
1 Loan charge not to apply to loans or quasi-loans made before 9 December 2010

- (1) In Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) 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 a loan or quasi-loan) in sub-paragraph (1)(b) for “6 April 1999” substitute “9 December 2010”.
- (2) In Schedule 12 to F(No.2)A 2017 (trading income provided through third parties: loans etc outstanding on 5 April 2019) in paragraph 1 (application of sections 23A to 23H of ITTOIA 2005 in relation to certain loans and quasi-loans) in sub-paragraph (2)(a)(i) for “6 April 1999” substitute “9 December 2010”.
- (3) Part 1 of the Schedule makes further amendments to F(No.2)A 2017 in consequence of this section.

2 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.

(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.

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- (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.”
- (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 word 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 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.”

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

3 Loan charge reduced where underlying liability disclosed but unenforceable

(1) In Schedule 11 to F(No.2)A 2017 (employment income provided through third parties: loans etc outstanding on 5 April 2019) after paragraph 1A (as inserted by section 2) insert –

“1B (1) This paragraph applies where –

- (a) a person is treated as taking a relevant step within paragraph 1 by reason of making a loan or quasi-loan,
- (b) a tax return made by A for a qualifying tax year contained a reasonable disclosure of the loan or quasi-loan,
- (c) a reasonable case could have been made that for a qualifying tax year (“the relevant year”) A was chargeable to income tax on an amount that was referable to the loan or quasi-loan, and
- (d) as at 6 April 2019 an officer of Revenue and Customs has not taken steps to recover from A or any other person income tax for the relevant year in respect of that amount.

(2) But this paragraph does not apply if –

-
- (a) a reasonable case may be made that for a tax year other than the relevant year (“the alternative year”) A is chargeable to income tax on an amount within sub-paragraph (3), and
- (b) it is the case that –
- (i) on or before 5 April 2019 an officer of Revenue and Customs has taken steps to recover from A or any other person income tax for the alternative year in respect of that amount, or
 - (ii) the alternative year is not a qualifying tax year.
- (3) An amount is within this sub-paragraph if it is –
- (a) the same amount as is mentioned in sub-paragraph (1),
 - (b) part of the amount mentioned in sub-paragraph (1), or
 - (c) derived from or represents the whole or part of the amount mentioned in sub-paragraph (1).
- (4) Where this paragraph applies, then for the purposes of paragraph 1(4) and 1A(5) the amount of the loan or quasi-loan that is outstanding is to be taken to be reduced (but not below nil) by the amount mentioned in sub-paragraph (1).
- (5) For the purposes of sub-paragraph (1)(b) a tax return contains a reasonable disclosure of the loan or quasi-loan if –
- (a) it identifies the loan or quasi-loan,
 - (b) it identifies the person to whom the loan or quasi-loan was made in a case where the loan or quasi-loan was made to a person other than A,
 - (c) it identifies the relevant arrangements in pursuance of which or in connection with which the loan or quasi-loan was made, and
 - (d) it contains such other information as is sufficient for it to be apparent that a reasonable case could be made that for the relevant year A is chargeable to income tax on an amount that was referable to the loan or quasi-loan.
- (6) The condition in sub-paragraph (1)(b) is to be taken to be met if a single tax return made by A for a qualifying tax year does not meet the requirements sub-paragraph (5) but two or more tax returns made by A for qualifying tax years, when taken together, do meet those requirements.
- (7) In this paragraph –
- “qualifying tax year” means the tax year 2015-16 and any earlier tax year, and
 - “tax return” means a return under section 8 of TMA 1970 and any accompanying accounts, statements or documents.”
- (2) In Schedule 12 to F(No.2)A 2017 (trading income provided through third parties: loans etc outstanding on 5 April 2019) after paragraph 1 insert –
- “1A (1) This paragraph applies where –
- (a) a loan or quasi-loan is to be treated for the purposes of sections 23A to 23H of ITTOIA 2005 as a relevant benefit by reason of paragraph 1,

