

*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

The Income Tax (Offices and Employments) Act 1944 (7&8 Geo. 6. (1943-44) c.12)

*Extension of principal Act (subject to exceptions) to all emoluments taxable under
Schedule E*

Machinery of PAYE

Chapter 4: PAYE: special types of income

Overview

2805. This Chapter treats as payments of PAYE income the provision of PAYE income in the form of cash vouchers and readily convertible assets, and certain non-cash vouchers and credit tokens which are or are for readily convertible assets. It also treats as payments certain share-related employment income.
2806. *Section 693* deals with the receipt of cash vouchers (for example traveller's cheques) by employees. It provides when the payment is made for PAYE purposes. It also provides exceptions to that rule and for the PAYE regulations to make further exceptions.
2807. *Sections 694 to 702* deal with income provided in the form of readily convertible assets, or vouchers or credit tokens for such assets; enhancements to the value of readily convertible assets already held by employees; gains from options on shares which are readily convertible assets, or conditional interests in shares which are readily convertible assets being sold or ceasing to be conditional. These are all circumstances in which there is employment income which is taxable but which would not be a payment for PAYE purposes. The sections treat a payment of PAYE income as made and where necessary provide also how the amount of the payment should be calculated.

Section 693: Cash vouchers

2808. This section provides for PAYE to be operated on the provision of cash vouchers. It derives from section 203I of ICTA and from regulations.
2809. *Subsection (1)* provides that where a cash voucher is chargeable to tax under Chapter 4 of Part 3 of this Act then the provision of the cash voucher is treated as a payment of PAYE income. The amount of the payment is the amount treated as earnings by section 81(1). The subsection also picks up the rule in section 143(1)(a) of ICTA that determines the time of payment. The cash voucher is treated as a payment of PAYE income at the time it is received by the employee.
2810. *Subsections (2) and (3)* together keep out of PAYE such things as traveller's cheques used by employees while travelling in the performance of their duties. They deal

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respectively with vouchers used direct to meet expenses and vouchers used to get cash to meet expenses.

2811. There is also no requirement to operate PAYE on cash vouchers which are subject to a dispensation (see section 96) as Chapter 4 of Part 3 then does not apply to the voucher.
2812. “Cash voucher” is defined in section 721.

Section 694: Non-cash vouchers

2813. This section provides for PAYE to be operated on certain non-cash vouchers. It derives from section 203G of ICTA and from regulations.
2814. *Subsection (1)* provides that, if the conditions of this section are met, then the provision of a non-cash voucher will constitute a payment of PAYE income of an amount equal to the amount treated as earnings under section 87(1).
2815. *Subsection (2)* states when the section applies to a non-cash voucher. This is when either of the conditions in subsections (3) and (4) are met and the voucher is not excluded by PAYE regulations.
2816. But there is no requirement to operate PAYE on non-cash vouchers which are subject to a dispensation (see section 96) as Chapter 4 of Part 3 then does not apply to the voucher.
2817. *Subsection (3)* provides for a non-cash voucher to fall within this section, and therefore within PAYE, if it is exchangeable for a readily convertible asset.
2818. *Subsection (4)* provides that a non-cash voucher falls within this section if it would itself be regarded as a readily convertible asset for the purposes of section 696 but for the fact that section 696 does not apply to non-cash vouchers (because they are dealt with by this section).
2819. *Subsections (5) and (6)* derive from regulation 6(1) to (3) and 2(1) of the [Income Tax \(Employments\) \(Notional Payments\) Regulations 1994 \(SI 1994 No 1212\)](#). They determine when a payment is made and what “cheque voucher” and “cost of provision” mean.
2820. *Subsection (7)* is the same rule about appropriation of vouchers as in section 82(3).
2821. “Readily convertible asset” is defined in section 702. “Non-cash voucher” is defined in section 721.

Section 695: Credit-tokens

2822. This section provides for PAYE to be operated on certain credit-tokens used by an employee. It derives from section 203H of ICTA and regulations.
2823. *Subsection (2)* derives from paragraph 4 of [SI 1994 No 1212](#). It excludes from the scope of the section credit-tokens used to obtain money to meet expenses which would only be PAYE income because of section 70.
2824. As with vouchers, there is also no requirement to operate PAYE on credit-tokens which are subject to a dispensation (see section 96) as Chapter 4 of Part 3 then does not apply to give rise to an amount treated as earnings under section 94.
2825. “Readily convertible asset” is defined in section 702. “Credit-token” is defined in section 721(1).

