



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 2

#### EMPLOYMENT INCOME: CHARGE TO TAX

### CHAPTER 7

#### APPLICATION OF PROVISIONS TO AGENCY WORKERS

#### *Agency workers*

#### **44 Treatment of workers supplied by agencies**

- (1) This section applies if—
- (a) an individual (“the worker”) personally provides, or is under an obligation personally to provide, services (which are not excluded services) to another person (“the client”),
  - (b) the services are supplied by or through a third person (“the agency”) under the terms of an agency contract,
  - (c) the worker is subject to (or to the right of) supervision, direction or control as to the manner in which the services are provided, and
  - (d) remuneration receivable under or in consequence of the agency contract does not constitute employment income of the worker apart from this Chapter.
- (2) If this section applies—
- (a) the services which the worker provides, or is obliged to provide, to the client under the agency contract are to be treated for income tax purposes as duties of an employment held by the worker with the agency, and

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- (b) all remuneration receivable under or in consequence of the agency contract (including remuneration which the client pays or provides in relation to the services) is to be treated for income tax purposes as earnings from that employment.

#### **45 Arrangements with agencies**

If—

- (a) an individual (“the worker”), with a view to personally providing services (which are not excluded services) to another person (“the client”), enters into arrangements with a third person (“the agency”), and
- (b) the arrangements are such that the services (if and when they are provided) will be treated for income tax purposes under section 44 as duties of an employment held by the worker with the agency,

any remuneration receivable under or in consequence of the arrangements is to be treated for income tax purposes as earnings from that employment.

#### **46 Cases involving unincorporated bodies etc.**

(1) Section 44 also applies—

- (a) if the worker personally provides, or is under an obligation to personally provide, the services in question as a partner in a firm or a member of an unincorporated body;
- (b) if the agency in question is an unincorporated body of which the worker is a member.

(2) In a case within subsection (1)(a), remuneration receivable under or in consequence of the agency contract is to be treated for income tax purposes as income of the worker and not as income of the firm or body.

#### *Supplementary*

#### **47 Interpretation of this Chapter**

(1) In this Chapter “agency contract” means a contract made between the worker and the agency under the terms of which the worker is obliged to personally provide services to the client.

(2) In this Chapter “excluded services” means—

- (a) services as an actor, singer, musician or other entertainer or as a fashion, photographic or artist’s model, or
- (b) services provided wholly—
  - (i) in the worker’s own home, or
  - (ii) at other premises which are neither controlled or managed by the client nor prescribed by the nature of the services.

(3) For the purposes of this Chapter “remuneration”—

- (a) does not include anything that would not have constituted employment income of the worker if it had been receivable in connection with an employment apart from this Chapter, but

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- (b) subject to paragraph (a), includes every form of payment, gratuity, profit and benefit.