

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

Overview

Chapter 2: Deductions for employee's expenses

Overview

Section 341: Travel at start or finish of overseas employment

1468. This section allows a deduction from earnings for starting travelling expenses and finishing travelling expenses if the duties of the employment are performed wholly outside the United Kingdom.
1469. The section derives from section 193(2) and (3) of ICTA.
1470. Section 193(3) begins with the words "For the purposes of section 198(1)". This section sets out all the conditions that have to be met in each case, as opposed to referring to section 336, the successor provision to section 198(1).
1471. *Subsections (2) to (4)*, however, do not reproduce the condition from section 198(1) that the holder of the employment is obliged to incur and defray the expenses, because the Inland Revenue does not rely on this condition before allowing the deduction from earnings. See *Change 83* in Annex 1.
1472. *Subsection (4)* is one of the provisions that make use of the new term "foreign employer", defined in section 721 for the purposes of this Act as a whole.
1473. *Subsections (6) and (7)* derive from section 132(2) of ICTA. These subsections ensure that a deduction under this section is still available if duties of the employment are performed in the United Kingdom which are merely incidental to the duties of the employment performed outside the United Kingdom. See also *Change 101(B)* in Annex 1.
1474. *Subsection (8)* defines the new terms "starting travel expenses" and "finishing travel expenses", which describe travel to take up an overseas employment and travel home after it has finished. This subsection also extends the meaning of the term "employee" to include a person who is to be, or has ceased to be, an employee.

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

1475. *Subsection (9)* provides that this section needs to be read with section 359, which prohibits a deduction if a mileage allowance is paid or if mileage allowance relief is available.