



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 2

#### EMPLOYMENT INCOME: CHARGE TO TAX

#### [<sup>F1</sup>CHAPTER 5A

#### TAXABLE SPECIFIC INCOME: EFFECT OF REMITTANCE BASIS

##### Textual Amendments

- F1** Pt. 2 Ch. 5B substituted (with effect in accordance with Sch. 3 para. 7(3), [Sch. 9 para. 48](#) of the amending Act) for Pt. 2 Ch. 5A by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 9 paras. 5, 47](#)

#### **41A Taxable specific income from employment-related securities: effect of remittance basis**

- (1) This section applies if—
- an amount within subsection (2) counts as employment income of an individual for a tax year in respect of an employment (“the securities income”), and
  - any part of the relevant period (see section 41B) is within a tax year for which section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual.
- (2) An amount is within this subsection if it counts as employment income under any provision of any of Chapters 2, 3 and 3C to 5 of Part 7 (employment-related securities etc) except section 446UA.

*Status: Point in time view as at 31/12/2015.*

*Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Chapter 5A is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The reference in subsection (2) to an amount that counts as employment income under any of the provisions mentioned there does not include an amount which counts as employment income by virtue of any provision of Chapter 3A or 3B of Part 7.
- (4) An amount equal to—
- SIFSI
- is an amount of “taxable specific income” from the employment for the tax year mentioned in subsection (1)(a).
- (5) In subsection (4)—
- (a) SI is the amount of the securities income, and
- (b) FSI is the amount of the securities income that is “foreign” (see sections 41C to 41E).
- (6) The full amount of any of the foreign securities income which is remitted to the United Kingdom in a tax year is an amount of “taxable specific income” from the employment for that year.
- (7) Subsection (6) applies whether or not the employment is held when the foreign securities income is remitted.
- (8) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis), treat the relevant securities or securities option as deriving from the foreign securities income.
- (9) But where—
- (a) the chargeable event is the disposal of the relevant securities or the assignment or release of the relevant securities option, and
- (b) the individual receives consideration for the disposal, assignment or release of an amount equal to or exceeding the market value of the relevant securities or securities option,
- for the purposes of that Chapter treat the consideration (and not the relevant securities or securities option) as deriving from the foreign securities income.
- (10) In this section and section 41B—
- “the chargeable event” means the event giving rise to the securities income, and
- “the relevant securities” or “the relevant securities option” means the employment-related securities or employment-related securities option by virtue of which the amount mentioned in subsection (1)(a) counts as employment income.
- (11) See Chapter A1 of Part 14 of ITA 2007 for the meaning of “remitted to the United Kingdom” etc.

#### **41B Section 41A: the relevant period**

- (1) “The relevant period” is to be determined as follows.
- (2) In the case of an amount that counts as employment income by virtue of Chapter 2 (restricted securities) or Chapter 3 (convertible securities), the relevant period—
- (a) begins with the day of the acquisition, and
- (b) ends with the day of the chargeable event.

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- (3) In the case of an amount that counts as employment income by virtue of section 446U (securities acquired for less than market value: discharge of notional loan)—
- (a) if the relevant securities were acquired by virtue of the exercise of a securities option (“the option”), the relevant period—
    - (i) begins with the day of the acquisition of the option, and
    - (ii) ends with the day the option vests, and
  - (b) otherwise, the relevant period is—
    - (i) the tax year in which the notional loan (within the meaning of Chapter 3C) is treated as made, or
    - (ii) if the chargeable event occurs in that year, the period beginning at the beginning of that year and ending with the day of that event.
- (4) In the case of an amount that counts as employment income by virtue of—
- (a) Chapter 3D (securities disposed of for more than market value), or
  - (b) Chapter 4 (post-acquisition benefits from securities),
- the relevant period is the tax year in which the chargeable event occurs.
- (5) In the case of an amount that counts as employment income by virtue of Chapter 5 (employment-related securities options), the relevant period—
- (a) begins with the day of the acquisition, and
  - (b) ends with the day of the chargeable event or, if earlier, the day the relevant securities option vests.
- (6) In this section “the acquisition” has the same meaning as in Chapters 2 to 4 or Chapter 5 (see section 421B or 471).
- (7) For the purposes of this section an option “vests” when it is first capable of being exercised.
- (8) References in this section to a Chapter are to a Chapter of Part 7.

