



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 5

EMPLOYMENT INCOME: DEDUCTIONS ALLOWED FROM EARNINGS

CHAPTER 1

DEDUCTIONS ALLOWED FROM EARNINGS: GENERAL RULES

Introduction

327 Deductions from earnings: general

- (1) This Part provides for deductions that are allowed from the taxable earnings from an employment in a tax year in calculating the net taxable earnings from the employment in the tax year for the purposes of Part 2 (see section 11(1)).
- (2) In this Part, unless otherwise indicated by the context—
 - (a) references to the earnings from which deductions are allowed are references to the taxable earnings mentioned in subsection (1), and
 - (b) references to the tax year are references to the tax year mentioned there.
- (3) The deductions for which this Part provides are those allowed under—
 - Chapter 2 (deductions for employee's expenses),
 - Chapter 3 (deductions from benefits code earnings),
 - Chapter 4 (fixed allowances for employee's expenses),
 - Chapter 5 (deductions for earnings representing benefits or reimbursed expenses),
 - and
 - Chapter 6 (deductions from seafarers' earnings).

Status: Point in time view as at 19/07/2005.

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- (4) Further provision about deductions from earnings is made in—
 section 232 (giving effect to mileage allowance relief),
 section 619 of ICTA (contributions under retirement annuity contracts), and
 section 262 of CAA 2001 (capital allowances to be given effect by treating them
 as deductions from earnings).
- (5) Further provision about deductions from income including earnings is made in—
 Part 12 (payroll giving),
 section 592(7) of ICTA (contributions to exempt approved schemes), and
 section 594(1) of ICTA (contributions to exempt statutory schemes).

General rules

328 The income from which deductions may be made

- (1) The general rule is that deductions under this Part are allowed—
 (a) from any earnings from the employment in question, and
 (b) not from earnings from any other employment.
- This is subject to subsections (2) to (4).
- (2) Deductions under section 351 (expenses of ministers of religion) are allowed from earnings from any employment as a minister of a religious denomination.
- (3) Deductions under section 368 (fixed sum deductions from earnings payable out of public revenue) are allowed only from earnings payable out of the public revenue.
- (4) Deductions limited to specified earnings (see subsection (5)) are allowed—
 (a) only from earnings from the employment that are taxable earnings under certain of the charging provisions of Chapters 4 and 5 of Part 2, and
 (b) not from other earnings from it.
- (5) “Deductions limited to specified earnings” are deductions under—
 sections 336 to 342 (deductions from earnings charged on receipt: see sections 335(2) and 354),
 section 353 (deductions from earnings charged on remittance),
 sections 370 to 374 (travel deductions from earnings charged on receipt), and
 Chapter 6 of this Part (deductions from seafarers' earnings: see section 378(1)(a)).

329 Deductions from earnings not to exceed earnings

- (1) The amount of a deduction allowed under this Part may not exceed the earnings from which it is deductible.
- (2) If two or more deductions allowed under this Part are deductible from the same earnings, the amounts deductible may not in aggregate exceed those earnings.
- (3) If deductions allowed otherwise than under this Part fall to be allowed from the same earnings as amounts deductible under this Part, the amounts deductible under this Part may not exceed the earnings remaining after the other deductions.

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- (4) Subsections (1) and (2) do not apply to a deduction under section 351 (expenses of ministers of religion), and subsection (3) applies as if such a deduction were allowed otherwise than under this Part.
- (5) This section is to be disregarded for the purposes of the deductibility provisions (see section 332).
- (6) See also section 380 of ICTA (which provides that where a loss in an employment is sustained, relief may be given against other income).

330 Prevention of double deductions

- (1) A deduction from earnings under this Part is not allowed more than once in respect of the same costs or expenses.
- (2) If apart from this subsection—
 - (a) a deduction would be allowed under Chapter 4 of this Part (fixed allowances for employee's expenses) for a sum fixed by reference to any kind of expenses, and
 - (b) the employee would be entitled under another provision to a deduction for an amount paid in respect of the same kind of expenses,only one of those deductions is allowed.

331 Order for making deductions

- (1) This Part needs to be read with section 835(3) and (4) of ICTA (general rule that deductions are to be allowed in the order resulting in the greatest reduction of liability to income tax).
- (2) In the case of deductions under this Part, the general rule in that section is subject to—
 - (a) section 23(3) (which requires certain deductions to be made in order to establish “chargeable overseas earnings”), and
 - (b) section 381 (which requires deductions under other provisions to be taken into account before deductions under Chapter 6 of this Part (seafarers)).

332 Meaning of “the deductibility provisions”

For the purposes of this Part, “the deductibility provisions” means the following provisions (which refer to amounts or expenses that would be deductible if they were incurred and paid by an employee)—

- the definition of “business travel” in section 171(1) (definitions for Chapter 6 of Part 3),
- section 179(6) (exception for certain advances for necessary expenses),
- the definition of “business travel” in section 236(1) (definitions for Chapter 2 of Part 4),
- section 240(1)(c) and (5) (exemption of incidental overnight expenses and benefits),
- section 252(3) (exception from exemption of work-related training provision for non-deductible travel expenses),
- section 257(3) (exception from exemption for individual learning account training provision for non-deductible travel expenses),

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section 305(5) (offshore oil and gas workers: mainland transfers),
 section 310(6)(b) (counselling and other outplacement services),
 section 311(5)(b) (retraining courses),
 section 361(b) (scope of Chapter 3 of this Part: cost of benefits deductible as if paid by employee),
 section 362(1)(c) and (2)(b) (deductions where non-cash voucher provided),
 section 363(1)(b) and (2)(b) (deductions where credit-token provided),
 section 364(1)(b) and (2) (deductions where living accommodation provided),
 section 365(1)(b) and (2) (deductions where employment-related benefit provided).

CHAPTER 2

DEDUCTIONS FOR EMPLOYEE'S EXPENSES

Introduction

333 Scope of this Chapter: expenses paid by the employee

- (1) A deduction from a person's earnings for an amount is allowed under the following provisions of this Chapter only if the amount—
 - (a) is paid by the person, or
 - (b) is paid on the person's behalf by someone else and is included in the earnings.
- (2) In the following provisions of this Chapter, in relation to a deduction from a person's earnings, references to the person paying an amount include references to the amount being paid on the person's behalf by someone else if or to the extent that the amount is included in the earnings.
- (3) Subsection (1)(b) does not apply to the deductions under—
 - (a) section 351(2) and (3) (expenses of ministers of religion), and
 - (b) section 355 (deductions for corresponding payments by non-domiciled employees with foreign employers),
 and subsection (2) does not apply in the case of those deductions.
- (4) Chapter 3 of this Part provides for deductions where—
 - (a) a person's earnings include an amount treated as earnings under Chapter 4, 5 or 10 of Part 3 (taxable benefits: vouchers etc., living accommodation and residual liability to charge), and
 - (b) an amount in respect of the benefit in question would be deductible under this Chapter if the person had incurred and paid it.

334 Effect of reimbursement etc.

- (1) For the purposes of this Chapter, a person may be regarded as paying an amount despite—
 - (a) its reimbursement, or
 - (b) any other payment from another person in respect of the amount.

