



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 5

#### EMPLOYMENT INCOME: DEDUCTIONS ALLOWED FROM EARNINGS

### 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—

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- (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.
- (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.

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### *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).

### *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—

- (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.
- (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.

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- (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.
- (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*

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#### 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,

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- (c) a roll or record kept for a class of dental auxiliaries,
  - (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.

#### 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.

#### 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.

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- (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 Board 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.

#### **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,
  - (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) The Inland Revenue may approve a body of persons under this section if, on an application by the body, they are 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) The Inland Revenue 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), the Inland Revenue 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 the Inland Revenue is allowable under this section.
- (6) In determining that part, the Inland Revenue 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.



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- (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.

### **345 Decisions of the Inland Revenue under section 344**

- (1) The Inland Revenue 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 the Inland Revenue under section 344 or subsection (1) may appeal to the Special Commissioners.
- (3) The notice of appeal must be given to the Inland Revenue within 30 days after the date on which notice of their decision was given to the body.

### *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—
1. Payment in or towards the discharge of a liability related to the employment.
  2. 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.
  3. 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.

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### **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).

### **348 Liabilities related to the employment**

For the purposes of this Chapter each of the following kinds of liability is related to the employment—

1. 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.
2. 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.

### **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.

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### *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—
  - (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—
 
$$\frac{A}{4} \text{ B}$$
 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).

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- (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
  - (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.

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**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.

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

- (1) An employee may make a claim to the Board of Inland Revenue 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 Board are satisfied that conditions A to D are met, they may allow the payment as a deduction under this Chapter.

*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
    - (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 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).
- (3) Condition B is that the inclusion of the amount falls to be disallowed under that section in calculating the employer’s expenses of management for the purposes of giving relief under the Tax Acts (or it would do so apart from another relief applying to the employer).
- (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.

**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—
  - (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.