

INTERMEDIARY CONDITIONS

The Intermediary Conditions are set out in section 61N of Chapter 10 of Part 2 ITEPA 2003 (as amended by Finance Act 2017) the relevant parts of which are set out below:

The contents of this Explanatory Note are provided for information only and do not constitute professional advice. It is the Representative's responsibility to take such advice as he/she may require in order to satisfy him/herself as to whether any of the relevant conditions are met in his/her case and inform the Company accordingly.

If no answer is received the Company must treat the Intermediary Condition as Met.

61 N (9) Condition A is that—

- (a) the intermediary is a company, and
- (b) the conditions in section 61O are met in relation to the intermediary.

61 N (10) Condition B is that—

- (a) the intermediary is a partnership,
- (b) the worker is a member of the partnership,
- (c) the provision of the services is by the worker as a member of the partnership, and
- (d) the condition in section 61P is met in relation to the intermediary.

61 N (11) Condition C is that the intermediary is an individual.

61 O Conditions where intermediary is a company

(1) The conditions mentioned in section 61N(9)(b) are that—

- (a) the intermediary is not an associated company of the client that falls within subsection (2), and
- (b) the worker has a material interest in the intermediary.

(2) An associated company of the client falls within this subsection if it is such a company by reason of the intermediary and the client being under the control—

- (a) of the worker, or
- (b) of the worker and other persons.

(3) The worker is treated as having a material interest in the intermediary if—

- (a) the worker, alone or with one or more associates of the worker, or
- (b) an associate of the worker, with or without other associates of the worker, has a material interest in the intermediary.

- (4) For this purpose “material interest” has the meaning given by section 51(4) and (5).
- (5) In this section “associated company” has the meaning given by section 449 of CTA 2010.

61 P Conditions where intermediary is a partnership

- (1) The condition mentioned in section 61N(10)(d) is—
 - (a) that the worker, alone or with one or more relatives, is entitled to 60% or more of the profits of the partnership, or
 - (b) that most of the profits of the partnership derive from the provision of services under engagements to which one or other of this Chapter and Chapter 8 applies—
 - (i) to a single client, or
 - (ii) to a single client together with associates of that client, or
 - (c) that under the profit sharing arrangements the income of any of the partners is based on the amount of income generated by that partner by the provision of services under engagements to which one or other of this Chapter and Chapter 8 applies.
- (2) In subsection (1)(a) “relative” means spouse or civil partner, parent or child or remoter relation in the direct line, or brother or sister.

S 51(4) ITEPA 2003

- (4) For this purpose a material interest means—
 - (a) beneficial ownership of, or the ability to control, directly or through the medium of other companies or by any other indirect means, more than 5% of the ordinary share capital of the company; or
 - (b) possession of, or entitlement to acquire, rights entitling the holder to receive more than 5% of any distributions that may be made by the company; or
 - (c) where the company is a close company, possession of, or entitlement to acquire, rights that would in the event of the winding up of the company, or in any other circumstances, entitle the holder to receive more than 5% of the assets that would then be available for distribution among the participators.
- (5) In subsection (4)(c) “**participator**” has the meaning given by section 454 of CTA 2010.