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- (2) But where a reimbursement or such other payment is made in respect of an amount, a deduction for the amount is allowed under the following provisions of this Chapter only if or to the extent that—
 - (a) the reimbursement, or
 - (b) so much of the other payment as relates to the amount, is included in the person’s earnings.
- (3) This section does not apply to a deduction allowed under section 351 (expenses of ministers of religion).
- (4) This section is to be disregarded for the purposes of the deductibility provisions.

335 Application of deductions provisions: “earnings charged on receipt” and “earnings charged on remittance”

- (1) The availability of certain deductions under this Chapter depends on whether the earnings are earnings charged on receipt or earnings charged on remittance.
- (2) Sections 336 to 342—
 - (a) only apply if the earnings from which the deduction is to be made are earnings charged on receipt, and
 - (b) apply subject to section 354(1) if the earnings from the employment also include other earnings.
- (3) Section 353 (which provides for a deduction for expenses of the kind to which sections 336 to 342 apply)—
 - (a) only applies if the earnings from which the deduction is to be made are earnings charged on remittance, and
 - (b) applies subject to section 354(2) if the earnings from the employment also include other earnings.
- (4) In this Part—

“earnings charged on receipt” means earnings which are taxable earnings under section 15, 21, 25 or 27, and

“earnings charged on remittance” means earnings which are taxable earnings under section 22 or 26.

General rule for deduction of employee’s expenses

336 Deductions for expenses: the general rule

- (1) The general rule is that a deduction from earnings is allowed for an amount if—
 - (a) the employee is obliged to incur and pay it as holder of the employment, and
 - (b) the amount is incurred wholly, exclusively and necessarily in the performance of the duties of the employment.
- (2) The following provisions of this Chapter contain additional rules allowing deductions for particular kinds of expenses and rules preventing particular kinds of deductions.
- (3) No deduction is allowed under this section for an amount that is deductible under sections 337 to 342 (travel expenses).

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Travel expenses

337 Travel in performance of duties

- (1) A deduction from earnings is allowed for travel expenses if—
 - (a) the employee is obliged to incur and pay them as holder of the employment, and
 - (b) the expenses are necessarily incurred on travelling in the performance of the duties of the employment.
- (2) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

338 Travel for necessary attendance

- (1) A deduction from earnings is allowed for travel expenses if—
 - (a) the employee is obliged to incur and pay them as holder of the employment, and
 - (b) the expenses are attributable to the employee's necessary attendance at any place in the performance of the duties of the employment.
- (2) Subsection (1) does not apply to the expenses of ordinary commuting or travel between any two places that is for practical purposes substantially ordinary commuting.
- (3) In this section “ordinary commuting” means travel between—
 - (a) the employee's home and a permanent workplace, or
 - (b) a place that is not a workplace and a permanent workplace.
- (4) Subsection (1) does not apply to the expenses of private travel or travel between any two places that is for practical purposes substantially private travel.
- (5) In subsection (4) “private travel” means travel between—
 - (a) the employee's home and a place that is not a workplace, or
 - (b) two places neither of which is a workplace.
- (6) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

339 Meaning of “workplace” and “permanent workplace”

- (1) In this Part “workplace”, in relation to an employment, means a place at which the employee's attendance is necessary in the performance of the duties of the employment.
- (2) In this Part “permanent workplace”, in relation to an employment, means a place which—
 - (a) the employee regularly attends in the performance of the duties of the employment, and
 - (b) is not a temporary workplace.

This is subject to subsections (4) and (8).

- (3) In subsection (2) “temporary workplace”, in relation to an employment, means a place which the employee attends in the performance of the duties of the employment—

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- (a) for the purpose of performing a task of limited duration, or
- (b) for some other temporary purpose.

This is subject to subsections (4) and (5).

- (4) A place which the employee regularly attends in the performance of the duties of the employment is treated as a permanent workplace and not a temporary workplace if—
 - (a) it forms the base from which those duties are performed, or
 - (b) the tasks to be carried out in the performance of those duties are allocated there.
- (5) A place is not regarded as a temporary workplace if the employee's attendance is—
 - (a) in the course of a period of continuous work at that place—
 - (i) lasting more than 24 months, or
 - (ii) comprising all or almost all of the period for which the employee is likely to hold the employment, or
 - (b) at a time when it is reasonable to assume that it will be in the course of such a period.
- (6) For the purposes of subsection (5), a period is a period of continuous work at a place if over the period the duties of the employment are performed to a significant extent at the place.
- (7) An actual or contemplated modification of the place at which duties are performed is to be disregarded for the purposes of subsections (5) and (6) if it does not, or would not, have any substantial effect on the employee's journey, or expenses of travelling, to and from the place where they are performed.
- (8) An employee is treated as having a permanent workplace consisting of an area if—
 - (a) the duties of the employment are defined by reference to an area (whether or not they also require attendance at places outside it),
 - (b) in the performance of those duties the employee attends different places within the area,
 - (c) none of the places the employee attends in the performance of those duties is a permanent workplace, and
 - (d) the area would be a permanent workplace if subsections (2), (3), (5), (6) and (7) referred to the area where they refer to a place.

340 Travel between group employments

- (1) A deduction from earnings from an employment is allowed for travel expenses if conditions A to D are met.
- (2) Condition A is that the employee is obliged to incur and pay the expenses.
- (3) Condition B is that the travel is for the purpose of performing duties of the employment at the destination.
- (4) Condition C is that the employee has performed duties of another employment at the place of departure.
- (5) Condition D is that the employments are with companies in the same group.
- (6) In this section “group” means a company and its 51% subsidiaries.

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- (7) For the purposes of sections 353 and 354 (special rules for earnings with a foreign element), the expenses are treated as incurred in the performance of the duties to be performed at the destination.
- (8) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

341 Travel at start or finish of overseas employment

- (1) A deduction from earnings from an employment is allowed for starting travel expenses and finishing travel expenses if conditions A to C are met.
- (2) Condition A is that the duties of the employment are performed wholly outside the United Kingdom.
- (3) Condition B is that the employee is resident and ordinarily resident in the United Kingdom.
- (4) Condition C is that in a case where the employer is a foreign employer, the employee is domiciled in the United Kingdom.
- (5) If the travel is only partly attributable to the taking up or termination of the employment, this section applies only to the part of the expenses properly so attributable.
- (6) Subsection (7) applies if in the tax year the employment is in substance one whose duties fall to be performed outside the United Kingdom.
- (7) Duties of the employment performed in the United Kingdom, whose performance is merely incidental to the performance of duties outside the United Kingdom, are to be treated for the purposes of subsection (2) as performed outside the United Kingdom.
- (8) In this section—
 - “starting travel expenses” means expenses incurred by the employee in travelling from a place in the United Kingdom to take up the employment,
 - “finishing travel expenses” means expenses incurred by the employee in travelling to a place in the United Kingdom on the termination of the employment, and
 - “employee” includes a person who is to be, or has ceased to be, an employee.
- (9) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

342 Travel between employments where duties performed abroad

- (1) A deduction from earnings from an employment is allowed for travel expenses incurred by the employee if conditions A to F are met.
- (2) Condition A is that the travel is for the purpose of performing duties of the employment at the destination.
- (3) Condition B is that the employee has performed duties of another employment at the place of departure.

