
1 Workers' services provided through intermediaries

The Schedule makes provision about workers' services provided through intermediaries.

SCHEDULE

Section 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 –
 - (a) is not a public authority, and
 - (b) qualifies as small 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."
- 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,".
 - (3) After subsection (4) insert –
 - "(5) The condition in paragraph (za) of subsection (1) is to be treated as not being met if the rule in paragraph (a) of section 61TA(3) applies in relation to the engagement for the tax year concerned.
 - (6) 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."
- 5 After section 60 insert –

"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).

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- (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
 - (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.

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

Interpretation”

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

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 intermediary to public authority or medium or large client”.
- 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 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).”
- 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),

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- (b) omit the “and” at the end of paragraph (c), and
- (c) after paragraph (c) insert –
- “(ca) the client –
 - (i) is a public authority, or
 - (ii) qualifies as medium or large 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 mentioned in subsection (5A)(a),”.
- (5) After subsection (8) insert –
- “(8A) If the client is not a public authority, a person is to be treated by section 61N(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.”
- (6) 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 –

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- (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
 - (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).”

13 For section 61T substitute –

“61T Client-led status disagreement process

- (1) This section applies if 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 mentioned in a status determination statement is incorrect.
- (2) Before the end of the period of 45 days beginning with the day the representations are received the client must either –
 - (a) inform the worker or (as the case may be) the deemed employer that it has considered the representations and has decided that the conclusion is correct, or
 - (b) give to the worker and the deemed employer a new status determination statement which contains a different conclusion and states that the previous status determination statement is withdrawn.
- (3) If the client acts under paragraph (a) of subsection (2) the client must at the same time give the client’s reasons for deciding that the conclusion is correct.
- (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) If the client fails to comply with the duty in subsection (2) or (3) then, from the end of the period of 45 days mentioned in subsection (2), section 61N(3) and (4) has effect in relation to the engagement as if for any reference to the fee-payer there were substituted a reference to the client; but this is subject to section 61V.
- (6) 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 SDS 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);”
 - “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.”

PART 3

CONSEQUENTIAL AND MISCELLANEOUS AMENDMENTS

- 14 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 (within the meaning of Chapter 10), or

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- (b) the client for the purposes of section 61M(1) qualifies as medium or large for the tax year in which the payment or benefit mentioned in subsection (1)(b) is received.
- (4B) For the purposes of subsection (4A)(b) the client for the purposes of section 61M(1) qualifies as medium or large for a tax year if it does not qualify as small for the tax year for the purposes of Chapter 8 (see sections 60A to 60G).
- (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).”
- 15 After section 688A of ITEPA 2003 insert –

“688AA Workers’ services provided through intermediaries: recovery of PAYE

- (1) PAYE Regulations may make provision authorising the recovery from a relevant person of any amount that an officer of Revenue and Customs considers another person should have paid under PAYE Regulations in respect of a deemed direct payment.
- (2) In this section –
- “deemed direct payment” means a payment that a person is treated as making by reason of section 61N(3);
 - “relevant person”, in relation to a deemed direct payment, means a person who is a party to the arrangements mentioned in section 61M(1)(c) in connection with which the deemed direct payment was treated as made.”
- 16 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 intermediary to public authority or medium or large client).
- (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 (within the meaning of Chapter 10 of Part 2 of ITEPA 2003), and
 - (b) does not qualify as medium or large in the tax year in which the payment concerned is made.”

PART 4

COMMENCEMENT

- 17 The amendments made by Part 1 of this Schedule have effect for the tax year 2020-21 and subsequent tax years.

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- 18 The amendments made by Part 2 of this Schedule have effect in relation to deemed direct payments treated as made on or after 6 April 2020, and does so even if relating to services provided before that date.
 - 19 The amendment made by paragraph 14 of this Schedule has effect for the purposes of determining whether section 61D of ITEPA 2003 applies in a case where the payment or benefit mentioned in subsection (1)(b) of that section is received on or after 6 April 2020.
 - 20 The amendment made by paragraph 16 of this Schedule has effect in relation to payments made under a construction contract on or after 6 April 2020.