



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 2

#### EMPLOYMENT INCOME: CHARGE TO TAX

### CHAPTER 6

#### DISPUTES AS TO DOMICILE OR ORDINARY RESIDENCE

#### **42 [F<sup>1</sup>Commissioners] to determine dispute as to domicile or ordinary residence**

- (1) This section applies if, in connection with any of the provisions listed in subsection (3), there is a dispute as to whether a person is or has been ordinarily resident or domiciled in the United Kingdom.
- (2) The question whether the person is or has been so resident or domiciled is to be referred to and decided by [F<sup>2</sup>the Commissioners for Her Majesty's Revenue and Customs] .
- (3) The provisions referred to in subsection (1) are—
  - section 15 (earnings for year when employee resident, ordinarily resident and domiciled in UK);
  - section 21 (earnings for year when employee resident and ordinarily resident, but not domiciled, in UK, except chargeable overseas earnings);
  - section 22 (chargeable overseas earnings for year when employee resident and ordinarily resident, but not domiciled, in UK);
  - section 23 (calculation of “chargeable overseas earnings”);
  - section 25 (UK-based earnings for year when employee resident, but not ordinarily resident, in UK);
  - section 26 (foreign earnings for year when employee resident, but not ordinarily resident, in UK);

**Status:** Point in time view as at 18/04/2005.

**Changes to legislation:** *Income Tax (Earnings and Pensions) Act 2003, Section 42 is up to date with all changes known to be in force on or before 11 July 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)*

section 341 (deduction for travel expenses at start or finish of overseas employment);  
 section 342 (deduction for travel expenses between employments where duties performed abroad);  
 section 355 (deduction for corresponding payments by non-domiciled employees with foreign employers);  
 section 376 (deduction for foreign accommodation and subsistence costs etc. where overseas employment);  
 section 390 (exception for payments to non-approved pension schemes if non-domiciled employees with foreign employers).

#### **Textual Amendments**

- F1** Word in s. 42 title substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(3\)\(b\)](#); S.I. 2005/1126, art. 2(2)(h)
- F2** 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)

#### **Modifications etc. (not altering text)**

- C1** S. 42 applied by [1988 c. 1, s. 645\(4C\)](#) (as inserted (6.4.2003 with effect in accordance with [s. 723\(1\)\(a\)\(b\)](#) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 93\(4\)](#) (with [Sch. 7](#))

**Status:**

Point in time view as at 18/04/2005.

**Changes to legislation:**

Income Tax (Earnings and Pensions) Act 2003, Section 42 is up to date with all changes known to be in force on or before 11 July 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.