

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Example 3

£150(Pe) – £50(E) = £100

Part 4: Employment income: exemptions

Chapter 1: Exemptions: general

Section 227: Scope of Part 4

911. This section introduces Part 4, setting out the effect of the exemptions within it. It is new.
912. *Subsections (2) and (3)* explain that there are two different kinds of exemption. An “earnings-only exemption” is an exemption that removes either any charge to tax under Part 2 as general earnings or a particular charge to tax as general earnings, for example, by removing a charge under a particular chapter of the benefits code.
913. An “employment income” exemption removes *any* charge to tax under Part 2.
914. There is considerable variety in the forms of words used to express exemptions in ICTA. However, not all the differences in wording signify an actual difference in the effect. Close examination of the various exemption provisions in ICTA shows that an exemption can only affect a possible charge to tax under Schedule E in three ways:
- it can remove a single type of charge; eg section 155(1A) of ICTA says
((1A) Section 154 does not apply to a benefit consisting in the provision for the employee of a car parking space at or near his place of work.
 - it can remove any charge as “emoluments” (rewritten in this Act as “general earnings”); eg section 200B(2) (work-related training provided by employers) says
((2) Subject to section 200C, the emoluments of the employee from the office or employment shall not be taken to include....
 - it can remove any charge to tax under Schedule E, eg section 197AD(1) of ICTA says
(1) There is no charge to tax under Schedule E in respect of approved mileage allowance payments for a qualifying vehicle.
915. In this Act the effects described in the first two bullets only impact on general earnings, and exemptions which have those effects are described as “earnings-only” exemptions.

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

The type of exemption that, in ICTA, removes any charge to tax under Schedule E is labelled an “employment income” exemption in this Act.

916. If a benefit is received in circumstances to which Chapter 3 of Part 6 (payments and benefits on termination of employment etc) could apply, any “earnings-only” exemptions are ignored in deciding whether or not the benefit is within that Chapter.
917. But if the benefit or income is the subject of an “employment income” exemption, there is no possibility of any charge to tax on that benefit or income under Chapter 3 of Part 6, nor under any other provision in this Act.
918. There are also some exemptions that have a wider effect and remove the possibility of any charge to tax at all. These are described in section 228(2).