

Annex B – Double taxation relief for NICs

1 Liability for Class 1 contributions where double taxation relief applies under Part 7A of ITEPA 2003

(1) In the Social Security Contributions and Benefits Act 1992, after section 9B insert— **9C Relief where Part 7A of ITEPA 2003 applies**

- (1) This section applies if—
 - (a) section 554Z11C of ITEPA 2003 applies, and
 - (b) regulations under this Act provide for the value of the relevant step to be treated for the purposes of section 3 as remuneration derived from an employed earner’s employment.
- (2) Subsection (3) applies where—
 - (a) section 554Z11C(4) applies (payment of earlier tax liability),
 - (b) at the time when the “earlier charge paid amount” is paid, there are outstanding Class 1 contributions payable in respect of the value of the relevant step, and
 - (c) at that time Class 1 contributions payable in respect of the amount which is the subject of the earlier tax liability—
 - (i) have been paid in full, or
 - (ii) are wholly or partly outstanding, and payment of them is enforceable.
- (3) The amount of earnings in respect of which contributions within subsection (2)(b) are payable is reduced (but not below nil) by an amount equal to—

$$\frac{A}{B} \times N$$

where—

A is the amount of the earlier charge paid amount, after deducting any amount paid in respect of late payment interest,
B is the amount of the earlier charge,
N is the amount of the overlap between sum or asset P and sum or asset Q.

- (4) Subsection (5) applies where—
 - (a) section 554Z11C(6) applies (payment of charge under Part 7A, where section 554Z11C(10) does not apply),
 - (b) at the time when the “Chapter 2 paid amount” is paid, Class 1 contributions payable in respect of the value of the relevant step—
 - (i) have been paid in full, or
 - (ii) are wholly or partly outstanding, and payment of them is enforceable, and
 - (c) at that time there are outstanding Class 1 contributions payable in respect of the amount which is the subject of the earlier tax liability.
- (5) The amount of earnings in respect of which Class 1 contributions within subsection (4)(c) are payable is reduced (but not below nil) by an amount equal to—

$$\frac{C}{D} \times N$$

where—

C is the amount of the Chapter 2 paid amount, after deducting any amount paid in respect of late payment interest,

D is the amount of the Chapter 2 overlap charge,

N is the amount of the overlap between sum or asset P and sum or asset Q.

- (6) Subsection (7) applies where—
- (a) section 554Z11C(10) applies (payment of charge under Part 7A covering more than one earlier tax liability),
 - (b) at the time when the “Chapter 2 aggregate paid amount” is paid, Class 1 contributions payable in respect of the value of the relevant step—
 - (i) have been paid, or
 - (ii) are wholly or partly outstanding, and payment of them is enforceable, and
 - (c) at that time there are outstanding Class 1 contributions payable in respect of the amount which, in the case of any of the items within section 554Z11B(2)(b) of ITEPA 2003, is the subject of the liability mentioned there.
- (7) The amount of earnings in respect of which Class 1 contributions within subsection (6)(c) are payable in the case of any item is reduced (but not below nil) by an amount equal to—

$$\frac{E}{F} \times M$$

where—

E is the amount allocated under section 554Z11C(9) to the earlier charge, after deducting any amount allocated to it under subsection (8),

F is the amount of the relevant Chapter 2 overlap charge,

M is the amount of the overlap between sum or asset P and the item concerned.

- (8) For the purposes of amount E any part of the Chapter 2 aggregate paid amount that is paid in respect of late payment interest is to be allocated, in the same proportions as the Chapter 2 aggregate paid amount, between the earlier charges.
- (9) In this section references to the amount of an overlap are references to the amount which, in the case of sum or asset P, is equal to so much of the sum of money, or (as the case may be) the value of so much of the asset, as is within the overlap.”
- (2) In the Social Security Contributions and Benefits (Northern Ireland) Act 1992, after section 9B insert—

9C Relief where Part 7A of ITEPA 2003 applies

- (1) This section applies if—
- (a) section 554Z11C of ITEPA 2003 applies, and

(b) regulations under this Act provide for the value of the relevant step to be treated for the purposes of section 3 as remuneration derived from an employed earner's employment.

