

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Example 3

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

Part 6: Employment income: income which is not earnings or share-related

Chapter 3: Payments and benefits on termination of employment etc.

Overview

Section 415: Valuation of benefits

1788. This section sets out how to value the benefits chargeable under this Chapter. It derives from paragraph 12 of Schedule 11 to ICTA. It applies the valuation rules of the benefits code as set out in Chapters 2 to 10 of Part 3 of this Act.
1789. *Subsection (1)* provides the rule for arriving at the amount of cash benefits.
1790. *Subsection (2)* provides the same rule as that in section 64 of this Act (relationship between earnings and benefits code). The amount of any earnings is considered first, and the cash equivalent under the benefits code “tops up” the earnings with the excess. This link to the benefits code is a minor change to the law. See *Change 110* in Annex 1. The benefits are considered on the basis of what would be chargeable if section 15 of this Act applied.
1791. *Subsections (3) to (7)* of this section modify the valuation provisions used in the benefits code so that they can apply properly to work out the valuation of benefits brought into the charge to tax under this Chapter. These provisions derive from section 596B of ICTA.
1792. *Subsection (4)* allows the valuation of the cash equivalent to be made by reference to the person chargeable or the recipient of the benefit.
1793. *Subsection (5)* disapplies, for valuation purposes, section 401(4) which treats the employee as the recipient in certain circumstances.
1794. *Subsection (7)* applies where the benefit is living accommodation and an amount has been made good. It overrides the limitation in section 106 of this Act which restricts the deduction to the rent paid, and so allows a deduction of the whole of the amount made good for the purposes of this Chapter.
1795. One of the modifications to the benefit of provided living accommodation is that section 146(8) of ICTA does not apply for the purposes of this Chapter. This refers

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

to accommodation first occupied by the employer before 31 March 1983. In view of the length of time since that date, the provision has been removed from section 107 of this Act. The disapplication of it has also been removed from this section. It is in paragraph 21(2) of Schedule 7 to this Act.