



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 8

FORMER EMPLOYEES: DEDUCTIONS FOR LIABILITIES

Interpretation

558 Meaning of “deductible payment”

(1) For the purposes of this Part each of the following is a deductible payment—

- A. Payment in or towards the discharge of a liability related to the former employment.
- B. Payment of any costs or expenses incurred in connection with—
 - (a) a claim that the former employee is subject to a liability related to the former employment, or
 - (b) proceedings relating to or arising out of a claim that the former employee is subject to a liability related to the former employment.

[^{F1}BA Payment of any costs or expenses not falling within paragraph B which are incurred in connection with the former employee giving evidence about matters related to the former employment in, or for the purposes of—

- (a) a proceeding or other process (whether or not involving the former employee), or
- (b) an investigation (whether or not likely to lead to any proceeding or other process involving the former employee).

BB Payment of any costs or expenses not falling within paragraph B or BA which are incurred in connection with a proceeding or other process, or an investigation, in which—

- (a) acts of the former employee related to the former employment, or

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(b) any other matters related to the former employment, are being or are likely to be considered.]

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 former 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 [^{F2}, BA or BB] .

(2) But a payment which falls within paragraph A [^{F3}B, BA or BB] is not a deductible payment if it would have been unlawful for the former employer to enter into a contract of insurance in respect of the liability, or costs or expenses, in question.

(3) In this Part—

- (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.

[^{F4}(4) In this section and section 560—

- (a) “acts” includes failures to act and acts are “related to the former employment” if the former employee was acting—
 - (i) in the employee's capacity as holder of the former employment, or
 - (ii) in any other capacity in which the former employee was acting in the performance of the duties of that employment,
- (b) “giving evidence” includes making a formal or informal statement or answering questions,
- (c) “proceeding or other process” includes any civil, criminal or arbitration proceedings, any disciplinary or regulatory proceedings of any kind and any process operated for resolving disputes or adjudicating on complaints, and
- (d) references to a proceeding or other process or an investigation include a reference to a proceeding or other process or an investigation that is likely to take place.]

Textual Amendments

- F1** Words in s. 558(1) inserted (with effect in accordance with s. 4(8) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 4\(6\)\(a\)](#)
- F2** Words in s. 558(1) inserted (with effect in accordance with s. 4(8) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 4\(6\)\(b\)](#)
- F3** Words in s. 558(2) substituted (with effect in accordance with s. 4(8) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 4\(6\)\(c\)](#)
- F4** S. 558(4) inserted (with effect in accordance with s. 4(8) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 4\(6\)\(d\)](#)

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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\(4\)](#)