



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

CHAPTER 8

APPLICATION OF PROVISIONS TO WORKERS UNDER ARRANGEMENTS MADE BY INTERMEDIARIES

Supplementary provisions

57 Earlier date of deemed employment payment in certain cases

(1) If in any tax year—

- (a) a deemed employment payment is treated as made, and
- (b) before the date on which the payment would be treated as made under section 50(2) any relevant event (as defined below) occurs in relation to the intermediary,

the deemed employment payment for that year is treated as having been made immediately before that event or, if there is more than one, immediately before the first of them.

(2) Where the intermediary is a company the following are relevant events—

- (a) the company ceasing to trade;
- (b) where the worker is a member of the company, the worker ceasing to be such a member;
- (c) where the worker holds an office with the company, the worker ceasing to hold such an office;

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- (d) where the worker is employed by the company, the worker ceasing to be so employed.
- (3) Where the intermediary is a partnership the following are relevant events—
 - (a) the dissolution of the partnership or the partnership ceasing to trade or a partner ceasing to act as such;
 - (b) where the worker is employed by the partnership, the worker ceasing to be so employed.
- (4) Where the intermediary is an individual and the worker is employed by the intermediary, it is a relevant event if the worker ceases to be so employed.
- (5) The fact that the deemed employment payment is treated as made before the end of the tax year does not affect what receipts and other matters are taken into account in calculating its amount.

58 Relief in case of distributions by intermediary

- (1) A claim for relief may be made under this section where the intermediary—
 - (a) is a company,
 - (b) is treated as making a deemed employment payment in any tax year, and
 - (c) either in that tax year (whether before or after that payment is treated as made), or in a subsequent tax year, makes a distribution (a “relevant distribution”).
- (2) A claim for relief under this section must be made—
 - (a) by the intermediary by notice to [^{F1}an officer of Revenue and Customs] , and
 - (b) within 5 years after the 31st January following the tax year in which the distribution is made.
- (3) If on a claim being made [^{F1}an officer of Revenue and Customs][^{F2}is] satisfied that relief should be given in order to avoid a double charge to tax, [^{F3}the officer] must direct the giving of such relief by way of amending any assessment, by discharge or repayment of tax, or otherwise, as appears to [^{F3}the officer] appropriate.
- (4) Relief under this section is given by setting the amount of the deemed employment payment against the relevant distribution so as to reduce the distribution.
- (5) In the case of more than one relevant distribution, [^{F1}an officer of Revenue and Customs] must exercise the power conferred by this section so as to secure that so far as practicable relief is given by setting the amount of a deemed employment payment—
 - (a) against relevant distributions of the same tax year before those of other years,
 - (b) against relevant distributions received by the worker before those received by another person, and
 - (c) against relevant distributions of earlier years before those of later years.

^{F4}(6)

Textual Amendments

- F1** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F2** Word in s. 58(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 105](#); S.I. 2005/1126, art. 2(2)(h)

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- F3** Words in s. 58(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 103\(1\)\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F4** S. 58(6) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 61\(2\)](#)

59 Provisions applicable to multiple intermediaries

- (1) The provisions of this section apply where in the case of an engagement to which this Chapter applies the arrangements involve more than one relevant intermediary.
- (2) All relevant intermediaries in relation to the engagement are jointly and severally liable, subject to subsection (3), to account for any amount required under the PAYE provisions to be deducted from a deemed employment payment treated as made by any of them—
 - (a) in respect of that engagement, or
 - (b) in respect of that engagement together with other engagements.
- (3) An intermediary is not so liable if it has not received any payment or benefit in respect of that engagement or any such other engagement as is mentioned in subsection (2)(b).
- (4) Subsection (5) applies where a payment or benefit has been made or provided, directly or indirectly, from one relevant intermediary to another in respect of the engagement.
- (5) In that case, the amount taken into account in relation to any intermediary in step 1 or step 2 of section 54(1) is reduced to such extent as is necessary to avoid double-counting having regard to the amount so taken into account in relation to any other intermediary.
- (6) Except as provided by subsections (2) to (5), the provisions of this Chapter apply separately in relation to each relevant intermediary.
- (7) In this section “relevant intermediary” means an intermediary in relation to which the conditions specified in section 51, 52 or 53 are met.

60 Meaning of “associate”

- (1) In this Chapter “associate”—
 - (a) in relation to an individual, has the meaning given by [^{F5}section 448 of CTA 2010], subject to the following provisions of this section;
 - (b) in relation to a company, means a person connected with the company; and
 - (c) in relation to a partnership, means any associate of a member of the partnership.
- (2) Where an individual has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees are not regarded as associates of the individual by reason only of that interest except in the following circumstances.
- (3) The exception is where—
 - (a) the individual, either alone or with any one or more associates of the individual, or
 - (b) any associate of the individual, with or without other such associates,

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has at any time on or after 14th March 1989 been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control more than 5% of the ordinary share capital of the company.

- (4) In subsection (3) “associate” does not include the trustees of an employee benefit trust as a result only of the individual’s having an interest in shares or obligations of the trust.
- (5) Sections 549 to 554 (attribution of interests in companies to beneficiaries of employee benefit trusts) apply for the purposes of subsection (3) as they apply for the purposes of the provisions listed in section 549(2).
- (6) In this section “employee benefit trust” has the meaning given by sections 550 and 551.

Textual Amendments

- F5** Words in s. 60(1)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 381** (with Sch. 2)

61 Interpretation

- (1) In this Chapter—
 - “associate” has the meaning given by section 60;
 - “associated company” has the meaning given by [^{F6}section 449 of CTA 2010];
 - “business” means any trade, profession or vocation and includes a [^{F7}UK property business][^{F8}within the meaning of Chapter 2 of Part 3 of ITTOIA 2005 or Chapter 2 of Part 4 of CTA 2009];
 - “company” means a body corporate or unincorporated association, and does not include a partnership;
 - “employer’s national insurance contributions” means secondary Class 1 or Class 1A national insurance contributions;
 - [^{F9}“engagement to which Chapter 10 applies” has the meaning given by section 61M(5);]
 - “engagement to which this Chapter applies” has the meaning given by section 49(5);
 - “national insurance contributions” means contributions under Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992;
 - “PAYE provisions” means the provisions of Part 11 or PAYE regulations;
 - “the relevant engagements” has the meaning given by section 50(4).
- (2) References in this Chapter to payments or benefits received or receivable from a partnership or unincorporated association include payments or benefits to which a person is or may be entitled in the person’s capacity as a member of the partnership or association.
- (3) For the purposes of this Chapter—
 - (a) anything done by or in relation to an associate of an intermediary is treated as done by or in relation to the intermediary, and
 - (b) a payment or other benefit provided to a member of an individual’s family or household is treated as provided to the individual.

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(4) For the purposes of this Chapter a man and a woman living together as husband and wife are treated as if they were married to each other.

[^{F10}(5) For the purposes of this Chapter two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other.

For the purposes of this Chapter, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

Textual Amendments

- F6** Words in s. 61(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 382** (with [Sch. 2](#))
- F7** Words in s. 61(1) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 586** (with [Sch. 2](#))
- F8** Words in s. 61(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 549** (with [Sch. 2 Pts. 1, 2](#))
- F9** Words in s. 61(1) inserted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 1 para. 5**
- F10** S. 61(5) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **139**

Modifications etc. (not altering text)

- C1** S. 61(4)(5) applied by S.I. 2000/727, reg 16 (as inserted (6.4.2017) by [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2017 \(S.I. 2017/373\)](#), regs. 1, **2(13)**)

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