



# Finance Act 2020

## 2020 CHAPTER 14

### PART 1

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Loan charge*

#### **16 Election for loan charge to be split over three tax years**

- (1) Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) is amended as follows.
- (2) In paragraph 1 (person to be treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 by reason of making loan or quasi-loan)—
  - (a) after sub-paragraph (6) insert—

“(6A) Sub-paragraph (4) is subject to paragraph 1A(5).”, and
  - (b) in sub-paragraph (7)—
    - (i) in the words before paragraph (a) after “paragraph” insert “ and paragraph 1A ”, and
    - (ii) in paragraph (a) for “the following provisions of this Schedule” substitute “ paragraphs 3 to 18 ”.
- (3) After paragraph 1 insert—

- “1A
- (1) This paragraph applies where—
    - (a) a person (“P”) is treated as taking a relevant step within paragraph 1 (“the initial step”) by reason of making a loan or quasi-loan, and
    - (b) an election has been made by A for the purposes of this paragraph.
  - (2) P is treated as taking two further relevant steps for the purposes of Part 7A of ITEPA 2003.

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- (3) P is treated as taking one of the further steps on the first anniversary of the date on which P is treated as taking the initial step.
  - (4) P is treated as taking one of the further steps on the second anniversary of the date on which P is treated as taking the initial step.
  - (5) For the purposes of section 554Z3(1) of ITEPA 2003 (value of relevant step), the initial step and each of the further steps is to be treated as involving a sum of money equal to one third of the amount of the loan or quasi-loan that is outstanding at the time P is treated as taking the initial step.
  - (6) References in this Schedule and in Part 7A of ITEPA 2003 to a relevant step within paragraph 1A of this Schedule are to be read as references to a relevant step which a person is treated by this paragraph as taking.
  - (7) An election for the purposes of this paragraph—
    - (a) may be made at any time before 1 October 2020, and
    - (b) may be made at a later time if an officer of Revenue and Customs allows it.
  - (8) But a person who is under a duty imposed by paragraph 35C of this Schedule or paragraph 22 of Schedule 12 may not make an election for the purposes of this paragraph until that duty has been complied with.
  - (9) An election for the purposes of this paragraph may not be revoked.
  - (10) A person who has made an election for the purposes of paragraph 1(3A) of Schedule 12 is to be treated as having made an election for the purposes of this paragraph.
  - (11) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that sub-paragraph (7)(a) applies to a specified class of persons as if the reference to 1 October 2020 were to such later date as is specified.
  - (12) In sub-paragraph (11) “specified” means specified in the regulations.”
- (4) Schedule 12 to F(No.2)A 2017 (trading income provided through third parties: loans etc outstanding on 5 April 2019) is amended as follows.
- (5) In paragraph 1 (application of sections 23A to 23H of ITTOIA 2005 in relation to certain loans and quasi-loans)—
- (a) in sub-paragraph (1) for the words from “as a” to the end substitute “ for the purposes of sections 23A to 23H of ITTOIA 2005 as a relevant benefit that arises immediately before the end of 5 April 2019. ”,
  - (b) in sub-paragraph (3)—
    - (i) in the words before paragraph (a), after “applies” insert “ and T has not made an election for the purposes of sub-paragraph (3A) ”,
    - (ii) in paragraph (a) for the words from “immediately” to the end substitute “ at the time the relevant benefit is treated as arising, and ”, and
    - (iii) for paragraphs (b) and (c) substitute—
      - “(b) where T ceases to carry on the relevant trade before the tax year in which the relevant benefit is treated

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as arising, as if section 23E(1)(b) were omitted and as if section 23E(1) provided that the relevant benefit amount is treated for income tax purposes as a post-cessation receipt of the trade received in that tax year.”, and

(c) after sub-paragraph (3) insert—

“(3A) Where section 23E of ITTOIA 2005 applies in relation to a relevant benefit which is a loan or quasi-loan in relation to which sub-paragraph (2) applies and T has made an election for the purposes of this sub-paragraph, section 23E has effect—

- (a) as if the “relevant benefit amount” were one third of the amount of the loan or quasi-loan that is outstanding at the time the relevant benefit is treated as arising,
- (b) as if section 23E(1)(a) specified the tax year in which the relevant benefit is treated as arising and each of the two subsequent tax years, and
- (c) where T ceases to carry on the relevant trade before any tax year so specified in section 23E(1)(a), as if section 23E(1)(b) were omitted and as if section 23E(1) provided that the relevant benefit amount is to be treated for income tax purposes as a post-cessation receipt of the trade received in that tax year.

(3B) An election for the purposes of sub-paragraph (3A)—

- (a) may be made at any time before 1 October 2020, and
- (b) may be made at a later time if an officer of Revenue and Customs allows it.

(3C) But a person who is under a duty imposed by paragraph 22 of this Schedule or paragraph 35C of Schedule 11 may not make an election for the purposes of sub-paragraph (3A) until that duty has been complied with.

(3D) An election for the purposes of sub-paragraph (3A) may not be revoked.

(3E) A person who has made an election for the purposes of paragraph 1A of Schedule 11 is to be treated as having made an election for the purposes of sub-paragraph (3A) of this paragraph.

(3F) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that sub-paragraph (3B)(a) applies to a specified class of persons as if the reference to 1 October 2020 were to such later date as is specified.

(3G) In sub-paragraph (3F) “specified” means specified in the regulations.”

(6) Part 2 of Schedule 2 makes amendments in consequence of this section.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2020, Section 16.