(2) Subsection (3) applies where—

- (a) section 554Z11C(4) applies (payment of earlier tax liability),
- (b) at the time when the “earlier charge paid amount” is paid, there are outstanding Class 1 contributions payable in respect of the value of the relevant step, and
- (c) at that time Class 1 contributions payable in respect of the amount which is the subject of the earlier tax liability—
 - (i) have been paid in full, or
 - (ii) are wholly or partly outstanding, and payment of them is enforceable.

(3) The amount of earnings in respect of which contributions within subsection (2)(b) are payable is reduced (but not below nil) by an amount equal to—

$$\frac{A}{B} \times N$$

where—

A is the amount of the earlier charge paid amount, after deducting any amount paid in respect of late payment interest,

B is the amount of the earlier charge,

N is the amount of the overlap between sum or asset P and sum or asset Q.

(4) Subsection (5) applies where—

- (a) section 554Z11C(6) applies (payment of charge under Part 7A, where section 554Z11C(10) does not apply),
- (b) at the time when the “Chapter 2 paid amount” is paid, Class 1 contributions payable in respect of the value of the relevant step—
 - (i) have been paid in full, or
 - (ii) are wholly or partly outstanding, and payment of them is enforceable, and
- (c) at that time there are outstanding Class 1 contributions payable in respect of the amount which is the subject of the earlier tax liability.

(5) The amount of earnings in respect of which Class 1 contributions within subsection (4)(c) are payable is reduced (but not below nil) by an amount equal to—

$$\frac{C}{D} \times N$$

where—

C is the amount of the Chapter 2 paid amount, after deducting any amount paid in respect of late payment interest,

D is the amount of the Chapter 2 overlap charge,

N is the amount of the overlap between sum or asset P and sum or asset Q.

(6) Subsection (7) applies where—

- (a) section 554Z11C(10) applies (payment of charge under Part 7A covering more than one earlier tax liability),
 - (b) at the time when the “Chapter 2 aggregate paid amount” is paid, Class 1 contributions payable in respect of the value of the relevant step— (i) have been paid, or (ii) are wholly or partly outstanding, and payment of them is enforceable, and
 - (c) at that time there are outstanding Class 1 contributions payable in respect of the amount which, in the case of any of the items within section 554Z11B(2)(b) of ITEPA 2003, is the subject of the liability mentioned there.
- (7) The amount of earnings in respect of which Class 1 contributions within subsection (6)(c) are payable in the case of any item is reduced (but not below nil) by an amount equal to—

$$\frac{E}{F} \times M$$

where—

E is the amount allocated under section 554Z11C(9) to the earlier charge, after deducting any amount allocated to it under subsection (8),

F is the amount of the relevant Chapter 2 overlap charge,

M is the amount of the overlap between sum or asset P and the item concerned.

- (8) For the purposes of amount E any part of the Chapter 2 aggregate paid amount that is paid in respect of late payment interest is to be allocated, in the same proportions as the Chapter 2 aggregate paid amount, between the earlier charges.
 - (9) In this section references to the amount of an overlap are references to the amount which, in the case of sum or asset P, is equal to so much of the sum of money, or (as the case may be) the value of so much of the asset, as is within the overlap.”
- (3) In section 1292 of the Corporation Tax Act 2009 (provision of qualifying benefits) after subsection (2) insert—
- “(2A) For the purposes of subsection (2) the payment or transfer is to be treated as giving rise to an NIC charge if it would do so but for section 9C of the Contributions and Benefits Act.”
- (4) In section 40 of the Income Tax (Trading and Other Income) Act 2005 (provision of qualifying benefits) after subsection (2) insert—
- “(2A) For the purposes of subsection (2) the payment or transfer is to be treated as giving rise to an NIC charge if it would do so but for section 9C of the Contributions and Benefits Act.”
- (5) The amendments made by this section have effect in relation to cases where the relevant step was taken on or after 6 December 2011.