



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

### CHAPTER 5

TAXABLE BENEFITS: LIVING ACCOMMODATION

*Accommodation costing more than £75,000*

#### **106 Cash equivalent: cost of accommodation over £75,000**

- (1) The cash equivalent is calculated under this section if the cost of providing the living accommodation exceeds £75,000.
- (2) To calculate the cash equivalent—

*Step 1*

Calculate the amount that would be the cash equivalent if section 105 applied (cash equivalent: cost of accommodation not over £75,000).

*Step 2*

Calculate the following amount (“the additional yearly rent”)—

$$\text{ORI} \times (\text{C} - £75,000)$$

where—

ORI is the official rate of interest in force for the purposes of Chapter 7 of this Part (taxable benefits: loans) on 6th April in the tax year, and  
C is the cost of providing the accommodation calculated—

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- (a) in accordance with section 104 (general rule for calculating cost of accommodation), or
- (b) in a case where section 107 applies (special rule for calculating cost of providing accommodation), in accordance with that section instead.

*Step 3*

Calculate the rent which would have been payable for the taxable period if the property had been let to the employee at the additional yearly rent calculated under step 2.

*Step 4*

Calculate the cash equivalent by—

- (a) adding together the amounts calculated under steps 1 and 3, and
  - (b) (if allowed by subsection (3)) subtracting from that total the excess rent paid by the employee.
- (3) In step 4—
- (a) paragraph (b) only applies if, in respect of the taxable period, the rent paid by the employee in respect of the accommodation to the person providing it exceeds the rental value of the accommodation for that period as set out in section 105(3) or (4)(b), as applicable, and
  - (b) “the excess rent” means the total amount of that excess.

## **107 Special rule for calculating cost of providing accommodation**

- (1) This section contains a special rule for calculating the cost of providing living accommodation which—
- (a) operates for the purposes of step 2 of section 106(2) (calculating the additional yearly rent), and
  - (b) accordingly only operates where the cost of provision for the purposes of section 106(1) (as calculated under section 104) exceeds £75,000.
- (2) This section applies if, throughout the period of 6 years ending with the date when the employee first occupied the accommodation (“the initial date”), an estate or interest in the property was held by a person involved in providing the accommodation.

It does not matter whether it was the same estate, interest or person throughout.

- (3) For any tax year the cost of providing the living accommodation for the purposes mentioned in subsection (1)(a) is given by the formula—

$$MV + I - P$$

where—

MV is the price which the property might reasonably be expected to have fetched on a sale in the open market with vacant possession as at the initial date,

I is any expenditure incurred on improvements to the property which has been incurred during the period—

- (a) beginning with the initial date, and
- (b) ending with the day before the beginning of the tax year, by a person involved in providing the accommodation, and

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P is so much of any payment or payments made by the employee to a person involved in providing the accommodation as represents—

- (a) reimbursement (up to an amount not exceeding MV) of any expenditure incurred in acquiring the estate or interest in the property held on the initial date,
  - (b) reimbursement of I, or
  - (c) consideration for the grant to the employee of a tenancy or sub-tenancy of the property.
- (4) In estimating MV no reduction is to be made for an option in respect of the property held by—
- (a) the employee,
  - (b) a person connected with the employee, or
  - (c) a person involved in providing the accommodation.