

SCHEDULES

SCHEDULE 1

WORKERS’ SERVICES PROVIDED THROUGH INTERMEDIARIES

PART 1

AMENDMENTS TO CHAPTER 8 OF PART 2 OF ITEPA 2003

- 1 Chapter 8 of Part 2 of ITEPA 2003 (application of provisions to workers under arrangements made by intermediaries) is amended as follows.
- 2 For the heading of the Chapter substitute “Workers’ services provided through intermediaries to small clients”.
- 3 (1) Section 48 (scope of Chapter) is amended as follows.
 - (2) In subsection (1) for the words from “, but” to the end substitute “in a case where the services are provided to a person who is not a public authority and who either—
 - (a) qualifies as small for a tax year, or
 - (b) does not have a UK connection for a tax year.”
 - (3) After subsection (3) insert—
 - “(4) For provisions determining when a person qualifies as small for a tax year, see sections 60A to 60G.
 - (5) For provision determining when a person has a UK connection for a tax year, see section 60L.”
- 4 (1) Section 50 (worker treated as receiving earnings from employment) is amended as follows.
 - (2) In subsection (1) before paragraph (a) insert—

“(za) the client qualifies as small or does not have a UK connection,”.
 - (3) After subsection (4) insert—
 - “(5) The condition in paragraph (za) of subsection (1) is to be ignored if—
 - (a) the client concerned is an individual, and
 - (b) the services concerned are performed otherwise than for the purposes of the client’s business.
 - (6) For the purposes of paragraph (za) of subsection (1) the client is to be treated as not qualifying as small for the tax year concerned if the client is treated as medium or large for that tax year by reason of section 61TA(3)(a).”
- 5 After section 60 insert—

Status: This is the original version (as it was originally enacted).

“When a person qualifies as small for a tax year

60A When a company qualifies as small for a tax year

- (1) For the purposes of this Chapter, a company qualifies as small for a tax year if one of the following conditions is met (but this is subject to section 60C).
- (2) The first condition is that the company’s first financial year is not relevant to the tax year.
- (3) The second condition is that the small companies regime applies to the company for its last financial year that is relevant to the tax year.
- (4) For the purposes of this section, a financial year of a company is “relevant to” a tax year if the period for filing the company’s accounts and reports for the financial year ends before the beginning of the tax year.
- (5) Expressions used in this section and in the Companies Act 2006 have the same meaning in this section as in that Act.

60B When a company qualifies as small for a tax year: joint ventures

- (1) This section applies when determining for the purposes of section 60A(3) whether the small companies regime applies to a company for a financial year in a case where—
 - (a) at the end of the financial year the company is jointly controlled by two or more other persons, and
 - (b) one or more of those other persons are undertakings (“the joint venturer undertakings”).
- (2) If the company is a parent company, the joint venturer undertakings are to be treated as members of the group headed by the company.
- (3) If the company is not a parent company, the company and the joint venturer undertakings are to be treated as constituting a group of which the company is the parent company.
- (4) In this section the expression “jointly controlled” is to be read in accordance with those provisions of international accounting standards which relate to joint ventures.
- (5) Expressions used in this section and in the Companies Act 2006 have the same meaning in this section as in that Act.

60C When a company qualifies as small for a tax year: subsidiaries

- (1) A company does not qualify as small for a tax year by reason of the condition in section 60A(3) being met if—
 - (a) the company is a member of a group at the end of its last financial year that is relevant to the tax year,
 - (b) the company is not the parent undertaking of that group at the end of that financial year, and

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- (c) the undertaking that is the parent undertaking of that group at that time does not qualify as small in relation to its last financial year that is relevant to the tax year.
- (2) Where the parent undertaking mentioned in subsection (1)(c) is not a company, sections 382 and 383 of the Companies Act 2006 have effect for determining whether the parent undertaking qualifies as small in relation to its last financial year that is relevant to the tax year as if references in those sections to a company and a parent company included references to an undertaking and a parent undertaking.
- (3) For the purposes of subsections (1)(c) and (2) a financial year of an undertaking that is not a company is “relevant to” a tax year if it ends at least 9 months before the beginning of the tax year.
- (4) For the purposes of this section, a financial year of a company is “relevant to” a tax year if the period for filing the company’s accounts and reports for the financial year ends before the beginning of the tax year.
- (5) Expressions used in this section and in the Companies Act 2006 have the same meaning in this section as in that Act.

60D When a relevant undertaking qualifies as small for a tax year

- (1) Sections 60A to 60C apply in relation to a relevant undertaking as they apply in relation to a company, subject to any necessary modifications.
- (2) In this section “relevant undertaking” means an undertaking in respect of which regulations have effect under—
 - (a) section 15(a) of the Limited Liability Partnerships Act 2000,
 - (b) section 1043 of the Companies Act 2006 (unregistered companies),
 - or
 - (c) section 1049 of the Companies Act 2006 (overseas companies).
- (3) Expressions used in this section and in the Companies Act 2006 have the same meaning in this section as in that Act.

