



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

CHAPTER 8

[^{F1}WORKERS' SERVICES PROVIDED THROUGH INTERMEDIARIES TO SMALL CLIENTS]

Application of this Chapter

48 Scope of this Chapter

- (1) This Chapter has effect with respect to the provision of services through an intermediary [^{F1}in a case where the services are provided to a person who is not a public authority and who either—
 - (a) qualifies as small for a tax year, or
 - (b) does not have a UK connection for a tax year.]
- (2) Nothing in this Chapter—
 - (a) affects the operation of Chapter 7 of this Part,
 - [^{F2}(aa) applies to services provided by a managed service company (within the meaning of Chapter 9 of this Part), or]
 - (b) applies to payments [^{F3}or transfers to which section 966(3) or (4) of ITA 2007 applies (visiting performers: duty to deduct and account for sums representing income tax)] .

[^{F4}(3) In this Chapter “public authority” has the same meaning as in Chapter 10 of this Part (see section 61L).]

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Application of this Chapter. (See end of Document for details)

[^{F5}(4) For provisions determining when a person qualifies as small for a tax year, see sections 60A to 60G.

(5) For provision determining when a person has a UK connection for a tax year, see section 60I.]

Textual Amendments

- F1** Words in s. 48(1) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2020 \(c. 14\), Sch. 1 paras. 3\(2\), 24](#) (with [Sch. 1 paras. 30-34](#))
- F2** S. 48(2)(aa) substituted for word (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\), s. 25\(2\), Sch. 3 para. 3](#)
- F3** Words in s. 48(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 429](#) (with [Sch. 2](#))
- F4** S. 48(3) inserted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 1 para. 2\(b\)](#)
- F5** S. 48(4)(5) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2020 \(c. 14\), Sch. 1 paras. 3\(3\), 24](#) (with [Sch. 1 paras. 30-34](#))

49 Engagements to which this Chapter applies

(1) This Chapter applies where—

(a) an individual (“the worker”) personally performs, or is under an obligation personally to perform, services [^{F6}for another person] (“the client”),

[^{F7}(aa) the client is not a public authority,]

(b) the services are provided not under a contract directly between the client and the worker but under arrangements involving a third party (“the intermediary”), and

[^{F8}(c) the circumstances are such that—

(i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client, or

(ii) the worker is an office-holder who holds that office under the client and the services relate to the office.]

[^{F9}(2)

(3) The reference in subsection (1)(b) to a “third party” includes a partnership or unincorporated body of which the worker is a member.

(4) The circumstances referred to in subsection (1)(c) include the terms on which the services are provided, having regard to the terms of the contracts forming part of the arrangements under which the services are provided.

[^{F10}(4A) Holding office as statutory auditor of the client does not count as holding office under the client for the purposes of subsection (1)(c), and here “statutory auditor” means a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (see section 1210 of that Act).]

(5) In this Chapter “engagement to which this Chapter applies” means any such provision of services as is mentioned in subsection (1).

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Application of this Chapter. (See end of Document for details)

Textual Amendments

- F6** Words in s. 49(1)(a) substituted (with effect in accordance with s. 136(4) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 136\(2\)](#)
- F7** S. 49(1)(aa) inserted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 1 para. 3](#)
- F8** S. 49(1)(c) substituted (with effect in accordance with s. 22(2) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 22\(1\)](#)
- F9** S. 49(2) repealed (with effect in accordance with s. 136(4) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 136\(3\)\(a\), Sch. 43 Pt. 3\(1\)](#)
- F10** S. 49(4A) inserted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 1 para. 11](#)

50 Worker treated as receiving earnings from employment

- (1) If, in the case of an engagement to which this Chapter applies, in any tax year—
[^{F11}(za) the client qualifies as small or does not have a UK connection,]
(a) the conditions specified in section 51, 52 or 53 are met in relation to the intermediary, and
(b) the worker, or an associate of the worker—
(i) receives from the intermediary, directly or indirectly, a payment or benefit that is not employment income, or
(ii) has rights which entitle, or which in any circumstances would entitle, the worker or associate to receive from the intermediary, directly or indirectly, any such payment or benefit,
the intermediary is treated as making to the worker, and the worker is treated as receiving, in that year a payment which is to be treated as earnings from an employment (“the deemed employment payment”).
- (2) A single payment is treated as made in respect of all engagements in relation to which the intermediary is treated as making a payment to the worker in the tax year.
- (3) The deemed employment payment is treated as made at the end of the tax year, unless section 57 applies (earlier date of deemed payment in certain cases).
- (4) In this Chapter “the relevant engagements”, in relation to a deemed employment payment, means the engagements mentioned in subsection (2).
- [^{F12}(5) The condition in paragraph (za) of subsection (1) is to be ignored if—
(a) the client concerned is an individual, and
(b) the services concerned are performed otherwise than for the purposes of the client's business.
- (6) For the purposes of paragraph (za) of subsection (1) the client is to be treated as not qualifying as small for the tax year concerned if the client is treated as medium or large for that tax year by reason of section 61TA(3)(a).]

