



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

Loan released or written off

188 Loan released or written off: amount treated as earnings

(1) If—

- (a) the whole or part of an employment-related loan is released or written off in a tax year, and
- (b) at the time when it is released or written off the employee holds the employment in relation to which the loan is an employment-related loan (“employment E”),

the amount released or written off is to be treated as earnings from the employment for that year.

(2) But if the employment has terminated or become an excluded employment and there was a time when—

- (a) the whole or part of the loan was outstanding,
- (b) the employee held the employment, and
- (c) it was not an excluded employment,

subsection (1) applies as if the employment had not terminated or become an excluded employment.

Status: This is the original version (as it was originally enacted).

- (3) Where subsection (2) applies, any loan which replaces directly or indirectly the employment-related loan is to be treated as an employment-related loan in relation to employment E if—
- (a) it would, if employment E had not terminated or become excluded employment, have been an employment-related loan in relation to employment E, and
 - (b) it is not an employment-related loan in relation to other employment.
- (4) This section is subject to section 189 (exception where double charge).

189 Exception where double charge

- (1) Section 188 (loan released or written off: amount treated as earnings) does not apply if, by virtue of any other provision of the Income Tax Acts, the amount released or written off—
- (a) is employment income of the employee, or
 - (b) is or is treated as income of the employee (or of the employee as a borrower) which is not employment income and upon which that person is liable to pay income tax.

This is subject to subsections (2) and (3).

- (2) If, as a result of subsection (1), Chapter 3 of Part 6 (payments and benefits on termination of employment etc.) would be the only provision by virtue of which the amount released or written off would be income of the employee—
- (a) section 188 does apply, and
 - (b) accordingly Chapter 3 of Part 6 does not apply.
- (3) If—
- (a) an amount is treated as the employee's income under section 677 of ICTA (sums paid to settlor otherwise than as income) in respect of a capital sum paid in relation to the release or writing-off of the loan, and
 - (b) the amount released or written off exceeds the amount so treated as income, section 188 does apply but only the amount of the excess is to be treated as earnings from the employment for the tax year in question under that section.