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- (4) Condition C is that the place of departure or the destination or both are outside the United Kingdom.
- (5) Condition D is that the duties of one or both of the employments are performed wholly or partly outside the United Kingdom.
- (6) Condition E is that the employee is resident and ordinarily resident in the United Kingdom.
- (7) Condition F is that in a case where the employer is a foreign employer, the employee is domiciled in the United Kingdom.
- (8) If the travel is only partly attributable to the purpose of performing duties of the employment at the destination, this section applies only to the part of the expenses properly so attributable.
- (9) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

Fees and subscriptions

343 Deduction for professional membership fees

- (1) A deduction from earnings from an employment is allowed for an amount paid in respect of a professional fee if—
 - (a) the duties of the employment involve the practice of the profession to which the fee relates, and
 - (b) the registration, certification, licensing or other matter in respect of which the fee is payable is a condition, or one of alternative conditions, which must be met if that profession is to be practised in the performance of those duties.
- (2) In this section “professional fee” means a fee mentioned in the following Table.

Table

Health professionals

1. Fee payable for entry or retention of a name in any of the following—
 - (a) the Register of Chartered Psychologists,
 - (b) the register maintained by the Registrar of Chiropractors,
 - [^{F1}(c) the dental care professionals register,]
 - (d) the dentists register,
 - (e) the register of dispensing opticians,
 - (f) the register maintained by the Health Professions Council,
 - (g) the register maintained by the registrar appointed by the Hearing Aid Council,
 - (h) the register of medical practitioners,
 - (i) the register maintained by the Nursing and Midwifery Council,
 - (j) either of the registers of ophthalmic opticians,
 - (k) the register maintained by the Registrar of Osteopaths,
 - (l) the Register of Pharmaceutical Chemists.
2. Fee payable by a chartered psychologist on the issue of a practising certificate.

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Animal health professionals

3. Fee payable for entry or retention of a name in any of the following—
- (a) the register maintained by the registrar appointed by the Farriers Registration Council,
 - (b) the supplementary veterinary register,
 - (c) the register of veterinary surgeons.

Legal professionals

4. Fee payable to the Council for Licensed Conveyancers on the issue of a licence to practise as a licensed conveyancer.
5. Fee and contribution to the compensation fund or Guarantee Fund payable on the issue of a solicitor's practising certificate.

Architects

6. Fee payable for entry or retention of a name in the Register of Architects.

Teachers

7. Fee payable for entry or retention of a name in any of the following—
- (a) the register maintained by the General Teaching Council for England,
 - (b) the register maintained by the General Teaching Council for Scotland,
 - (c) the register maintained by the General Teaching Council for Wales.
 - [^{F2}(d) the register maintained by the General Teaching Council for Northern Ireland.]

Patent agents and trade mark agents

8. Registration fee payable by—
- (a) a registered patent agent,
 - (b) a registered trade mark agent.
9. Practising fee payable by—
- (a) a registered patent agent,
 - (b) a registered trade mark agent.

Occupations in the transport sector

10. Fee payable by a driving instructor for entry or retention of a name in the register of approved instructors or on the issue or renewal of a licence authorising its holder to give paid instruction in the driving of a motor car.
11. Fee (including any related medical or technical examination fee) payable, on the issue or renewal of a licence by the Civil Aviation Authority, by—
- (a) an aircraft maintenance engineer,
 - (b) an air traffic controller or student air traffic controller,
 - (c) a member of the flight crew of an aircraft registered in the United Kingdom,
 - (d) a flight information service officer.
12. Fee (including any related medical examination fee) payable—

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- (a) on the issue or renewal of a licence authorising its holder to drive a large goods vehicle or a passenger-carrying vehicle,
- (b) by an officer or other seaman on the issue, renewal or endorsement of a certificate, licence or other document which is required as evidence of his qualification or competence to serve in a ship.

13. Fee payable by a seafarer employed in a sea-going United Kingdom ship on the issue or renewal of a medical fitness certificate.

[^{F3}14. Fee payable by a person employed or to be employed at a United Kingdom airport for a criminal records check required for the issue of a security pass authorising him to enter areas within the airport.]

[^{F4}Occupations in the private security industry

15. Fee payable on applying for a licence from the Security Industry Authority under the Private Security Industry Act 2001.]

- (3) The Board of Inland Revenue may make an order adding such fee as is specified in the order to the Table of fees mentioned in subsection (2).
- (4) The [^{F5}Commissioners] may make an order if they consider that such fee is payable in respect of any registration, certification, licensing or other matter if it is required as a condition, or one of alternative conditions, of the practice of a profession.

Textual Amendments

- F1** Words in s. 343(2) substituted (31.7.2006 - see the London Gazette, issue no. 58050 dated 21.7.2006) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), art. 1(4)-(7), [Sch. 6 para. 5](#) (with [Sch. 7](#)) (with transitional provisions in S.I. 2006/1671)
- F2** Words in s. 343(2) added (6.4.2005) by [The Income Tax \(Professional Fees\) Order 2005 \(S.I. 2005/1091\)](#), arts. 1, 2
- F3** Words in s. 343(2) added (1.7.2003) by [The Income Tax \(Professional Fees\) Order 2003 \(S.I. 2003/1652\)](#), arts. 1, 2
- F4** Words in s. 343(2) added (17.5.2004) by [The Income Tax \(Professional Fees\) Order 2004 \(S.I. 2004/1360\)](#), arts. 1, 2
- F5** Words in s. 343 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)\(3\)\(e\)](#); S.I. 2005/1126, art. 2(2)(h)

344 Deduction for annual subscriptions

- (1) A deduction from earnings from an employment is allowed for an amount paid in respect of an annual subscription if—
 - (a) it is paid to a body of persons approved under this section, and
 - (b) the activities of the body which are directed to one or more of the objects within subsection (2) are of direct benefit to, or concern the profession practised in, the performance of the duties of the employment.
- (2) The objects are—
 - (a) the advancement or dissemination of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions),
 - (b) the maintenance or improvement of standards of conduct and competence among the members of a profession,

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- (c) the provision of indemnity or protection to members of a profession against claims in respect of liabilities incurred by them in the exercise of their profession.
- (3) [^{F6}An officer of Revenue and Customs] may approve a body of persons under this section if, on an application by the body, [^{F7}the officer][^{F8}is satisfied] that—
- (a) the body is not of a mainly local character,
 - (b) its activities are carried on otherwise than for profit, and
 - (c) its activities are wholly or mainly directed to objects within subsection (2).
- (4) [^{F6}An officer of Revenue and Customs] must give notice to the body of their decision on the application.
- (5) If the activities of the body are to a significant extent directed to objects other than objects within subsection (2), [^{F6}an officer of Revenue and Customs] may—
- (a) determine the proportion of the activities directed to objects within subsection (2), and
 - (b) determine that only such corresponding part of the subscription as is specified by [^{F6}an officer of Revenue and Customs] is allowable under this section.
- (6) In determining that part, [^{F6}an officer of Revenue and Customs] must have regard to the proportion of expenditure of the body attributable to objects other than objects within subsection (2) and all other relevant circumstances.
- (7) If a body applies for approval under this section and is approved, a subscription paid to it—
- (a) before it has applied but in the same tax year as the application, or
 - (b) after it has applied but before it is approved,
- is treated for the purposes of this section as having been paid to an approved body.