Textual Amendments

- F11** S. 50(1)(za) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2020 \(c. 14\), Sch. 1 paras. 4\(2\), 24](#) (with [Sch. 1 paras. 30-34](#))

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Application of this Chapter. (See end of Document for details)

F12 S. 50(5)(6) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2020 \(c. 14\)](#), [Sch. 1 paras. 4\(3\), 24](#) (with [Sch. 1 paras. 30-34](#))

51 Conditions of liability where intermediary is a company

- (1) Where the intermediary is a company the conditions are that the intermediary is not an associated company of the client that falls within subsection (2) and either—
 - (a) the worker has a material interest in the intermediary, or
 - (b) the payment or benefit mentioned in section 50(1)(b)—
 - (i) is received or receivable by the worker directly from the intermediary, and
 - (ii) can reasonably be taken to represent remuneration for services provided by the worker to the client.
- (2) An associated company of the client falls within this subsection if it is such a company by reason of the intermediary and the client being under the control—
 - (a) of the worker, or
 - (b) of the worker and other persons.
- (3) A worker is treated as having a material interest in a company if—
 - (a) the worker, alone or with one or more associates of the worker, or
 - (b) an associate of the worker, with or without other such associates, has a material interest in the company.
- (4) For this purpose a material interest means—
 - (a) beneficial ownership of, or the ability to control, directly or through the medium of other companies or by any other indirect means, more than 5% of the ordinary share capital of the company; or
 - (b) possession of, or entitlement to acquire, rights entitling the holder to receive more than 5% of any distributions that may be made by the company; or
 - (c) where the company is a close company, possession of, or entitlement to acquire, rights that would in the event of the winding up of the company, or in any other circumstances, entitle the holder to receive more than 5% of the assets that would then be available for distribution among the participators.
- (5) In subsection (4)(c) “participator” has the meaning given by [^{F13}section 454 of CTA 2010].

Textual Amendments

F13 Words in s. 51(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 380](#) (with [Sch. 2](#))

52 Conditions of liability where intermediary is a partnership

- (1) Where the intermediary is a partnership the conditions are as follows.
- (2) In relation to any payment or benefit received or receivable by the worker as a member of the partnership the conditions are—

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Application of this Chapter. (See end of Document for details)

- (a) that the worker, alone or with one or more relatives, is entitled to 60% or more of the profits of the partnership; or
- (b) that most of the profits of the partnership concerned derive from the provision of services under engagements to which [^{F14}one or other of this Chapter and Chapter 10] applies—
 - (i) to a single client, or
 - (ii) to a single client together with associates of that client; or
- (c) that under the profit sharing arrangements the income of any of the partners is based on the amount of income generated by that partner by the provision of services under engagements to which [^{F15}one or other of this Chapter and Chapter 10] applies.

In paragraph (a) “relative” means [^{F16}spouse or civil partner] , parent or child or remoter relation in the direct line, or brother or sister.

- (3) In relation to any payment or benefit received or receivable by the worker otherwise than as a member of the partnership, the conditions are that the payment or benefit—
 - (a) is received or receivable by the worker directly from the intermediary, and
 - (b) can reasonably be taken to represent remuneration for services provided by the worker to the client.

Textual Amendments

- F14** Words in s. 52(2)(b) substituted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 1 para. 4](#)
- F15** Words in s. 52(2)(c) substituted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 1 para. 4](#)
- F16** Words in s. 52(2) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [138](#)

53 Conditions of liability where intermediary is an individual

Where the intermediary is an individual the conditions are that the payment or benefit—

- (a) is received or receivable by the worker directly from the intermediary, and
- (b) can reasonably be taken to represent remuneration for services provided by the worker to the client.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Application of this Chapter.