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SCHEDULES

SCHEDULE 11

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES: LOANS ETC OUTSTANDING ON 5 APRIL 2019

PART 3

EXCLUSIONS

Transactions under employee benefit packages

- 29 (1) Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person (“P”) if—
- (a) P is treated as taking a relevant step by that paragraph by reason of the payment of a sum of money by way of a loan,
 - (b) the step is not taken under a pension scheme,
 - (c) the loan was made for the sole purpose of a transaction of P's with A and which P entered into in the ordinary course of P's business,
 - (d) at the time the loan was made (the “relevant time”)—
 - (i) a substantial proportion of P's business involved making similar loans to members of the public,
 - (ii) the transaction with A was part of a package of benefits which was available to a substantial proportion of B's employees, and
 - (iii) sub-paragraph (3) does not apply,
 - (e) the terms on which similar transactions were offered by P under the package of benefits mentioned in paragraph (d)(ii) were generous enough to enable substantially all of the employees of B to whom the package was available at or around the relevant time to take advantage of what was offered (if they wanted to),
 - (f) the terms on which P entered into the transaction with A were substantially the same as the terms on which at or around the relevant time P normally entered 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 was available at the relevant time did not have a material interest (as defined in section 68 of ITEPA 2003) 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 sub-paragraph (1)(d)(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

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- (b) “members of the public” means members of the public at large with whom P deals at arm’s length.
- (3) This sub-paragraph applies if any feature of the package of benefits mentioned in sub-paragraph (1)(d)(ii) had or would have been likely to have had the effect that, of the employees of B to whom the package was available, it is employees within sub-paragraph (4) on whom benefits under the package will be wholly or mainly conferred.
- (4) The employees within this sub-paragraph are—
- (a) directors,
 - (b) senior employees,
 - (c) employees who at the relevant time received, or as a result of the package of benefits would have been likely to have received, the higher or highest levels of remuneration, and
 - (d) if, at the relevant time, B was a company and was a member of a group of companies, any employees not within paragraph (b) or (c) who—
 - (i) were senior employees in the group, or
 - (ii) received, or as a result of the package of benefits would have been likely to have received, the higher or highest levels of remuneration in the group.
- (5) For the purposes of sub-paragraph (1)(d) and (e) a transaction is “similar” if it is of the same or a similar type to the transaction which P has or had with A.
- (6) In this paragraph references to A include references to any person linked with A.
- (7) In this paragraph “pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(1) of that Act).
- 30 In section 554G of ITEPA 2003 (exclusions: transactions under employee benefit packages), at the end insert—
- “(8) See paragraph 29 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions for transactions under employee benefit packages in a case in which the relevant step is within paragraph 1 of that Schedule.”

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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. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)