

SCHEDULES

SCHEDULE 1

WORKERS' SERVICES PROVIDED THROUGH INTERMEDIARIES

PART 2

AMENDMENTS TO CHAPTER 10 OF PART 2 OF ITEPA 2003

- 7 Chapter 10 of Part 2 of ITEPA 2003 (workers' services provided to public sector through intermediaries) is amended as follows.
- 8 For the heading of the Chapter substitute "Workers' services provided through intermediaries to public authorities or medium or large clients".
- 9 (1) Section 61K (scope of Chapter) is amended as follows.
- (2) In subsection (1) for the words "to a public authority through an intermediary" substitute "through an intermediary in a case where the services are provided to a person who—
- (a) is a public authority, or
 - (b) qualifies as medium or large and has a UK connection for a tax year".
- (3) After subsection (2) insert—
- “(3) For the purposes of this Chapter a person qualifies as medium or large for a tax year if the person does not qualify as small for the tax year for the purposes of Chapter 8 of this Part (see sections 60A to 60G).
- (4) Section 60I (when a person has a UK connection for a tax year) applies for the purposes of this Chapter.”
- 10 In section 61L (meaning of "public authority") in subsection (1)—
- (a) after paragraph (a) insert—
 - “(aa) a body specified in section 23(3) of the Freedom of Information Act 2000,”,
 - (b) omit the "or" at the end of paragraph (e), and
 - (c) after paragraph (f) insert “, or
 - (g) a company connected with any person mentioned in paragraphs (a) to (f).”
- 11 (1) Section 61M (engagements to which the Chapter applies) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (b),
 - (b) omit the "and" at the end of paragraph (c), and
 - (c) after paragraph (c) insert—
 - “(ca) the client—

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- (i) is a public authority, or
 - (ii) is a person who qualifies as medium or large and has a UK connection for one or more tax years during which the arrangements mentioned in paragraph (c) have effect, and”.
- (3) After subsection (1) insert—
- “(1A) But sections 61N to 61R do not apply if—
- (a) the client is an individual, and
 - (b) the services are provided otherwise than for the purposes of the client’s trade or business.”
- 12 (1) Section 61N (worker treated as receiving earnings from employment) is amended as follows.
- (2) In subsection (3)—
- (a) after “subsections (5) to (7)” insert “and (8A)”, and
 - (b) after “61T” insert “, 61TA”.
- (3) For subsection (5) substitute—
- “(5) Unless and until the client gives a status determination statement to the worker (see section 61NA), subsections (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the client; but this is subject to section 61V.
- (5A) Subsections (6) and (7) apply, subject to sections 61T, 61TA and 61V, if—
- (a) the client has given a status determination statement to the worker,
 - (b) the client is not the fee-payer, and
 - (c) the fee-payer is not a qualifying person.”
- (4) In subsection (8) (meaning of “qualifying person”) before paragraph (a) insert—
- “(za) has been given by the person immediately above them in the chain the status determination statement given by the client to the worker,”.
- (5) After subsection (8) insert—
- “(8A) If the client is not a public authority, a person is to be treated by subsection (3) as making a deemed direct payment to the worker only if the chain payment made by the person is made in a tax year for which the client qualifies as medium or large and has a UK connection.”
- 13 After section 61N insert—

“61NA Meaning of status determination statement

- (1) For the purposes of section 61N “status determination statement” means a statement by the client that—
- (a) states that the client has concluded that the condition in section 61M(1)(d) is met in the case of the engagement and explains the reasons for that conclusion, or

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- (b) states (albeit incorrectly) that the client has concluded that the condition in section 61M(1)(d) is not met in the case of the engagement and explains the reasons for that conclusion.
 - (2) But a statement is not a status determination statement if the client fails to take reasonable care in coming to the conclusion mentioned in it.
 - (3) For further provisions concerning status determination statements, see section 61T (client-led status disagreement process) and section 61TA (duty for client to withdraw status determination statement if it ceases to be medium or large).”
- 14 In section 61O(1) (conditions where intermediary is a company) for paragraph (b) substitute—
- “(b) it is the case that—
 - (i) the worker has a material interest in the intermediary,
 - (ii) the worker has received a chain payment from the intermediary, or
 - (iii) the worker has rights which entitle, or which in any circumstances would entitle, the worker to receive a chain payment from the intermediary.”
- 15 In section 61R (application of Income Tax Acts in relation to deemed employment) omit subsection (7).
- 16 For section 61T substitute—

“61T Client-led status disagreement process

- (1) This section applies if, before the final chain payment is made in the case of an engagement to which this Chapter applies, the worker or the deemed employer makes representations to the client that the conclusion contained in a status determination statement is incorrect.
- (2) The client must either—
 - (a) give a statement to the worker or (as the case may be) the deemed employer that—
 - (i) states that the client has considered the representations and has decided that the conclusion contained in the status determination statement is correct, and
 - (ii) states the reasons for that decision, or
 - (b) give a new status determination statement to the worker and the deemed employer that—
 - (i) contains a different conclusion from the conclusion contained in the previous status determination statement,
 - (ii) states the date from which the client considers that the conclusion contained in the new status determination statement became correct, and
 - (iii) states that the previous status determination statement is withdrawn.
- (3) If the client fails to comply with the duty in subsection (2) before the end of the period of 45 days beginning with the date the client receives the representations, section 61N(3) and (4) has effect from the end of that period

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until the duty is complied with as if for any reference to the fee-payer there were substituted a reference to the client; but this is subject to section 61V.

(4) A new status determination statement given to the deemed employer under subsection (2)(b) is to be treated for the purposes of section 61N(8)(za) as having been given to the deemed employer by the person immediately above the deemed employer in the chain.

(5) In this section—

“the deemed employer” means the person who, assuming one of conditions A to C in section 61N were met, would be treated as making a deemed direct payment to the worker under section 61N(3) on the making of a chain payment;

“status determination statement” has the meaning given by section 61NA.

61TA Duty for client to withdraw status determination statement if it ceases to be medium or large

(1) This section applies if in the case of an engagement to which this Chapter applies—

- (a) the client is not a public authority,
- (b) the client gives a status determination statement to the worker, the client’s agent or both, and
- (c) the client does not (but for this section) qualify as medium or large for a tax year beginning after the status determination statement is given.

(2) Before the beginning of the tax year the client must give a statement to the relevant person, or (as the case may be) to both of the relevant persons, stating—

- (a) that the client does not qualify as medium or large for the tax year, and
- (b) that the status determination statement is withdrawn with effect from the beginning of the tax year.

(3) If the client fails to comply with that duty the following rules apply in relation to the engagement for the tax year—

- (a) the client is to be treated as medium or large for the tax year, and
- (b) section 61N(3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the client.

(4) For the purposes of subsection (2)—

- (a) the worker is a relevant person if the status determination statement was given to the worker, and
- (b) the deemed employer is a relevant person if the status determination statement was given to the client’s agent.

(5) In this section—

“client’s agent” means a person with whom the client entered into a contract as part of the arrangements mentioned in section 61M(1)(c);

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“the deemed employer” means the person who, assuming one of conditions A to C in section 61N were met, would be treated as making a deemed direct payment to the worker under section 61N(3) on the making of a chain payment;

“status determination statement” has the meaning given by section 61NA.”

- 17 (1) Section 61W (prevention of double charge to tax and allowance of certain deductions) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b) for “a public authority” substitute “another person (“the client”)”, and
 - (b) in paragraph (d) for “that public authority” substitute “the client”.
- (3) In subsection (2)(b) for “public authority” substitute “client”.