



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

### CHAPTER 5

TAXABLE BENEFITS: LIVING ACCOMMODATION

*Accommodation costing £75,000 or less*

#### **[<sup>F1</sup>105B Lease premiums in the case of leases with break clauses**

- (1) This section applies to a lease (“the original lease”) that contains one or more relevant break clauses.
- (2) For the purposes of this section—
  - (a) “break clause” means a provision of a lease that gives a person a right to terminate it so that its term is shorter than it otherwise would be, and
  - (b) a break clause contained in the original lease is “relevant” if the right to terminate the lease that it confers is capable of being exercised in such a way that the term of the original lease is 10 years or less.
- (3) For the purposes of section 105A—
  - (a) the term of the original lease, and
  - (b) the net amount payable by P in relation to the lease by way of lease premium,are to be determined on the assumption that any relevant break clause is exercised in such a way that the term of the lease is as short as possible.

**Changes to legislation:** *Income Tax (Earnings and Pensions) Act 2003, Section 105B is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (4) If a relevant break clause is not in fact exercised in such a way that the term of the original lease is as short as possible, the parties to the lease are treated for the purposes of section 105A as if they were parties to another lease (a “notional lease”) the term of which—
- (a) begins immediately after the time at which the term of the original lease would have ended, if that break clause had been so exercised, and
  - (b) ends at the time mentioned in subsection (5).
- (5) The term of a notional lease ends—
- (a) at the time the term of the original lease would end, on the assumption that any relevant break clause that is exercisable only after the beginning of the term of the notional lease is exercised in such a way that the term of the original lease is as short as possible, or
  - (b) if earlier, the tenth anniversary of the beginning of the term of the original lease.
- (6) For the purposes of section 105A the net amount payable by P in relation to a notional lease by way of lease premium is, in the case of a notional lease the term of which ends under paragraph (a) of subsection (5)—
- (a) the net amount that would be payable by P in relation to the original lease by way of lease premium on the assumption mentioned in that paragraph, less
  - (b) any part of that amount that has already been attributed to a period in respect of a lease premium under section 105(4B)(b).
- (7) For the purposes of section 105A the net amount payable by P in relation to a notional lease by way of lease premium is, in the case of a notional lease the term of which ends under paragraph (b) of subsection (5), the relevant proportion of—
- (a) the net amount that would be payable by P in relation to the original lease by way of lease premium, on the assumption that no break clause is exercised, less
  - (b) any part of that amount that has already been attributed to a period in respect of a lease premium under section 105(4B)(b).
- (8) In subsection (7) “the relevant proportion” means—
- DE
- where—
- D is the term of the notional lease (in days), and
- E is the sum of—
- (a) the term of the notional lease (in days), and
  - (b) the number of days by which the term of the original lease would exceed 10 years, on the assumption that no break clause is exercised.]

#### **Textual Amendments**

- F1** Ss. 105A, 105B inserted (with effect in accordance with s. 71(4)-(6) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [s. 71\(3\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 452(2)(aa) inserted by [2013 c. 29 Sch. 23 para. 11](#)
- s. 707A inserted by [2024 c. 3 s. 36\(4\)](#)