

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Example 3

£150(Pe) – £50(E) = £100

Chapter 6: Taxable benefits: cars, vans and related benefits

Overview

Section 165: Deduction for payments for private use

639. This section provides for an adjustment to the value of the shared van availability to take account of payments the employee makes for the private use of a shared van. The section derives from paragraph 9(2) and (3) and part of paragraph 9(1) of Schedule 6A to ICTA.
640. *Subsection (1)* provides that a deduction is to be made in the calculations in section 161 or section 164 of this Act if the employee is required to pay, and does pay, for private use. The words “(whether by way of deduction from earnings or otherwise)” avoid any doubt about whether a deduction from earnings can amount to a payment. This follows the approach that is used in sections 144(1)(a) and 159(1)(a) of this Act.
641. *Subsections (2) to (4)* state how to calculate the deduction. The wording of these subsections closely follows that of the source legislation. The possible argument that subsection (4) operates to prevent any deduction at all where a global sum is paid for private use of any of the vans was considered. Such a restrictive interpretation would be unreasonable. It is better not to complicate further these already complex provisions by seeking to address this subtle point. It can be dealt with using the “care and management” provisions in section 1 of TMA 1970.
642. *Subsection (5)* extends the section to private use by a member of the employee’s family or household.