

## Clause X: Employment Income provided through third parties

### Summary

1. This clause introduces a number of amendments to the employment income provided through third parties rules in Part 7A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), and to related transitional rules in Schedule 2 to the Finance Act 2011 (FA 2011). The amendments include introducing a targeted anti-avoidance rule to one part of those rules, removing a transitional relief on certain investment returns, and some other minor clarifications to ensure the current rules work as Parliament intended.

### Details of the clause

2. Subsection 2 inserts new subsection (1A) into section 554Z2 ITEPA 2003. This subsection ensures that, where the same amount would otherwise be taxable on more than one person under that section, it can be apportioned between them on a just and reasonable basis.
3. Subsection 3 inserts new paragraph 554Z8(5)(d) into ITEPA 2003, which restricts the availability of the relief in subsection 554Z8(6) ITEPA 2003. The effect of this is to prevent that relief from applying if there is any connection between the payment referred to in subsection 554Z8(5) and a tax avoidance arrangement.
4. Subsections 5 and 6 amend paragraph 59 of Schedule 2 to FA 2011. These changes restrict the relief in that paragraph so that it ceases to apply to returns (such as investment returns) on certain amounts unless either:
  - HMRC have made an agreement with the employer or employee before 1 December 2016 for tax to be paid on the amount on the basis that it was earnings; or
  - Tax on the amount has otherwise been decided and paid before 1 December 2016 on the basis that it was earnings.
5. Subsection 7 also amends paragraph 59 of Schedule 2 to FA2011. This change puts beyond doubt that the condition in paragraph 59(1)(e) that tax has been paid or otherwise accounted for is not met by making a payment on account, an accelerated payment, or a payment pending the outcome of an appeal.
6. Subsection 8 repeals paragraph 64 of Schedule 2 to FA 2011, which contains an expired power to make provision by statutory instrument to deal with the interaction between Part 7A ITEPA 2003 and other tax legislation.
7. Subsections 9 and 10 provide that the changes made by subsections 3 and 7 respectively will have effect from 16 March 2016.

## Background note

8. These changes are part of a package of proposals announced at Budget 2016 to tackle the historic and continued use of 'disguised remuneration' avoidance schemes. This clause introduces the first elements of that package.
9. The changes in this clause include provisions to:
  - Add a targeted anti-avoidance rule to one part of the disguised remuneration rules;
  - Remove a transitional relief on investment returns accruing on disguised remuneration;
  - Ensure that the same disguised remuneration cannot be taxable on more than one person at the same time;
  - Clarify an interaction between a relief that prevents double taxation and the payment of an accelerated payment; and
  - Repeal an expired power to make secondary legislation.
10. These changes will make clear that a particular type of disguised remuneration scheme is not effective, will encourage users of disguised remuneration schemes prior to 2011 who have accrued investment returns on their disguised remuneration to settle their liability with HMRC on or before 30 November 2016, and will help ensure that the disguised remuneration rules work as Parliament intended.