



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

### CHAPTER 7

TAXABLE BENEFITS: LOANS

#### *Introduction*

#### **173 Loans to which this Chapter applies**

(1) This Chapter applies to a loan if it is an employment-related loan.

[<sup>F1</sup>(1A) Where this Chapter applies to a loan—

- (a) the loan is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms of the loan constitute a fair bargain), and
- (b) sections 175 to 183 [<sup>F2</sup>make provision about amounts which, in the case of a taxable cheap loan, are to be treated as earnings in certain circumstances] .]

(2) In this Chapter—

- (a) “loan” includes any form of credit, and
- (b) references to making a loan (and related expressions) include arranging, guaranteeing or in any way facilitating a loan.

(3) Sections 288 and 289 make provision for exemption and relief for certain bridging loans connected with employment moves.

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

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### Textual Amendments

- F1** S. 173(1A) inserted (with effect in accordance with s. 7(9) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 7\(8\)](#)
- F2** Words in s. 173(1A)(b) substituted (with effect in accordance with Sch. 2 para. 62 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 2 para. 42](#)

### [<sup>F3</sup>173A Alternative finance arrangements

- (1) For the purposes of this Chapter a reference to a loan includes a reference to arrangements—
  - (a) to which section 564C of ITA 2007 or section 503 of CTA 2009 (purchase and resale arrangements) applies (or would apply assuming one of the parties were a financial institution), or
  - (b) to which section 564D of ITA 2007 or section 504 of CTA 2009 (diminishing shared ownership arrangements) applies (or would apply on that assumption).
- (2) In the application of this Chapter as a result of this section, a reference to interest is to be treated as including alternative finance return (or anything that would be such return on that assumption).
- (3) In the application of this Chapter as a result of this section, a reference to the amount outstanding is to be taken—
  - (a) in the case of arrangements within subsection (1)(a), as a reference to the purchase price minus such part of the aggregate payments made as does not represent alternative finance return (or anything that would be such return on that assumption),
  - (b) in the case of arrangements to which section 564D of ITA 2007 or section 504 of CTA 2009 applies, as a reference to the amount of the [<sup>F4</sup>first owner's] original beneficial interest minus such part of the aggregate payments made as does not represent alternative finance return, and
  - (c) in the case of arrangements to which section 564D of ITA 2007 or section 504 of CTA 2009 would apply assuming one of the parties were a [<sup>F5</sup>first owner], as a reference to the amount of that party's original beneficial interest minus such part of the aggregate payments made as does not represent anything that would be alternative finance return on that assumption.
- (4) In this section—
 

“alternative finance return” has the meaning given in sections 564I to 564L of ITA 2007 or sections 511 to 513 of CTA 2009, <sup>F6</sup>...

“financial institution” has the meaning given in section 564B of ITA 2007 or section 502 of CTA 2009<sup>F7</sup>, and

“first owner” is to be construed in accordance with section 564D of ITA 2007 or section 504 of CTA 2009.]
- (5) This section does not apply to arrangements entered into before 22 March 2006.]

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### Textual Amendments

- F3** S. 173A inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 2 para. 49** (with Sch. 9 paras. 1-9, 22)
- F4** Words in s. 173A(3)(b) substituted (24.5.2022) by The Alternative Finance (Income Tax, Capital Gains Tax and Corporation Tax) Order 2022 (S.I. 2022/572), arts. 1(2), **8(3)(a)** (with art. 1(3))
- F5** Words in s. 173A(3)(c) substituted (24.5.2022) by The Alternative Finance (Income Tax, Capital Gains Tax and Corporation Tax) Order 2022 (S.I. 2022/572), arts. 1(2), **8(3)(b)** (with art. 1(3))
- F6** Word in s. 173A(4) omitted (24.5.2022) by virtue of The Alternative Finance (Income Tax, Capital Gains Tax and Corporation Tax) Order 2022 (S.I. 2022/572), arts. 1(2), **8(3)(c)(i)** (with art. 1(3))
- F7** Words in s. 173A(4) inserted (24.5.2022) by The Alternative Finance (Income Tax, Capital Gains Tax and Corporation Tax) Order 2022 (S.I. 2022/572), arts. 1(2), **8(3)(c)(ii)** (with art. 1(3))

## 174 Employment-related loans

- (1) For the purposes of this Chapter an employment-related loan is a loan—
- made to an employee or a relative of an employee, and
  - of a class described in subsection (2).
- (2) For the purposes of this Chapter the classes of employment-related loan are—
- A*
- A loan made by the employee’s employer.
- B*
- A loan made by a company or partnership over which the employee’s employer had control.
- C*
- A loan made by a company or partnership by which the employer (being a company or partnership) was controlled.
- D*
- A loan made by a company or partnership which was controlled by a person by whom the employer (being a company or partnership) was controlled.
- E*
- A loan made by a person having a material interest in—
- a close company which was the employer, had control over the employer or was controlled by the employer, or
  - a company or partnership controlling that close company.
- (3) In this section—
- “employee” includes a prospective employee, and
- “employer” includes a prospective employer.
- (4) References in this section to a loan being made by a person extend to a person who—
- assumes the rights and liabilities of the person who originally made the loan, or

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- (b) arranges, guarantees or in any way facilitates the continuation of a loan already in existence.
- (5) A loan is not an employment-related loan if—
- (a) it is made by an individual in the normal course of the individual’s domestic, family or personal relationships, or
  - (b) it is made to a relative of the employee and the employee derives no benefit from it.
- (6) For the purposes of this section a person (“X”) is a relative of another (“Y”) if X is—
- (a) Y’s spouse [<sup>F8</sup>or civil partner] ,
  - (b) a parent, child or remoter relation in the direct line either of Y or of Y’s spouse [<sup>F8</sup>or civil partner] ,
  - (c) a brother or sister of Y or of Y’s spouse [<sup>F8</sup>or civil partner] , or
  - (d) the spouse [<sup>F8</sup>or civil partner] of a person falling within paragraph (b) or (c).

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**Textual Amendments**

**F8** Words in s. 174(6) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **141**

**Changes to legislation:**

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