence of avoidance arrangements within subsection (1)(a).
- (5) But subsection (6) only applies so far as the advantage in relation to apprenticeship levy cannot be counteracted under subsection (3).
- (6) P is not entitled to a levy allowance for the tax year.

***Changes to legislation:** Finance Act 2016, Cross Heading: Anti-avoidance is up to date with all changes known to be in force on or before 26 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (7) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (8) In this section a reference to “an advantage in relation to apprenticeship levy” includes a reference to—
 - (a) repayment or increased repayment of apprenticeship levy,
 - (b) avoidance or reduction of a charge, or an assessment, to the levy,
 - (c) avoidance of a possible assessment to the levy,
 - (d) deferral of a payment of, or advancement of a repayment of, the levy, and
 - (e) avoidance of an obligation to account for the levy.
- (9) Sections 101 and 102 are to be ignored for the purpose of determining under subsection (4) what the position would be apart from this section.
- (10) In subsection (2) the reference to “a particular tax year” is to be read as including a reference to the period of 12 months beginning with 6 April 2016.

104 Application of other regimes to apprenticeship levy

- (1) In section 318(1) of FA 2004 (disclosure of tax avoidance schemes: interpretation), in the definition of “tax”, after paragraph (d) insert—
 - “(da) apprenticeship levy,”.
- (2) In section 206(3) of FA 2013 (taxes to which the general anti-abuse rule applies), after paragraph (da) insert—
 - “(db) apprenticeship levy,”.
- (3) Part 4 of FA 2014 (follower notices and accelerated payments) is amended in accordance with subsections (4) and (5).
- (4) In section 200 (meaning of “relevant tax”), after paragraph (c) insert—
 - “(ca) apprenticeship levy,”.
- (5) In section 203 (meaning of “tax appeal”), after paragraph (e) insert—
 - “(ea) an appeal under section 114 of FA 2016 (apprenticeship levy: appeal against an assessment),”.
- (6) Part 5 of FA 2014 (promoters of tax avoidance schemes) is amended in accordance with subsections (7) and (8).
- (7) In section 253(6) (duty to notify the Commissioners: meaning of “tax return”), after paragraph (d) insert—
 - “(da) a return under regulations made under section 105 of FA 2016 (apprenticeship levy),”.
- (8) In section 283(1) (interpretation), in the definition of “tax”, after paragraph (d) insert—
 - “(da) apprenticeship levy,”.

Changes to legislation:

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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. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)