Textual Amendments

- F6** 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)
- F7** Words in s. 344(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 103\(1\)\(g\)](#); S.I. 2005/1126, art. 2(2)(h)
- F8** Words in s. 344(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 112](#); S.I. 2005/1126, art. 2(2)(h)

345 Decisions of [^{F6}an officer of Revenue and Customs] under section 344

- (1) [^{F6}An officer of Revenue and Customs] may by notice to the body in question—
- (a) withdraw an approval given under section 344, and
 - (b) withdraw or vary a determination made under that section,
- to take account of any change in circumstances.
- (2) A body aggrieved by a decision of [^{F6}an officer of Revenue and Customs] under section 344 or subsection (1) may appeal to the Special Commissioners.
- (3) The notice of appeal must be given to [^{F6}an officer of Revenue and Customs] within 30 days after the date on which notice of their decision was given to the body.

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Employee liabilities and indemnity insurance

346 Deduction for employee liabilities

- (1) A deduction from earnings from an employment is allowed for any or all of the following—
 - A. Payment in or towards the discharge of a liability related to the employment.
 - B. Payment of any costs or expenses incurred in connection with—
 - (a) a claim that the employee is subject to a liability related to the employment, or
 - (b) proceedings relating to or arising out of a claim that the employee is subject to a liability related to the employment.
 - C. Payment of a premium under a qualifying insurance contract, but only to the extent that the premium relates to—
 - (a) provision in the contract for the employee to be indemnified against a payment falling within paragraph A, or
 - (b) provision in the contract for the payment of any costs or expenses falling within paragraph B.
- (2) But a deduction is not allowed for a payment which falls within paragraph A or B if it would be unlawful for the employer to enter into a contract of insurance in respect of the liability, or costs or expenses, in question.
- (3) In this Chapter—
 - (a) “premium”, in relation to a qualifying insurance contract, means an amount payable to the insurer under the contract, and
 - (b) where a qualifying insurance contract relates to more than one person, employment or risk, the part of the premium to be treated as relating to each of them is to be determined by apportionment on a just and reasonable basis.

347 Payments made after leaving the employment

- (1) A deduction for a payment is not allowed under section 346 if—
 - (a) the employee has ceased to hold the employment, and
 - (b) the payment is made after the day on which the employee ceased to hold the employment.
- (2) If subsection (1) applies, see section 555 (former employee entitled to deduction from total income).

Status: Point in time view as at 19/07/2005.

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348 Liabilities related to the employment

For the purposes of this Chapter each of the following kinds of liability is related to the employment— A. Liability imposed upon the employee because he did an act, or failed to do an act—

- (a) in his capacity as holder of the employment, or
- (b) in any other capacity in which he acted in the performance of the duties of the employment.

B. Liability imposed upon the employee in connection with any proceedings relating to, or arising from, a claim that he is subject to a liability because he did an act, or failed to do an act—

- (a) in his capacity as holder of the employment, or
- (b) in any other capacity in which he acted in the performance of the duties of the employment.

349 Meaning of “qualifying insurance contract”

- (1) In section 346 “qualifying insurance contract” means a contract of insurance which meets conditions A, B, C and D.
- (2) Condition A is that, so far as the risks insured against are concerned, the contract only relates to one or more of the following—
 - (a) the indemnification of an employee against a liability related to the employment,
 - (b) the indemnification of a person against vicarious liability in respect of a liability related to another person’s employment,
 - (c) the payment of costs or expenses incurred—
 - (i) in connection with a claim that a person is subject to a liability to which the insurance relates, or
 - (ii) in connection with any proceedings relating to or arising out of a claim that a person is subject to a liability to which the insurance relates,
 - (d) the indemnification of an employer against loss from a payment made by the employer to an employee in respect of—
 - (i) a liability related to the employment, or
 - (ii) any costs or expenses incurred as mentioned in paragraph (c).
- (3) Condition B is that—
 - (a) the period of insurance under the contract does not exceed 2 years or, if it does, it does so only because of one or more renewals, each for a period of 2 years or less, and
 - (b) the insured is not required to renew the contract for any period.
- (4) Condition C is—
 - (a) that the insured is not entitled under the contract to receive any payment or other benefit in addition to—
 - (i) cover for the risks insured against, and
 - (ii) any right to renew the contract, or
 - (b) if the insured is so entitled, that the part of the premium reasonably attributable to the entitlement is not a significant part of the whole premium.
- (5) Condition D is that the contract is not connected with another contract.

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350 Connected contracts

- (1) An insurance contract is connected with another contract for the purposes of section 349 if conditions E and F are met—
 - (a) at the time when both contracts are first in force, or
 - (b) at any time after that time.
- (2) Condition E is that one of the contracts was entered into—
 - (a) by reference to the other, or
 - (b) with a view to enabling or facilitating entry into the other on particular terms.
- (3) Condition F is that the terms on which one of the contracts was entered into are significantly different from what they would have been if—
 - (a) it had not been entered into in anticipation of the other being entered into, or
 - (b) the other had not also been entered into.
- (4) If—
 - (a) there is only one such significant difference in terms, and
 - (b) the contracts meet conditions A, B and C specified in section 349,the difference may be disregarded in the following cases.
- (5) The first case is where the difference is a reduction in premiums under the contract that is reasonably attributable only to the contract—
 - (a) containing a right to renew, or
 - (b) being entered into by way of renewal.
- (6) The second case is where—
 - (a) two or more contracts have been entered into as part of a single transaction, and
 - (b) the difference is reductions in their premiums that are reasonably attributable only to the premium under each of them having been fixed by reference to the appropriate proportion of the combined premium.
- (7) In subsection (6) “the combined premium” means the amount that would have been the total premium under a single contract relating to all the risks covered by the contracts.

Expenses of ministers of religion

351 Expenses of ministers of religion

- (1) A deduction is allowed from any earnings from any employment as a minister of a religious denomination for amounts incurred by the minister wholly, exclusively and necessarily in the performance of duties of such an employment.
- (2) If a minister of a religious denomination pays rent in respect of a dwelling-house, part of which is used mainly and substantially for the purposes of such duties, a deduction is allowed from the minister's earnings from any employment as such a minister for—
 - (a) one quarter of the rent, or
 - (b) if less, the part of the rent that, on a just and reasonable apportionment, is attributable to that part of the dwelling-house.
- (3) If—

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- (a) an interest in premises belongs to a charity or an ecclesiastical corporation, and
- (b) because of that interest and by reason of holding an employment as a minister of a religious denomination, the minister has a residence in the premises from which to perform the duties of the employment,

a deduction is allowed from the minister’s earnings from any such employment for part of any expenses borne by the minister on the maintenance, repair, insurance or management of the premises.

- (4) The amount of the deduction is—

$$\frac{A}{4} - B$$

where—

A is the amount of the expenses borne by the minister on the maintenance, repair, insurance or management of the premises, and

B is the amount of those expenses that are allowed under subsection (1).

- (5) In this section “charity” means a body of persons or trust established for charitable purposes only.
- (6) Subsection (1) needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

Agency fees paid by entertainers

352 Limited deduction for agency fees paid by entertainers

- (1) A deduction is allowed from earnings from an employment as an entertainer for agency fees (and any value added tax on them) if the fees are calculated as a percentage of the whole or part of the earnings from the employment.

This is subject to the limit in subsection (2).