60E When other undertakings qualify as small for a tax year

- (1) An undertaking that is not a company or a relevant undertaking qualifies as small for a tax year if one of the following conditions is met.
- (2) The first condition is that the undertaking’s first financial year is not relevant to the tax year.
- (3) The second condition is that the undertaking’s turnover for its last financial year that is relevant to the tax year is not more than the amount for the time being specified in the second column of item 1 of the Table in section 382(3) of the Companies Act 2006.
- (4) For the purposes of this section a financial year of an undertaking is “relevant to” a tax year if it ends at least 9 months before the beginning of the tax year.
- (5) In this section—

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“relevant undertaking” has the meaning given by section 60D, and

“turnover”, in relation to an undertaking, means the amounts derived from the provision of goods or services after the deduction of trade discounts, value added tax and any other taxes based on the amounts so derived.

- (6) Expressions used in this section and in the Companies Act 2006 have the same meaning in this section as in that Act.

60F When other persons qualify as small for a tax year

- (1) For the purposes of this Chapter, a person who is not a company, relevant undertaking or other undertaking qualifies as small for a tax year if the person’s turnover for the last calendar year before the tax year is not more than the amount for the time being specified in the second column of item 1 of the Table in section 382(3) of the Companies Act 2006.

- (2) In this section—

“company” and “undertaking” have the same meaning as in the Companies Act 2006,

“relevant undertaking” has the meaning given by section 60D, and

“turnover”, in relation to a person, means the amounts derived from the provision of goods or services after the deduction of trade discounts, value added tax and any other taxes based on the amounts so derived.

60G Sections 60A to 60F: connected persons

- (1) This section applies where—

- (a) it is necessary for the purposes of determining whether a person qualifies as small for a tax year (“the tax year concerned”) to first determine the person’s turnover for a financial year or calendar year (“the assessment year”), and
- (b) at the end of the assessment year the person is connected with one or more other persons (“the connected persons”).

- (2) For the purposes of determining whether the person qualifies as small for the tax year concerned the person’s turnover for the assessment year is to be taken to be the sum of—

- (a) the person’s turnover for the assessment year, and
- (b) the relevant turnover of each of the connected persons.

- (3) In subsection (2)(b) “the relevant turnover” of a connected person means—

- (a) in a case where the connected person is a company, relevant undertaking or other undertaking, its turnover for its last financial year that is relevant to the tax year concerned, and
- (b) in a case where the connected person is not a company, relevant undertaking or other undertaking, the turnover of the connected person for the last calendar year ending before the tax year concerned.

Status: This is the original version (as it was originally enacted).

- (4) For the purposes of subsection (3)(a)—
- (a) a financial year of a company or relevant undertaking is relevant to the tax year concerned if the period for filing accounts and reports for the financial year ends before the beginning of the tax year concerned, and
 - (b) a financial year of any other undertaking is relevant to the tax year concerned if it ends more than 9 months before the beginning of the tax year concerned.
- (5) In a case where—
- (a) the person mentioned in subsection (1)(a) is a company or relevant undertaking, and
 - (b) at the end of the assessment period the person is a member of a group,
- the person is to be treated for the purposes of this section as not being connected with any person that is a member of that group.
- (6) In this section—
- “turnover”, in relation to a person, means the amounts derived from the provision of goods or services after the deduction of trade discounts, value added tax and any other taxes based on the amounts so derived, and
 - “relevant undertaking” has the meaning given by section 60D.
- (7) For provision determining whether one person is connected with another, see section 718 (connected persons).
- (8) Expressions used in this section and in the Companies Act 2006 have the same meaning in this section as in that Act.

60H Duty on client to state whether it qualifies as small for a tax year

- (1) This section applies if, in the case of an engagement that meets conditions (a) to (b) in section 49(1), the client receives from the client's agent or the worker a request to state whether in the client's opinion the client qualifies as small for a tax year specified in the request.
- (2) The client must provide to the person who made the request a statement as to whether in the client's opinion the client qualifies as small for the tax year specified in the request.
- (3) If the client fails to provide the statement by the time mentioned in subsection (4) the duty to do so is enforceable by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (4) The time is whichever is the later of—
 - (a) the end of the period of 45 days beginning with the date the client receives the request, and
 - (b) the beginning of the period of 45 days ending with the start of the tax year specified in the request.

Status: This is the original version (as it was originally enacted).

- (5) In this section “the client’s agent” means a person with whom the client entered into a contract as part of the arrangements mentioned in paragraph (b) of section 49(1).

When a person has a UK connection

60I When a person has a UK connection for a tax year

- (1) For the purposes of this Chapter, a person has a UK connection for a tax year if (and only if) immediately before the beginning of that tax year the person—
- (a) is resident in the United Kingdom, or
 - (b) has a permanent establishment in the United Kingdom.
- (2) In this section “permanent establishment”—
- (a) in relation to a company, is to be read (by virtue of section 1007A of ITA 2007) in accordance with Chapter 2 of Part 24 of CTA 2010, and
 - (b) in relation to any other person, is to be read in accordance with that Chapter but as if references in that Chapter to a company were references to that person.

Interpretation”

- 6 In section 61(1) (interpretation), in the definition of company, before “means” insert “(except in sections 60A to 60G)”.