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## SCHEDULES

### SCHEDULE 1

#### WORKERS' SERVICES PROVIDED THROUGH INTERMEDIARIES

#### PART 3

##### CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS

- 18 In section 61D of ITEPA 2003 (managed service companies: worker treated as receiving earnings from employment) for subsection (4A) substitute—

“(4A) This section does not apply where the provision of the relevant services gives rise (directly or indirectly) to an engagement to which Chapter 10 applies and either—

- (a) the client for the purposes of section 61M(1) is a public authority, or
- (b) the client for the purposes of section 61M(1)—
  - (i) qualifies as medium or large for the tax year in which the payment or benefit mentioned in subsection (1)(b) is received, and
  - (ii) has a UK connection for the tax year in which the payment or benefit mentioned in subsection (1)(b) is received.

(4B) Sections 60I (when a person has a UK connection for a tax year), 61K(3) (when a person qualifies as medium or large for a tax year) and 61L (meaning of public authority) apply for the purposes of subsection (4A).

(4C) It does not matter for the purposes of subsection (4A) whether the client for the purposes of this Chapter is also “the client” for the purposes of section 61M(1).”

- 19 After section 688A of ITEPA 2003 insert—

##### **“688AA Workers' services provided through intermediaries: recovery of PAYE**

- (1) PAYE Regulations may make provision for, or in connection with, the recovery of a deemed employer PAYE debt from a relevant person.
- (2) “A deemed employer PAYE debt” means an amount—
  - (a) that a person (“the deemed employer”) is liable to pay under PAYE regulations in consequence of being treated under section 61N(3) as having made a deemed direct payment to a worker, and
  - (b) that an officer of Revenue and Customs considers there is no realistic prospect of recovering from the deemed employer within a reasonable period.

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- (3) “Relevant person”, in relation to a deemed employer PAYE debt, means a person who is not the deemed employer and who—
- (a) is the highest person in the chain identified under section 61N(1) in determining that the deemed employer is to be treated as having made the deemed direct payment, or
  - (b) is the second highest person in that chain and is a qualifying person (within the meaning given by section 61N(8)) at the time the deemed employer is treated as having made that deemed direct payment.”
- 20 In section 60 of FA 2004 (construction industry scheme: meaning of contract payments) after subsection (3) insert—
- “(3A) This exception applies in so far as—
- (a) the payment can reasonably be taken to be for the services of an individual, and
  - (b) the provision of those services gives rise to an engagement to which Chapter 10 of Part 2 of ITEPA 2003 applies (workers' services provided through intermediaries to public authorities or medium or large clients).
- (3B) But the exception in subsection (3A) does not apply if, in the case of the engagement mentioned in paragraph (b) of that subsection, the client for the purposes of section 61M(1) of ITEPA 2003—
- (a) is not a public authority, and
  - (b) either—
    - (i) does not qualify as medium or large for the tax year in which the payment concerned is made, or
    - (ii) does not have a UK connection for the tax year in which the payment concerned is made.
- (3C) Sections 60I (when a person has a UK connection for a tax year), 61K(3) (when a person qualifies as medium or large for a tax year) and 61L (meaning of public authority) of ITEPA 2003 apply for the purposes of subsection (3B).”
- 21 For the italic heading before section 141A of CTA 2009 substitute “ Worker's services provided through intermediary to public authority or medium or large client ”.
- 22 In the heading of section 141A of CTA 2009 for “public sector” substitute “ public authority or medium or large client ”.
- 23 (1) Part 13 of CTA 2009 (additional relief for expenditure on research and development) is amended as follows.
- (2) In section 1129 (qualifying expenditure on externally provided workers: connected persons) after subsection (4) insert—
- “(4A) In subsection (2) the reference to the staff provision payment is to that payment before any deduction is made from the payment under—
- (a) section 61S of ITEPA 2003,
  - (b) regulation 19 of the Social Security Contributions (Intermediaries) Regulations 2000, or

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- (c) regulation 19 of the Social Security Contributions (Intermediaries) (Northern Ireland) Regulations 2000.”
- (3) In section 1131 (qualifying expenditure on externally provided workers: other cases) after subsection (2) insert—
  - “(3) In subsection (2) the reference to the staff provision payment is to that payment before any deduction is made from the payment under—
    - (a) section 61S of ITEPA 2003,
    - (b) regulation 19 of the Social Security Contributions (Intermediaries) Regulations 2000, or
    - (c) regulation 19 of the Social Security Contributions (Intermediaries) (Northern Ireland) Regulations 2000.”
- (4) After section 1131 insert—

**“1131A Sections 1129 and 1131: secondary Class 1 NICS paid by company**

- (1) This section applies if—
  - (a) a company makes a staff provision payment,
  - (b) the company is treated as making a payment of deemed direct earnings the amount of which is calculated by reference to the amount of the staff provision payment, and
  - (c) the company pays a secondary Class 1 national insurance contribution in respect of the payment of deemed direct earnings.
- (2) In determining the company's qualifying expenditure on externally provided workers in accordance with section 1129(2) or section 1131(2) the amount of the staff payment provision is to be treated as increased by the amount of the contribution.
- (3) In determining the company's qualifying expenditure on externally provided workers in accordance with section 1129(2) the aggregate of the relevant expenditure of each staff controller is to be treated as increased by the amount of the contribution.
- (4) But subsection (2) does not apply to the extent that the expenditure incurred by the company in paying the contribution is met directly or indirectly by a staff controller.
- (5) “A payment of deemed direct earning” means a payment the company is treated as making by reason of regulation 14 of the Social Security Contributions (Intermediaries) Regulations 2000 or regulation 14 of the Social Security Contributions (Intermediaries) (Northern Ireland) Regulations 2000.”

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