- (2) Amounts may be deducted under this section in calculating the net taxable earnings from an employment in a tax year only to the extent that, in aggregate, they do not exceed 17.5% of the taxable earnings from the employment in the tax year.
- (3) Subsections (4) and (5) apply for the purposes of this section.
- (4) “Entertainer” means an actor, dancer, musician, singer or theatrical artist.
- (5) “Agency fees”, in relation to an employment, means—
 - (a) fees paid under a contract between the employee and another person, to whom the fees are paid, who—
 - (i) agrees under the contract to act as an agent of the employee in connection with the employment, and
 - (ii) at the time the fees are paid is carrying on an employment agency with a view to profit, and

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- (b) fees paid under an arrangement under which a co-operative society or the members of such a society agree to act as the employee’s agent in connection with the employment.
- (6) For the purposes of subsection (5)—
- “co-operative society” does not include a society which carries on or intends to carry on business with the object of making profits mainly for the payment of interest, dividends or bonuses on money invested or deposited with or lent to the society or any other person, and
 - “employment agency” has the meaning given by section 13(2) of the Employment Agencies Act 1973 (c. 35).

Special rules for earnings with a foreign element

353 Deductions from earnings charged on remittance

- (1) A deduction is allowed from earnings charged on remittance for expenses within subsection (2) if the condition in subsection (3) is met.
- (2) The expenses are—
 - (a) any expenses—
 - (i) paid by the employee out of the earnings, or
 - (ii) paid on the employee’s behalf by another person and included in the earnings, and
 - (b) any other expenses paid in the United Kingdom in the tax year or an earlier tax year in which the employee has been resident in the United Kingdom.
- (3) The condition is that the expenses would have been deductible under sections 336 to 342 if the earnings had been earnings charged on receipt in the tax year in which the expenses were incurred.
- (4) Where—
 - (a) any of the deductibility provisions refers to amounts or expenses that would be deductible from earnings if they were paid by a person, and
 - (b) the earnings in question are earnings charged on remittance,it is assumed for the purposes of those provisions that the person pays the amounts or expenses out of those earnings.

354 Disallowance of expenses relating to earnings taxed on different basis or untaxed

- (1) If the earnings from an employment for a tax year include both earnings charged on receipt and other earnings (except earnings charged under section 22), no deduction is allowed under sections 336 to 342 from the earnings charged on receipt for an amount paid in respect of duties of the employment to which the other earnings relate.
- (2) If the earnings from an employment for a tax year include both earnings charged on remittance under section 26 and other earnings, no deduction is allowed under section 353 from the earnings charged on remittance for an amount paid in respect of duties of the employment to which the other earnings relate.
- (3) This section is to be disregarded for the purposes of the deductibility provisions.

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355 Deductions for corresponding payments by non-domiciled employees with foreign employers

- (1) An employee may make a claim to [^{F9}the Commissioners for Her Majesty's Revenue and Customs] under this section if conditions A to D are met.
- (2) Condition A is that the employee is not domiciled in the United Kingdom.
- (3) Condition B is that the employment is with a foreign employer.
- (4) Condition C is that the employee has made a payment out of earnings from the employment.
- (5) Condition D is that the payment does not reduce the employee's liability to United Kingdom income tax, but was made in circumstances corresponding to those in which it would do so.
- (6) If the [^{F10}Commissioners] are satisfied that conditions A to D are met, they may allow the payment as a deduction under this Chapter.

Textual Amendments

- F9** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F10** Word in s. 355 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(3\)\(f\)](#); S.I. 2005/1126, art. 2(2)(h)

Disallowance of business entertainment and gifts expenses

356 Disallowance of business entertainment and gifts expenses

- (1) No deduction from earnings is allowed under this Part for expenses incurred in providing entertainment or a gift in connection with the employer's trade, business, profession or vocation.
- (2) Subsection (1) is subject to the exceptions in—
 - (a) section 357 (exception where employer's expenses disallowed), and
 - (b) section 358 (other exceptions).
- (3) For the purposes of this section and those sections—
 - (a) "entertainment" includes hospitality of any kind, and
 - (b) expenses incurred in providing entertainment or a gift include expenses incurred in providing anything incidental to the provision of entertainment or a gift.

357 Business entertainment and gifts: exception where employer's expenses disallowed

- (1) The prohibition in section 356 on deducting expenses does not apply if—
 - (a) the earnings include an amount in respect of the expenses,
 - (b) the employer—
 - (i) paid the amount to, or on behalf of, the employee, or

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- (ii) put it at the employee’s disposal,
exclusively for meeting expenses incurred or to be incurred by the employee
in providing the entertainment or gift, and
 - (c) condition A, B or C is met.
- (2) Condition A is that the deduction of the amount falls to be disallowed under [F11 section 45 or 867 of ITTOIA 2005 or under] section 577 of ICTA in calculating the employer’s profits from the trade, profession or vocation in question for the purposes of the Tax Acts (or it would do so apart from the exemption in section 505(1)(e) of ICTA or any relief applying in respect of those profits).
- [F12(3) Condition B is that the inclusion of the amount falls to be disallowed (or would be disallowed apart from some other relief applying to the employer) under that section in calculating—
- (a) the employer’s expenses of management for the purposes of giving relief under the Tax Acts, or
 - (b) the employer’s expenses deduction under section 76 of ICTA (companies carrying on life assurance business).]
- (4) Condition C is that—
- (a) the employer is a tonnage tax company during the whole or part of the tax year, and
 - (b) apart from the tonnage tax election, the deduction of the amount included in the employee’s earnings would fall to be disallowed in calculating the employer’s relevant shipping profits.
- (5) In subsection (4) “tonnage tax company”, “tonnage tax election” and “relevant shipping profits” have the same meaning as in Schedule 22 to FA 2000.

Textual Amendments

F11 Words in s. 357(2) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 593](#) (with Sch. 2)

F12 S. 357(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 68\(2\)](#)

358 Business entertainment and gifts: other exceptions

- (1) The prohibition in section 356 on deducting expenses does not apply if the expenses are incurred in providing entertainment or gifts for the employer’s employees unless—
 - (a) they are also provided for others, and
 - (b) their provision for the employees is incidental to their provision for the others.
- (2) For this purpose directors and persons engaged in the management of a company are regarded as employed by it.
- (3) The prohibition in section 356 on deducting expenses does not apply if the expenses are incurred in providing a gift which incorporates a conspicuous advertisement for the employer or, if the employer is a company, another company which belongs to the same group as the employer, unless—

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- (a) the gift is food, drink, tobacco or a token or voucher exchangeable for goods, or
 - (b) the cost of the gift to the donor, together with any other gifts (except food, drink, tobacco or tokens or vouchers exchangeable for goods) given to the same person in the same tax year, is more than £50.
- (4) In subsection (3) “group” means a body corporate and its 51% subsidiaries.

Other rules preventing deductions of particular kinds

359 Disallowance of travel expenses: mileage allowances and reliefs

- (1) No deduction may be made under the travel deductions provisions in respect of travel expenses incurred in connection with the use by the employee of a vehicle that is not a company vehicle if condition A or B is met.
- (2) Condition A is that mileage allowance payments are made to the employee in respect of the use of the vehicle.
- (3) Condition B is that mileage allowance relief is available in respect of the use of the vehicle by the employee (see section 231).
- (4) In this section—
 - “company vehicle” has the meaning given by section 236(2),
 - “mileage allowance payments” has the meaning given by section 229(2), and
 - “the travel deductions provisions” means sections 337 to 342, 370, 371, 373 and 374 (travel expenses) and section 351 (expenses of ministers of religion).