#### **41C Section 41A: foreign securities income**

- (1) The extent to which the securities income is “foreign” is to be determined as follows.
- (2) Treat an equal amount of the securities income as accruing on each day of the relevant period.
- (3) If any part of the relevant period is within a tax year to which subsection (4) applies, the securities income treated as accruing in that part of the relevant period is “foreign”.

This is subject to section 41D (limit where duties of associated employment performed in UK).

- (4) This subsection applies to a tax year if—
  - (a) section 809B, 809D or 809E of ITA 2007 applies to the individual for the year,
  - [<sup>F2</sup>(b) the individual does not meet the requirement of section 26A for the year (reading references there to the employee as references to the individual),]
  - (c) the employment is with a foreign employer, and
  - (d) the duties of the employment are performed wholly outside the United Kingdom.

*Status: Point in time view as at 31/12/2015.*

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[<sup>F3</sup>(4A) But subsection (4) does not apply to a tax year if section 24A applies in relation to the employment for the tax year.]

(5) If any part of the relevant period is within a tax year to which subsection (6) applies—

(a) if the duties of the employment are performed wholly outside the United Kingdom, the securities income treated as accruing in that part of the relevant period is “foreign”, and

(b) if some but not all of those duties are performed outside the United Kingdom—

(i) the securities income mentioned in paragraph (a) is to be apportioned (on a just and reasonable basis) between duties performed in the United Kingdom and duties performed outside the United Kingdom, and

(ii) the income apportioned in respect of duties performed outside the United Kingdom is “foreign”.

(6) This subsection applies to a tax year if—

(a) section 809B, 809D or 809E of ITA 2007 applies to the individual for the year,

[<sup>F4</sup>(b) the individual meets the requirement of section 26A for the year (reading references there to the employee as references to the individual), and]

(c) some or all of the duties of the employment are performed outside the United Kingdom.

(7) If the individual is not resident in the United Kingdom in a tax year, for the purposes of this section treat section 809B of ITA 2007 as applying to the individual for that year.

(8) This section is subject to section 41E (foreign securities income: just and reasonable apportionment).

[<sup>F5</sup>(9) If subsection (4) does not apply to a tax year by virtue of subsection (4A), it is to be assumed for the purposes of section 41E that it is just and reasonable for none of the securities income treated as accruing in the tax year to be “foreign”.]

#### Textual Amendments

**F2** S. 41C(4)(b) substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 11(2)** (with [Sch. 46 para. 26](#))

**F3** S. 41C(4A) inserted (with effect in accordance with Sch. 3 para. 7(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 3 para. 4(2)**

**F4** S. 41C(6)(b) substituted (with effect in accordance with Sch. 46 para. 25 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 11(3)** (with [Sch. 46 para. 26](#))

**F5** S. 41C(9) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 3 para. 4(3)**

### 41D Limit on foreign securities income where duties of associated employment performed in UK

(1) This section imposes a limit on the extent to which section 41C(3) applies in relation to a period when—

(a) the individual holds associated employments as well as the employment in relation to which section 41C(4) applies, and

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- (b) the duties of the associated employments are not performed wholly outside the United Kingdom.
- (2) The amount of the securities income for the period that is to be regarded as “foreign” is limited to such amount as is just and reasonable, having regard to—
  - (a) the employment income for the period from all the employments mentioned in subsection (1)(a),
  - (b) the proportion of that income that is general earnings to which section 22 applies (chargeable overseas earnings),
  - (c) the nature of and time devoted to the duties performed outside the United Kingdom, and those performed in the United Kingdom, in the period, and
  - (d) all other relevant circumstances.
- (3) In this section “associated employments” means employments with the same employer or with associated employers.
- (4) Section 24(5) and (6) (meaning of “associated employer”) apply for the purposes of this section.

#### **41E Foreign securities income: just and reasonable apportionment**

- (1) This section applies if the proportion of the securities income that would otherwise be regarded as “foreign” is not, having regard to all the circumstances, one that is just and reasonable.
- (2) The amount of the securities income that is “foreign” is such amount as is just and reasonable (rather than the amount calculated in accordance with section 41C).]

**Status:**

Point in time view as at 31/12/2015.

**Changes to legislation:**

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