-
- (b) a tax return made by T for a qualifying tax year contained a reasonable disclosure of the loan or quasi-loan,
 - (c) a reasonable case could have been made that for a qualifying tax year (“the relevant year”) T was chargeable to income tax on an amount that was referable to the loan or quasi-loan, and
 - (d) as at 6 April 2019 an officer of Revenue and Customs has not taken steps to recover from T or any other person income tax for the relevant year in respect of that amount.
- (2) But this paragraph does not apply if –
- (a) a reasonable case may be made that for a tax year other than the relevant year (“the alternative year”) T is chargeable to income tax on an amount within sub-paragraph (3), and
 - (b) it is the case that –
 - (i) on or before 5 April 2019 an officer of Revenue and Customs has taken steps to recover from T or any other person income tax for the alternative year in respect of that amount, or
 - (ii) the alternative year is not a qualifying tax year.
- (3) An amount is within this sub-paragraph if it is –
- (a) the same amount as is mentioned in sub-paragraph (1),
 - (b) part of the amount mentioned in sub-paragraph (1), or
 - (c) derived from or represents the whole or part of the amount mentioned in sub-paragraph (1).
- (4) Where this paragraph applies, then for the purposes of paragraph 1(3)(a) and (3A)(a) the amount of the loan or quasi-loan that is outstanding is to be taken to be reduced (but not below nil) by the amount mentioned in sub-paragraph (1).
- (5) For the purposes of sub-paragraph (1)(b) a tax return contains a reasonable disclosure of the loan or quasi-loan if –
- (a) it identifies the loan or quasi-loan,
 - (b) it identifies the person to whom the loan or quasi-loan was made in a case where the loan or quasi-loan was made to a person other than T,
 - (c) it identifies the relevant arrangements in pursuance of which or in connection with which the loan or quasi-loan was made, and
 - (d) it contains such other information as is sufficient for it to be apparent that a reasonable case could be made that for the relevant year T is chargeable to income tax on an amount that was referable to the loan or quasi-loan.
- (6) The condition in sub-paragraph (1)(b) is to be taken to be met if a single tax return made by T for a qualifying tax year does not meet the requirements of sub-paragraph (5) but two or more tax returns made by T for qualifying tax years, when taken together, do meet those requirements.
- (7) In this paragraph –
- “qualifying tax year” means the tax year 2015-16 and any earlier tax year, and

“tax return” means a return under section 8 of TMA 1970 and any accompanying accounts, statements or documents.”

4 Relief from interest on tax payable by a person subject to the loan charge

- (1) This section applies where –
 - (a) a person is chargeable to income tax on any amount by reason of Schedule 11 or 12 to F(No.2)A 2017 or would be so chargeable but for section 1 or 3 of this Act,
 - (b) before the end of September 2020 the person delivers a return under section 8 of TMA 1970 for the tax year 2018-19, and
 - (c) at the end of September 2020 the person’s self-assessment included in that return is complete and accurate.
- (2) If before the end of September 2020 the person discharges their liability to income tax and capital gains tax for the tax year 2018-19 –
 - (a) any amount paid in discharging that liability (other than a payment made on account of income tax for that tax year) is to be taken to not carry interest, and
 - (b) any amount paid by the person on account of their liability to income tax for the tax year 2019-20 is to be taken to not carry interest.
- (3) If before the end of September 2020 the person enters into an agreement with the Commissioners for Her Majesty’s Revenue and Customs as to the discharge of their liability to income tax and capital gain tax for the tax year 2018-19 –
 - (a) any amount paid before the end of September 2020 in discharging that liability (other than a payment made on account of income tax for that tax year) is to be taken to not carry interest,
 - (b) for the purposes of section 101 of FA 2009 the late payment interest start date in respect of any amount paid in accordance with the agreement after the end of September 2020 is 1 October 2020, and
 - (c) any amount paid by the person on account of their liability to income tax for the tax year 2019-20 is to be taken to not carry interest.
- (4) Paragraph (b) of subsection (2) and paragraph (c) of subsection (3) do not apply if at the end of January 2021 the person has neither discharged their liability to income tax and capital gains tax for the tax year 2019-20 nor entered into an agreement with the Commissioners for Her Majesty’s Revenue and Customs as to the discharge of that liability.

5 Minor amendments relating to the loan charge

- (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 35C(2)(b) (date by which loan charge information must be provided) for “1 October 2019” substitute “1 October 2020”.
- (3) In paragraph 45 (meaning of “A” and “B”) after “section 554A(1)(a)” insert “and 554AA(1)(a)”.
- (4) In Schedule 12 to F(No.2)A 2017 (trading income provided through third parties: loans etc outstanding on 5 April 2019) in paragraph 22(2)(b) (date by

which loan charge information must be provided) for “1 October 2019” substitute “1 October 2020”.

