



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

Disallowance of business entertainment and gifts expenses

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 [^{F1}section 45 or 867 of ITTOIA 2005 or under][^{F2}section 1298 of CTA 2009] 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 ^{F3}... [^{F4}section 524 of ITA 2007][^{F5}or section 478 of CTA 2010] or any relief applying in respect of those profits).

Changes to legislation: *Income Tax (Earnings and Pensions) Act 2003, Section 357 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*

- [^{F6}(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 [^{F7}section 1298 of CTA 2009] in calculating—
- (a) the employer’s expenses of management for the purposes of giving relief under the Tax Acts, or
 - [^{F8}(b) the ordinary BLAGAB management expenses of the employer for the purposes of section 76 of FA 2012.]]
- (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

- F1** 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](#))
- F2** Words in s. 357(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 552(2)** (with [Sch. 2 Pts. 1, 2](#))
- F3** Words in s. 357(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 385\(a\)](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F4** Words in s. 357(2) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 436** (with [Sch. 2](#))
- F5** Words in s. 357(2) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 385(b)** (with [Sch. 2](#))
- F6** 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)**
- F7** Words in s. 357(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 552(3)** (with [Sch. 2 Pts. 1, 2](#))
- F8** S. 357(3)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 111**

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\(4\)](#)