

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Example 3

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

Section 323: Long service awards

1361. This section derives from ESC A22 which concerns awards made to mark long service. Where the conditions are met the concession provides an exemption from income tax. Legislating the concession is a minor change to the law. See *Change 79* in Annex 1.
1362. The concession was introduced in the mid-1970s when employers had begun to give employees long service gifts other than the traditional clock or watch. It was restricted to tangible articles or shares of a defined kind to prevent cash payments that would properly be charged as earnings being dressed up as long service awards. In practice, the concession is applied more liberally than a strict interpretation of it would permit. For example, the provision by the employer of a holiday or a life membership to the National Trust as a long service award would be treated as covered by the concession. The scope of this section as set out in *subsection (3)* should cover all the types of award currently treated as being within the concession.
1363. When an ESC contains monetary limits, any change in those limits may be made by press release or by republishing the ESC with different amounts. This is not possible for legislation. There are a number of exemptions in the source legislation in which an amount is fixed by Treasury order and the power to alter the limit in this provision is contained in section 716.
1364. The concession does not restrict qualifying service to “the same employer” in the same way as the definition of a long service award in *subsection (2)*. However, in practice the concession is applied so that the service must be with the same employer unless there has been a change of employer of the kind described in *subsection (5)*.
1365. The definition of “group” adopted means that the minimum possible group relationship will enable the exemption to apply.