SCHEDULE

Sections 1 and 2

THE LOAN CHARGE: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO F(No.2)A 2017 IN CONSEQUENCE OF SECTION 1

- 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 (application of Part 7A of ITEPA 2003: relevant step) in sub-paragraph (2) for the words from “before” to the end substitute “before the end of 5 April 2019.”
- 3 For the italic heading before paragraph 2 substitute “Meaning of “loan” and “quasi loan””.
- 4 In paragraph 2 (meaning of “loan”, “quasi-loan” and “approved repayment date”) omit sub-paragraph (6).
- 5 (1) Paragraph 4 (when an amount of a loan is outstanding: certain repayments to be disregarded) is amended as follows.
 - (2) In sub-paragraph (1)(b)(ii) for “the relevant date” substitute “5 April 2019”.
 - (3) In sub-paragraph (2) for “the relevant date” substitute “5 April 2019”.
 - (4) Omit sub-paragraph (4).
- 6 In paragraph 5 (meaning of “outstanding”: loans where A or B acquires a right to payment of the loan) in sub-paragraph (1)(b) for “6 April 1999” substitute “9 December 2010”.
- 7 In paragraph 13 (meaning of “outstanding”: quasi-loans where A or B acquires a right to the payment or transfer of assets) in sub-paragraph (1)(b) for “6 April 1999” substitute “9 December 2010”.
- 8 Omit paragraph 19 (meaning of “approved fixed term loan”) and the italic heading before that paragraph.
- 9 For the heading of Part 2 substitute “Accelerated payments”.
- 10 Omit paragraphs 20 to 22 and the italic headings before each of those paragraphs.
- 11 Omit the italic heading before paragraph 23.
- 12 (1) Paragraph 23 (accelerated payments) is amended as follows.
 - (2) In sub-paragraph (1) –
 - (a) in paragraph (d) for “the relevant date” substitute “5 April 2019”, and
 - (b) in paragraph (e) for “the relevant date” substitute “5 April 2019”.
 - (3) Omit sub-paragraph (4).

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- 13 (1) Paragraph 35A (when the duty to provide loan charge information arises) is amended as follows.
- (2) Omit sub-paragraph (3).
- (3) In sub-paragraph (4) in the words before paragraph (a) for “third” substitute “second”.
- (4) In sub-paragraph (5) –
- (a) in the words before paragraph (a) for “fourth” substitute “third”,
- (b) in paragraph (a) for the words from the beginning to “conditions” substitute “neither the first nor the second condition”, and
- (c) in paragraph (b) –
- (i) for “and (2)(b)” substitute “and (2)”, and
- (ii) omit the words from “(and if paragraph” to “omitted)”.
- (5) In sub-paragraph (6) in the words before paragraph (a) for “fourth” substitute “third”.
- (6) In sub-paragraph (7) omit paragraph (b).
- 14 In paragraph 35B (duty of appropriate third party to provide information to A) in sub-paragraph (1) omit “Q”.
- 15 (1) Paragraph 35D (meaning of “loan charge information”) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) in paragraph (e) omit “, or the loan mentioned in paragraph 35A(3)(a),”,
- (b) in paragraph (j) omit “, Q”, and
- (c) in paragraph (k) omit “, or in a case within paragraph 35A(3)(a),”.
- (3) In sub-paragraph (2) omit paragraph (a).
- 16 (1) Paragraph 36 (duty to provide loan charge information to B) is amended as follows.
- (2) In sub-paragraph (1)(b) for “6 April 1999” substitute “9 December 2010”.
- (3) In sub-paragraph (2) for the words from “the period” to the end substitute “15 April 2019”.
- (4) Omit sub-paragraph (4).
- 17 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.
- 18 For the italic heading before paragraph 2 substitute “Meaning of “loan” and “quasi loan””.
- 19 In paragraph 2 (meaning of “loan”, “quasi-loan” and “approved repayment date”) omit sub-paragraph (6).
- 20 Omit paragraphs 15 to 18 and the italic heading before each of those paragraphs.
- 21 (1) Paragraph 19 (accelerated payments: application of paragraph 20) is amended as follows.

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- (2) In sub-paragraph (1) –
 (a) in paragraph (e) for “the relevant date” substitute “5 April 2019”, and
 (b) in paragraph (f) for “the relevant date” substitute “5 April 2019”.
- (3) Omit sub-paragraph (3).
- 22 In paragraph 23 (meaning of “loan charge information”) in sub-paragraph (2) omit paragraph (a).