360 Disallowance of certain accommodation expenses of MPs and other representatives

- (1) No deduction from earnings is allowed under this Chapter or section 373 (non-domiciled employee’s travel costs and expenses where duties performed in UK) for accommodation expenses incurred by a member of—
 - (a) the House of Commons,
 - (b) the Scottish Parliament,
 - (c) the National Assembly for Wales, or
 - (d) the Northern Ireland Assembly.
- (2) In this section “accommodation expenses” means expenses incurred in, or in connection with, the provision or use of residential or overnight accommodation to enable the member to perform duties as a member of the Parliament or Assembly in or about—
 - (a) the place where it sits, or
 - (b) the constituency or region which the member represents.

[^{F13}360A Social security contributions

- (1) No deduction from earnings is allowed under this Chapter for any contribution paid by any person under Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992.

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- (2) But this prohibition does not apply to an employer's contribution (see subsection (3)) which is allowable as a deduction—
- (a) under section 336 (the general rule),
 - (b) under any of sections 337 to 342 (travel expenses), or
 - (c) under section 351(1) (expenses of ministers of religion).
- (3) For this purpose “an employer's contribution” means—
- (a) a secondary Class 1 contribution,
 - (b) a Class 1A contribution, or
 - (c) a Class 1B contribution,
- within the meaning of Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992.]

Textual Amendments

F13 S. 360A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 594](#) (with [Sch. 2](#))

CHAPTER 3

DEDUCTIONS FROM BENEFITS CODE EARNINGS

Introduction

361 Scope of this Chapter: cost of benefits deductible as if paid by employee

A deduction from a person's earnings is allowed under the following provisions of this Chapter where—

- (a) the earnings include an amount treated as earnings under—
 - (i) Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens),
 - (ii) Chapter 5 of Part 3 (taxable benefits: living accommodation), or
 - (iii) Chapter 10 of Part 3 (taxable benefits: residual liability to charge), and
- (b) an amount in respect of the benefit in question would be deductible under Chapter 2 or 5 of this Part if the person had incurred and paid it.

Deductions where amounts treated as earnings under the benefits code

362 Deductions where non-cash voucher provided

- (1) A deduction from earnings is allowed if—
- (a) the earnings include an amount treated as earnings under section 87(1) (cash equivalent of benefit of non-cash voucher treated as earnings),
 - (b) the voucher is exchanged for goods or services (whether in the tax year or a later year), and
 - (c) had the employee incurred and paid the cost of the goods or services in the tax year, the whole or part of the amount paid would have been deductible from the earnings under Chapter 2 or 5 of this Part.

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- (2) The deduction is equal to the lesser of—
- (a) the amount treated as earnings, and
 - (b) the amount that would have been so deductible.

363 Deductions where credit-token provided

- (1) A deduction from earnings is allowed if—
- (a) the earnings include an amount treated as earnings under section 94(1) (cash equivalent of benefit of credit-token treated as earnings), and
 - (b) had the employee incurred and paid the cost of the goods or services obtained by using the token, the whole or part of the amount paid would have been deductible from the earnings under Chapter 2 or 5 of this Part.
- (2) The deduction is equal to the lesser of—
- (a) the amount treated as earnings, and
 - (b) the amount that would have been so deductible.

364 Deductions where living accommodation provided

- (1) A deduction from earnings is allowed if—
- (a) the earnings include an amount treated as earnings under Chapter 5 of Part 3 (taxable benefits: living accommodation), and
 - (b) had the employee incurred and paid an amount equal to that amount for the accommodation in the tax year, the whole or part of the amount paid would have been deductible under Chapter 2 or 5 of this Part.
- (2) The deduction is equal to the amount that would have been so deductible.

365 Deductions where employment-related benefit provided

- (1) A deduction from earnings is allowed if—
- (a) the earnings include an amount treated as earnings under Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of a benefit, and
 - (b) had the employee incurred and paid the cost of the benefit, the whole or part of the amount paid would have been deductible under Chapter 2 or 5 of this Part.
- (2) The deduction is equal to the amount that would have been so deductible.
- (3) For the purposes of this section, the cost of the benefit is determined in accordance with sections 204 to 206.

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CHAPTER 4

FIXED ALLOWANCES FOR EMPLOYEE’S EXPENSES

Introduction

366 Scope of this Chapter: amounts fixed by Treasury

A deduction from an employee’s earnings for an amount is allowed under this Chapter where the amount has been fixed by the Treasury by reference to the employee’s employment.

Fixed sum deductions

367 Fixed sum deductions for repairing and maintaining work equipment

- (1) A deduction is allowed for the sum, if any, fixed by the Treasury as in their opinion representing the average annual expenses incurred by employees of the class to which the employee belongs in respect of the repair and maintenance of work equipment.
- (2) The Treasury may only fix such a sum for a class of employees if they are satisfied that—
 - (a) the employees are generally responsible for the whole or part of the expense of repairing and maintaining the work equipment, and
 - (b) the expenses for which they are generally responsible would be deductible from the employees' earnings under section 336 if paid by them.
- (3) No deduction is allowed under this section if the employer pays or reimburses the expenses in respect of which the sum is fixed or would do so if requested.
- (4) If the employer pays or reimburses part of those expenses or would do so if requested, the amount of the deduction is reduced by the amount which is or would be paid or reimbursed.
- (5) In this section “work equipment” means tools or special clothing.
- (6) This section needs to be read with section 330(2) (prevention of double deductions).

368 Fixed sum deductions from earnings payable out of public revenue

- (1) A deduction is allowed from earnings payable out of the public revenue for the employee’s fixed sum expenses in respect of the duties to which the earnings relate.
- (2) “Fixed sum expenses” means the sum, if any, fixed by the Treasury as in their opinion representing the average annual expenses which employees of the employee’s description are obliged to pay wholly, exclusively and necessarily in the performance of duties to which such earnings relate.
- (3) This section needs to be read with section 330(2) (prevention of double deductions).

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CHAPTER 5

DEDUCTIONS FOR EARNINGS REPRESENTING BENEFITS OR REIMBURSED EXPENSES

Introduction

369 Scope of this Chapter: earnings representing benefits or reimbursed expenses

- (1) A deduction from a person's earnings for an amount is allowed under the following provisions of this Chapter where the amount is included in the earnings in respect of—
 - (a) provision made for the person, or
 - (b) expenses reimbursed by another person.
- (2) In this Chapter references to “the included amount” are references to the amount so included.
- (3) If the included amount is an amount treated as earnings under—
 - (a) Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens),
 - (b) Chapter 5 of Part 3 (taxable benefits: living accommodation), or
 - (c) Chapter 10 of Part 3 (taxable benefits: residual liability to charge),
 a deduction may be allowed instead in respect of the benefit in question under Chapter 3 of this Part (deductions from benefits code earnings).

