

*These notes refer to the Income Tax (Earnings and Pensions)
Act 2003 (c.1) which received Royal Assent on 6th March 2003*

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 2: Employment income: charge to tax

Chapter 4: Taxable earnings: rules applying to employee resident, ordinarily resident and domiciled in UK

Overview

65. This Chapter sets out how to work out the amount of general earnings from an employment which are charged to tax in a particular tax year if the employee is resident, ordinarily resident and domiciled in the United Kingdom. Under ICTA such employees come within Case I of Schedule E.
66. This category of employees represents the vast majority of the people who are taxed in the United Kingdom on their employment income. All the rules relating to such employees appear together in one Chapter, leaving all the provisions for cases involving a non-UK element, such as non-resident employees or income representing chargeable overseas earnings (“foreign emoluments” in the language of ICTA), to be covered in Chapter 5. This means that the bulk of employees and their advisers will have to read no further than Chapter 4 of this Part to determine the amount of general earnings charged to tax in a year.
67. This approach does mean that some of the supplementary rules (for example about the meaning of receipt of money earnings) appear in both Chapters 4 and 5. The aim is that the reader will only have to look at one chapter to be able to work out what are the taxable earnings in any given year for any given employment.

Section 14: Taxable earnings under this Chapter: introduction

68. This introductory section sets out how the Chapter deals with the calculation of the taxable earnings in a year for an employee who is resident, ordinarily resident and domiciled in the United Kingdom. It is new.

Section 15: Earnings for year when employee resident, ordinarily resident and domiciled in UK

69. This section sets out the basic rule that the taxable earnings in such a year are all general earnings received in that year. It derives from Case I of Schedule E as set out in paragraph 1 of section 19(1) and section 202A(1) of ICTA.

70. *Subsection (3)* sets out the rule that the receipts basis is not affected by the fact that earnings may relate to a different tax year to that in which they are received or to a year when the employment is not held. It derives from section 202A(2) of ICTA.

Section 16: Meaning of earnings “for” a tax year

71. This section explains what is meant by earnings “for” a tax year. It is a new section in response to requests made during the consultation leading up to this Act which suggested that it would be a good idea to have this kind of clarification about what earnings are “for” a tax year. See *Note 6* in Annex 2.
72. *Subsection (2)* identifies the period that the earnings are “for”, and *subsections (3)* and *(4)* explain how to work out the tax year that the earnings are “for” on the basis of the period determined in subsection (2). If the period spans more than one tax year then the earnings for that period should be apportioned between those years on a just and reasonable basis.
73. Some of the provisions in Part 3 that operate to treat income as earnings specify the year “for” which the income should be so treated. *Subsection (5)* makes it clear that section 16 does not displace the effect of those provisions in Part 3.

Section 17: Treatment of earnings for year in which employment not held

74. This section sets out how earnings from an employment should be treated if they would otherwise be considered as earnings for a year before or after that employment is held. It derives from paragraph 4A of section 19(1).
75. The rule in section 17 applies only to “general earnings”, ie emoluments or amounts treated as emoluments, thus subject to the Cases of Schedule E as set out in paragraph 1 of section 19(1) of ICTA.
76. Where the Schedule E legislation provides that an amount shall be treated as an emolument of an employment only if provided in a year when the employment is held, this Act reproduces that limitation. The sections in the benefits code make it clear that such amounts or benefits will only be treated as earnings if they are paid/provided in a year in which the employment is held. If they are paid/provided at any other time they will not be treated as earnings and will be outside the “general earnings” to which section 17 applies. *Subsection (4)* makes it clear that this section does not apply in connection with determining amounts to be treated as earnings under the benefits code. See *Note 7* in Annex 2.

Section 18: Receipt of money earnings

77. This section sets out the rules for determining when money earnings should be treated as received, providing for the first time a single rule for all money earnings. It derives from the first half of section 202B of ICTA. See also *Change 1* in Annex 1.
78. *Subsection (3)* provides the definition of “director” used for this purpose. It derives from section 202B(5) of ICTA.

Section 19: Receipt of non-money earnings

79. This section sets out the rules for determining when non-money earnings should be treated as received, excluding any money earnings. The section derives from section 202B (7) to (11) of ICTA. The exclusion of money earnings is new. See also *Change 2* in Annex 1.