Section 696: Readily convertible assets

2826. This section requires provision of PAYE income to an employee in the form of a readily convertible asset to be treated as payment by the employer, and gives the amount of the notional payment. It derives from section 203F of ICTA.

2827. “Readily convertible asset” is defined in section 702.

Section 697: Enhancing the value of an asset

2828. This section treats as the provision of PAYE income in the form of a readily convertible asset anything which enhances the value of an asset which an employee already has if the asset (as enhanced) is a readily convertible asset. It derives from section 203FA of ICTA and regulations.

2829. *Subsection (1)* sets out the circumstances in which this section applies.

2830. *Subsection (2)* then provides for section 696 to apply as if the income were provided in the form of a readily convertible asset. Then (subject to the details of section 696) it will be a “notional payment” on which PAYE must be operated.

2831. *Subsection (4)* derives from paragraph 3B of the [Income Tax \(Employments\) \(Notional Payments\) Regulations 1994, SI 1994 No 1212](#). It excludes from this section things which are excluded from readily convertible assets: see section 701(2)(c).

Section 698: PAYE: shares ceasing to be only conditional or being disposed of

2832. This section deals with employment income under section 427 (Charge on interest in shares ceasing to be only conditional or on disposal) – see paragraph [1853](#). It derives from parts of section 203FB of ICTA.

2833. Section 203FB of ICTA provides, in summary, that PAYE applies to share-related events where the shares are readily convertible assets. It deals with several such events. These are divided here between this section and sections 699 and 700 to make them easier to relate back to the way Chapters 2, 3 and 5 of Part 7 give rise to employment income in such cases. But these are complex events which involve some complex rules.

2834. *Subsections (1)* and *(2)* set out the circumstances in which this section applies.

2835. *Subsection (3)* provides that in those circumstances the event is treated as if a further interest in shares had been provided. PAYE may then apply – although that depends on for example whether or not it is a readily convertible asset.

2836. *Subsection (4)* provides that if section 696 requires PAYE to be operated in these circumstances the amount of the notional payment for PAYE purposes is the amount which is likely to be chargeable under Chapter 2 of Part 7.

2837. *Subsection (5)* applies to this section the meaning given by Chapter 2 of Part 7 to expressions such as “shares” (see section 434).

Section 699: PAYE: conversion of shares

2838. This is the second of the three sections derived from section 203FB of ICTA. It deals with employment income under section 438 on the conversion of convertible shares.

2839. The section takes broadly the same approach as section 698.

Section 700: PAYE: gains from share options

2840. This is the third of the three sections derived from section 203FB of ICTA. It deals with employment income under sections 476 (Charge on exercise, assignment or release of option by employee) and 477 (Charge on employee where option exercised, assigned or released by another person).

2841. The section takes broadly the same approach as sections 698 and 699 but includes minor changes.

2842. *Subsection (3)* deals with the assignment or release of the right to acquire shares. Where this happens the consideration might be a cash payment or an asset. Sections 684 to 691

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and 696 could be relevant – depending on whether the consideration is a payment made direct, payment by an intermediary, the provision of an asset or whatever.

2843. Subsection (3)(a) deals with consideration in the form of a payment. It treats as a payment of PAYE income a proportion of the amount chargeable under sections 476 or 477 less any relief likely to be due under section 481. Having regard to the relief which is likely to be due is a minor change to remove an inconsistency in section 203FB. See *Change 151* in Annex 1.
2844. Subsections (3) and (4) together include a further minor change in the law. This is to ensure the total amount subject to PAYE does not exceed the employment income. See *Change 151* in Annex 1.
2845. Subsections (6) and (7) give “asset” in this section a meaning which includes cash vouchers and certain non-cash vouchers and credit-tokens. See *Change 152* in Annex 1.

Section 701: Meaning of “asset”

2846. This section defines “asset” for the purposes of Chapter 4. It derives from section 203F(4) and (5) of ICTA and regulations.

Section 702: Meaning of “readily convertible asset”

2847. This section defines “readily convertible asset” in Chapter 4. It derives from parts of sections 203F and 203K of ICTA.
2848. Section 203F(6) defines “money” to include the European currency unit (ECU). That is no longer needed. See *Note 59* in Annex 2.