Travel costs and expenses where duties performed abroad

370 Travel costs and expenses where duties performed abroad: employee's travel

- (1) A deduction is allowed from earnings which are taxable earnings under section 15 or 21 (earnings for year when employee resident and ordinarily resident in UK) if—
 - (a) the earnings include an amount in respect of—
 - (i) the provision of travel facilities for a journey made by the employee, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey, and
 - (b) the circumstances fall within Case A, B or C.
- (2) The deduction is equal to the included amount.
- (3) Case A is where—
 - (a) the employee is absent from the United Kingdom wholly and exclusively for the purpose of performing the duties of one or more employments,
 - (b) the duties concerned can only be performed outside the United Kingdom, and
 - (c) the journey is—
 - (i) a journey from a place outside the United Kingdom where such duties are performed to a place in the United Kingdom, or
 - (ii) a return journey following such a journey.
- (4) Case B is where—
 - (a) the duties of the employment are performed partly outside the United Kingdom,

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- (b) those duties are not performed on a vessel,
 - (c) the journey is between a place in the United Kingdom and a place outside the United Kingdom where duties of the employment are performed,
 - (d) the duties performed outside the United Kingdom can only be performed there, and
 - (e) the journey is made wholly and exclusively for the purpose of performing them or returning after performing them.
- (5) Case C is where—
- (a) the duties of the employment are performed partly outside the United Kingdom,
 - (b) those duties are performed on a vessel,
 - (c) the journey is between a place in the United Kingdom and a place outside the United Kingdom where duties of the employment are performed,
 - (d) the duties performed outside the United Kingdom can only be performed there, and
 - (e) the journey is made wholly and exclusively for the purpose of performing those duties, or those duties and other duties of the employment, or returning after performing them.

371 Travel costs and expenses where duties performed abroad: visiting spouse's or child's travel

- (1) A deduction is allowed from earnings which are taxable earnings under section 15 or 21 (earnings for year when employee resident and ordinarily resident in UK) if—
- (a) the earnings include an amount in respect of—
 - (i) the provision of travel facilities for a journey made by the employee's spouse or child, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey, and
 - (b) conditions A to C are met.
- (2) The deduction is equal to the included amount.
- (3) Condition A is that the employee is absent from the United Kingdom for a continuous period of at least 60 days for the purpose of performing the duties of one or more employments.
- (4) Condition B is that the journey is between a place in the United Kingdom and a place outside the United Kingdom where such duties are performed.
- (5) Condition C is that the employee's spouse or child is—
- (a) accompanying the employee at the beginning of the period of absence,
 - (b) visiting the employee during that period, or
 - (c) returning to a place in the United Kingdom after so accompanying or visiting the employee.
- (6) A deduction is not allowed under this section for more than two outward and two return journeys by the same person in a tax year.
- (7) In this section “child” includes a stepchild and an illegitimate child, but not a person who is 18 or over at the beginning of the outward journey.

Status: Point in time view as at 19/07/2005.

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372 Where seafarers' duties are performed

For the purposes of—

- (a) section 370 (employee's travel costs and expenses where duties performed abroad), and
- (b) section 371 (visiting spouse's or child's travel costs and expenses where duties performed abroad),

whether duties performed on a vessel are performed in or outside the United Kingdom is determined without regard to section 40(2) (certain duties treated as performed in UK).

Travel costs and expenses of non-domiciled employees where duties performed in UK

373 Non-domiciled employee's travel costs and expenses where duties performed in UK

- (1) This section applies if a person ("the employee") who is not domiciled in the United Kingdom—
 - (a) receives earnings from an employment for duties performed in the United Kingdom, and
 - (b) an amount is included in the earnings in respect of—
 - (i) the provision of travel facilities for a journey made by the employee, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey.
- (2) A deduction is allowed from earnings from the employment which are earnings charged on receipt if the journey meets conditions A and B.
- (3) Condition A is that the journey ends on, or during the period of 5 years beginning with, a date that is a qualifying arrival date in relation to the employee (see section 375).
- (4) Condition B is that the journey is made—
 - (a) from the country outside the United Kingdom in which the employee normally lives to a place in the United Kingdom in order to perform duties of the employment, or
 - (b) to that country from a place in the United Kingdom in order to return to that country after performing such duties.
- (5) If the journey is wholly for a purpose specified in subsection (4), the deduction is equal to the included amount.
- (6) If the journey is only partly for such a purpose, the deduction is equal to so much of the included amount as is properly attributable to that purpose.

374 Non-domiciled employee's spouse's or child's travel costs and expenses where duties performed in UK

- (1) This section applies if a person ("the employee") who is not domiciled in the United Kingdom—
 - (a) receives earnings from an employment for duties performed in the United Kingdom, and

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- (b) an amount is included in the earnings in respect of—
 - (i) the provision of travel facilities for a journey made by the employee’s spouse or child, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey.
- (2) A deduction is allowed from earnings from the employment which are earnings charged on receipt if conditions A to C are met.
- (3) Condition A is that the journey—
 - (a) is made between the country outside the United Kingdom in which the employee normally lives and a place in the United Kingdom, and
 - (b) ends on, or during the period of 5 years beginning with, a date that is a qualifying arrival date in relation to the employee (see section 375).
- (4) Condition B is that the employee is in the United Kingdom for a continuous period of at least 60 days for the purpose of performing the duties of one or more employments from which the employee receives earnings for duties performed in the United Kingdom.
- (5) Condition C is that the employee’s spouse or child is—
 - (a) accompanying the employee at the beginning of that period,
 - (b) visiting the employee during that period, or
 - (c) returning to the country outside the United Kingdom in which the employee normally lives, after so accompanying or visiting the employee.
- (6) If the journey is wholly for the purpose of so accompanying or visiting the employee or so returning, the deduction is equal to the included amount.
- (7) If the journey is only partly for that purpose, the deduction is equal to so much of the included amount as is properly attributable to that purpose.
- (8) A deduction is not allowed under this section for more than two inward journeys and two return journeys by the same person in a tax year.
- (9) In this section “child” includes a stepchild and an illegitimate child, but not a person who is 18 or over at the beginning of the inward journey.

375 Meaning of “qualifying arrival date”

- (1) For the purposes of sections 373(3) and 374(3), a date is a qualifying arrival date in relation to a person if—
 - (a) it is a date on which the person arrives in the United Kingdom to perform duties of an employment from which the person receives earnings for duties performed in the United Kingdom, and
 - (b) condition A or B is met.
- (2) Condition A is that the person has not been in the United Kingdom for any purpose during the period of 2 years ending with the day before the date.
- (3) Condition B is that the person was not resident in the United Kingdom in either of the 2 tax years preceding the tax year in which the date falls.
- (4) If, in a case where condition B applies, there are 2 or more dates in the tax year on which the person arrives in the United Kingdom to perform duties of an employment

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from which the person receives earnings for duties performed in the United Kingdom, the qualifying arrival date is the earliest of them.

Foreign accommodation and subsistence costs and expenses

376 Foreign accommodation and subsistence costs and expenses (overseas employments)

- (1) A deduction from earnings from an employment is allowed if—
- (a) the duties of the employment are performed wholly outside the United Kingdom,
 - (b) the employee is resident and ordinarily resident in the United Kingdom,
 - (c) in a case where the employer is a foreign employer, the employee is domiciled in the United Kingdom, and
 - (d) the earnings include an amount in respect of—
 - (i) the provision of accommodation or subsistence outside the United Kingdom for the employee for the purpose of enabling the employee to perform the duties of the employment, or
 - (ii) the reimbursement of expenses incurred by the employee on such accommodation or subsistence for that purpose.
- (2) If the accommodation or subsistence is wholly for that purpose, the deduction is equal to the included amount.
- (3) If the accommodation or subsistence is only partly for that purpose, the deduction is equal to so much of the included amount as is properly attributable to that purpose.
- (4) Subsection (5) applies if in the tax year the employment is in substance one whose duties fall to be performed outside the United Kingdom.
- (5) Duties of the employment performed in the United Kingdom, whose performance is merely incidental to the performance of duties outside the United Kingdom, are to be treated for the purposes of subsection (1)(a) as performed outside the United Kingdom.

