

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Example 3

Ne = £5,000; Da = 183; De = 183; Smg = 0

Part 5: Employment income: deductions allowed from earnings

Background

1378. This Part provides for deductions allowed from earnings.
1379. The charge to tax on employment income is a charge to tax on two different categories of employment income: “general earnings” and “specific employment income” (see section 6(1)); and, in the case of “general earnings”, (a term defined in section 7(3)), the amount charged to income tax is the “net taxable earnings” from the employment in the tax year (see section 9(2)). Section 11 then provides that the net taxable earnings from an employment in a tax year consist of the total amount of the taxable earnings from the employment less the total amount of any deductions allowed from those earnings (as listed in section 327(3) to (5)). And it is with this final component of “net taxable earnings” that this Part of this Act is concerned.
1380. In ICTA, the deductions provisions are very difficult to unravel. Some individual provisions are straightforward. But there are many connections between provisions. They interact in ways which are not always easy to follow. Several fictions have been adopted to make the provisions work.
1381. One major source of complexity is that the expenses of an employee may be met in several possible ways, taxed under different sections of ICTA. The mechanism for making a deduction may vary according to the circumstances.
1382. For example, consider the position of a director making a train journey to attend a meeting. The table below shows some of the various ways in which the employer might fund the trip, how the director would be taxed and how the director might obtain a deduction in respect of the expenses of the train ticket. (References to sections are to sections of ICTA.)

<i>Employer funds trip by</i>	<i>Charging provision</i>	<i>Deduction allowable under</i>
round sum allowance	section 19(1)1	section 198
specific expense payment	section 153	section 198
buying the ticket	section 141	section 198 via section 141(3)

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

<i>Employer funds trip by</i>	<i>Charging provision</i>	<i>Deduction allowable under</i>
providing credit card for employee to use on ticket	section 142	section 198 via section 142(3)

1383. There are other possibilities. For example, if the same director travelled to the same meeting using private transport provided by the employer, the provision of the transport would be taxed under section 154 of ICTA, with a deduction allowable under section 198 via section 156(8). And if the business journey involved foreign travel, there are further deduction provisions that may apply.
1384. Another major source of complexity is that the central provision relating to deductions, section 198 of ICTA, is used by other provisions of ICTA and is used in different ways. For example:
- under section 156(8) of ICTA, the cost of a benefit provided is allowed as a deduction under section 198, or other provisions, if it would be allowed as a deduction if paid out of emoluments;
 - under section 193(3) of ICTA, certain travel expenses are treated as having been necessarily incurred in the performance of the duties of an overseas employment for the purposes of section 198(1);
 - under section 193(7) of ICTA, references to section 198, and to deductions under section 198, are treated as including references to section 193(3), and to deductions under that subsection; and
 - under section 200A(1) of ICTA, incidental overnight expenses are not regarded as emoluments if they would not be deductible under section 198.
1385. In this Act the number of provisions that cross-refer to other deductions provisions has been much reduced. The view has been taken that it is more helpful, in the case of each deduction provision, to set out in full the conditions that must be met. In setting out those conditions, Inland Revenue practice has been followed. As a result of this approach, sections 194(10) and 195(11) of ICTA, which provide for provisions to be construed with other provisions, have no direct successors in this Act.