PART 2

AMENDMENTS IN CONSEQUENCE OF SECTION 2

ITEPA 2003

- 23 ITEPA 2003 is amended as follows.
- 24 (1) Section 554A (application of Chapter 2 of Part 7A: the main case) is amended as follows.
- (2) In subsection (2) after “paragraph 1” insert “or 1A”.
- (3) For subsection (4) substitute –
- “(4) Chapter 2 does not apply by reason of –
 (a) a relevant step taken on or after A’s death if –
 (i) the relevant step is within section 554B, or
 (ii) the relevant step is within section 554C by virtue of subsection (1)(ab) of that section,
 (b) a relevant step within paragraph 1 of Schedule 11 to F(No.2)A 2017 which is treated as being taken on or after A’s death, or
 (c) a relevant step within paragraph 1A of Schedule 11 to F(No.2)A 2017 in a case where the initial step (within the meaning given by sub-paragraph (1)(a) of that paragraph) is treated as being taken on or after A’s death.”
- 25 In section 554Z (interpretation: general) in subsection (10)(d) after “paragraph 1” insert “or 1A”.

F(No.2)A 2017

- 26 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.
- 27 In paragraph 2 (meaning of “loan”, “quasi-loan” and “approved repayment date”) –
- (a) in sub-paragraph (2), in the words before paragraph (a), for “paragraph 1” substitute “paragraphs 1 and 1A”,
- (b) in sub-paragraph (4) for “paragraph 1” substitute “paragraphs 1 and 1A”, and
- (c) in sub-paragraph (5) for “paragraph 1” substitute “paragraphs 1 and 1A”.
- 28 In paragraph 3(1) (meaning of “outstanding”: loans) for “paragraph 1” substitute “paragraphs 1 and 1A”.

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- 29 In paragraph 4 (when an amount of a loan is outstanding: certain repayments to be disregarded) in sub-paragraph (6) for “the relevant step treated as taken by paragraph 1” substitute “a relevant step treated as taken by paragraph 1 or 1A”.
- 30 In paragraph 5 (meaning of “outstanding”: loans where A or B acquires a right to payment of the loan) in sub-paragraph (2)(b) for “paragraph 1(4)” substitute “paragraphs 1(4) and 1A(5)”.
- 31 In paragraph 7 (meaning of “outstanding”: loans in currencies other than sterling) in sub-paragraph (3) after “relevant step” insert “within paragraph 1”.
- 32 In paragraph 10 (meaning of “outstanding”: loans made in a depreciating currency) in sub-paragraph (1)(b) after “relevant step” insert “within paragraph 1”.
- 33 In paragraph 11(1) (meaning of “outstanding”: quasi-loans) for “paragraph 1” substitute “paragraphs 1 and 1A”.
- 34 In paragraph 12 (certain payments or transfers to be disregarded for the purposes of paragraph 11) in sub-paragraph (5) for “the relevant step treated as taken by paragraph 1” substitute “a relevant step treated as taken by paragraph 1 or 1A”.
- 35 In paragraph 13 (meaning of “outstanding”: quasi-loans where A or B acquires a right to the payment or transfer of assets) in sub-paragraph (2)(b) for “paragraph 1(4)” substitute “paragraphs 1(4) and 1A(5)”.
- 36 In paragraph 15 (meaning of “outstanding”: quasi-loans in currencies other than sterling) in sub-paragraph (3) after “relevant step” insert “within paragraph 1”.
- 37 In paragraph 18 (meaning of “outstanding”: quasi-loans made in a depreciating currency) in sub-paragraph (1)(b) after “relevant step” insert “within paragraph 1”.
- 38 After paragraph 35 insert –

“Exclusion for relevant step within paragraph 1A where initial step excluded

35ZA Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1A if that Chapter does not apply by reason of the initial step (within the meaning given by sub-paragraph (1)(a) of paragraph 1A).”

Social Security (Contributions) Regulations 2001

- 39 (1) The Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) are amended as follows.
- (2) In regulation 22B (amounts to be treated as earnings: Part 7A of ITEPA 2003) in paragraph (3A)(a) after “paragraph 1” insert “or 1A”.
- (3) In regulation 22C (amounts to be treated as earnings paid to or for the benefit of the earner: Schedule 11 to F(No.2)A 2017) in paragraph (1) –
- (a) after “paragraph 1” insert “or 1A”, and
 - (b) after “paragraph 1(2)” insert “or 1A(3) or (4)”.