Personal security assets and services

377 Costs and expenses in respect of personal security assets and services

- (1) This section applies if—
- (a) there is a special threat to an employee's personal physical security which arises wholly or mainly because of the employee's employment,
 - (b) an asset or service which improves personal security is provided for or used by the employee to meet the threat,
 - (c) the employee's earnings include an amount in respect of—
 - (i) the provision or use, or
 - (ii) expenses connected with it,
 because the whole or part of the cost of the provision or use is borne, or the expenses are reimbursed to the employee, by or on behalf of another person ("the provider"), and
 - (d) the provider's sole object in bearing the whole or part of the cost or reimbursing the expenses is meeting the threat.

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- (2) In the case of such an asset, if the provider intends it to be used solely for the purpose of improving personal physical security, a deduction equal to the included amount is allowed.
- (3) If the provider intends the asset to be used solely to improve personal physical security, any use of the asset incidental to that purpose is ignored.
- (4) If the provider intends the asset to be used only partly to improve personal physical security, a deduction equal to the proportion of the included amount attributable to the intended use for that purpose is allowed.
- (5) In determining whether or not this section applies in relation to an asset, it does not matter if—
 - (a) the asset becomes fixed to land (even a dwelling or grounds), or
 - (b) the employee is or becomes entitled—
 - (i) to the property in the asset, or
 - (ii) if the asset is a fixture, to any estate or interest in the land concerned.
- (6) In the case of a service within subsection (1), if the benefit resulting to the employee consists wholly or mainly of an improvement of the employee's personal physical security, a deduction equal to the included amount is allowed.
- (7) The fact that an asset or a service improves the personal physical security of a member of the employee's family or household, as well as that of the employee, does not prevent a deduction being allowed.
- (8) In this section—

“asset” includes equipment or a structure (such as a wall), but not a car, ship or aircraft or a dwelling or grounds appurtenant to a dwelling, and

“service” does not include a dwelling or grounds appurtenant to a dwelling.

CHAPTER 6

DEDUCTIONS FROM SEAFARERS' EARNINGS

378 Deduction from seafarers' earnings: eligibility

- (1) A deduction is allowed from earnings from an employment as a seafarer if—
 - (a) the earnings are taxable earnings under section 15 or 21 (earnings for year when employee resident and ordinarily resident in UK),
 - (b) the duties of the employment are performed wholly or partly outside the United Kingdom, and
 - (c) any of those duties are performed in the course of an eligible period.
- (2) In this Chapter “eligible period” means a period consisting of at least 365 days which is either—
 - (a) a period of consecutive days of absence from the United Kingdom, or
 - (b) a combined period.
- (3) A combined period is a period—
 - (a) at least half of the days in which are days of absence from the United Kingdom, and

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- (b) which consists of 3 consecutive periods, A, B and C, where—
 - A is a period of consecutive days of absence from the United Kingdom or a period which is itself a combined period,
 - B is a period of not more than 183 days, and
 - C is a period of consecutive days of absence from the United Kingdom.
- (4) For this purpose a person is only regarded as being absent from the United Kingdom on any day if absent at the end of the day.

379 Calculating the deduction

- (1) The deduction under section 378—
 - (a) is allowed from the amount of the earnings from the employment attributable to the eligible period, and
 - (b) is equal to that amount.
- (2) Earnings from the employment for a period of leave immediately after the eligible period are to be regarded as earnings attributable to the eligible period if or to the extent that they are earnings for the tax year in which the eligible period ends.
- (3) This section is subject to section 380 (limit on deduction where UK duties etc. make amount unreasonable).

380 Limit on deduction where UK duties etc. make amount unreasonable

- (1) If—
 - (a) section 378 (deduction from seafarers' earnings: eligibility) applies to earnings for a tax year, and
 - (b) in the tax year the employee performs some of the duties of the employment as a seafarer or of any associated employments in the United Kingdom,
 the amount of earnings in respect of which the deduction under this Chapter is allowed is subject to the following limitation.
- (2) The amount is restricted to the proportion of the aggregate earnings for that year from the employment as a seafarer and all associated employments that is reasonable having regard to—
 - (a) the nature of and time devoted to the duties performed outside and in the United Kingdom, and
 - (b) all other relevant circumstances.
- (3) In this section “associated employments” means employments with the same employer or with associated employers.
- (4) The same rules for determining whether employers are associated apply for the purposes of this section as apply for section 24(4) (limit on chargeable overseas earnings where duties of associated employment performed in UK) (see section 24(5)).

381 Taking account of other deductions

For the purposes of sections 379 and 380, the amount of the earnings from an employment for a tax year is the amount remaining after any deductions under—

- (a) section 232 (giving effect to mileage allowance relief),

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- (b) Chapter 2, 3, 4 or 5 of this Part,
- (c) section 592(7) of ICTA (contributions to exempt approved schemes),
- (d) section 594(1) of ICTA (contributions to exempt statutory schemes), and
- (e) section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions from earnings).

382 Duties on board ship

- (1) Duties which a person performs on a ship engaged—
 - (a) on a voyage beginning or ending outside the United Kingdom (but excluding any part of it beginning and ending in the United Kingdom), or
 - (b) on a part beginning or ending outside the United Kingdom of any other voyage,are treated as performed outside the United Kingdom for the purposes of this Chapter.
- (2) Duties which a person performs on a vessel engaged on a voyage not extending to a port outside the United Kingdom are treated for the purposes of this Chapter as performed in the United Kingdom.
- (3) For the purposes of subsection (1) the areas designated under section 1(7) of the Continental Shelf Act 1964 (c. 29) are treated as part of the United Kingdom.
- (4) Subsection (1) applies despite anything to the contrary in section 40 (duties on board vessel or aircraft).

383 Place of performance of incidental duties

- (1) For the purposes of section 378(1)(b) (deduction from seafarers' earnings: eligibility), duties of an employment as a seafarer which are performed outside the United Kingdom are treated as performed in the United Kingdom if conditions A and B are met.
- (2) Condition A is that in the tax year in which the duties are performed the employment is in substance one whose duties fall to be performed in the United Kingdom.
- (3) Condition B is that the performance of the duties performed outside the United Kingdom is merely incidental to the performance of duties in the United Kingdom.
- (4) Section 39 (duties in UK merely incidental to duties outside UK) does not affect the question—
 - (a) where any duties are performed, or
 - (b) whether a person is absent from the United Kingdom,for the purposes of section 378(1) to (3).

384 Meaning of employment “as a seafarer”

- (1) In this Chapter employment “as a seafarer” means an employment (other than Crown employment) consisting of the performance of duties on a ship or of such duties and others incidental to them.
- (2) In this section “Crown employment” means employment under the Crown—
 - (a) which is of a public nature, and

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- (b) the earnings from which are payable out of the public revenue of the United Kingdom or of Northern Ireland.

[^{F14}385 Meaning of “ship”

In this Chapter “ship” does not include an offshore installation.]

Textual Amendments

F14 S. 385 substituted (with effect in accordance with Sch. 27 para. 16 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 27 para. 14](#)

Status:

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Changes to legislation:

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