



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 4

#### EMPLOYMENT INCOME: EXEMPTIONS

### CHAPTER 11

#### MISCELLANEOUS EXEMPTIONS

##### *Living accommodation*

#### **313 Repairs and alterations to living accommodation**

- (1) This section applies where living accommodation is provided by reason of a person's employment.
- (2) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of—
  - (a) alterations and additions to the premises which are of a structural nature, or
  - (b) landlord's repairs to the premises.
- (3) In this section "landlord's repairs" means repairs of a kind which are the obligation of the lessor under the covenants implied by section 11(1) of the Landlord and Tenant Act 1985 (c. 70) (lessor's repairing obligations in short leases) where premises are let under a lease to which that section applies.

#### **314 Council tax etc. paid for certain living accommodation**

- (1) This section applies if living accommodation provided for an employee falls within the exception in one of the following provisions—

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section 99(1) (accommodation necessary for proper performance of duties),  
 section 99(2) (accommodation provided for better performance of duties), or  
 section 100 (accommodation provided as a result of security threat).

- (2) No liability to income tax arises by virtue of—
- (a) any payment to, for or on behalf of the employee, or
  - (b) any reimbursement of any payment by the employee,
- in respect of council tax or rates, or water or sewerage charges, in respect of the accommodation.

### **315 Limited exemption for expenses connected with certain living accommodation**

- (1) This section applies if—
- (a) living accommodation is provided for an employee in a tax year, and
  - (b) conditions A and B are met.
- (2) Condition A is that the accommodation falls within the exception in one of the following provisions—
- section 99(1) (accommodation necessary for proper performance of duties),
  - section 99(2) (accommodation provided for better performance of duties), or
  - section 100 (accommodation provided as a result of security threat).
- (3) Condition B is that there is an amount of earnings from the employment in the tax year by virtue of expenditure, or the reimbursement to the employee of expenditure, on—
- (a) heating, lighting or cleaning the premises,
  - (b) repairs to the premises, their maintenance or decoration, or
  - (c) the provision in the premises of furniture, equipment or other items which are normal for domestic occupation.
- (4) If this section applies, no liability to income tax arises in respect of the earnings mentioned in subsection (3) to the extent that they exceed—

$$\left( 10\% \times NE \times \frac{DA}{DE} \right) - SMG$$

where—

DA is the number of reckonable days in the tax year (a “reckonable day” being a day on which—

- (a) the accommodation is provided, and
- (b) the employment is held by the employee),

DE is—

- (a) the number of days in that year, or
- (b) if the employment is held for only part of that year, the number of days in that part,

NE is the net amount of the earnings from the employment in the tax year (see subsection (5)),

SMG is, where the expenses are incurred by a person other than the employee, so much of any sum made good by the employee to that other person as is properly attributable to the expenses.

- (5) To calculate the net amount of the earnings from the employment—

*Step 1*

Take the earnings from the employment, leaving out of account the expenses in question.

*Step 2*

Add, in the case of employment by a company, the earnings from any employment by an associated company.

A company is “associated” with another for this purpose if one has control of the other or both are under the control of the same person.

*Step 3*

Deduct any deductions allowable under—

- (a) section 232 (giving effect to mileage allowance relief) or Part 5 of this Act,
- (b) section 592(7), 594 or 619(1)(a) of ICTA, or
- (c) section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions from earnings).

*Work accommodation, supplies etc.*

**316 Accommodation, supplies and services used in employment duties**

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision for an employee of accommodation, supplies or services used by the employee in performing duties of the employment if conditions A and B are met.
- (2) Condition A is that any use of the accommodation, supplies or services for private purposes by the employee or members of the employee’s family or household is not significant.
- (3) For this purpose, use “for private purposes” means—
  - (a) use that is not use in performing the duties of the employee’s employment, and
  - (b) use that is at the same time both use in performing the duties of an employee’s employment and other use.
- (4) Condition B is that where the provision is otherwise than on premises occupied by the person making it—
  - (a) its sole purpose is to enable the employee to perform the duties of the employee’s employment, and
  - (b) what is provided is not an excluded benefit.
- (5) The following are excluded benefits unless regulations under subsection (6) provide otherwise—
  - (a) a motor vehicle, boat or aircraft, and
  - (b) a benefit that involves—
    - (i) the extension, conversion or alteration of living accommodation, or
    - (ii) the construction, extension, conversion or alteration of a building or other structure on land adjacent to and enjoyed with such accommodation.

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- (6) The Treasury may make provision by regulations as to what is an excluded benefit for the purposes of subsection (4)(b).
- (7) The regulations may provide that a benefit is an excluded benefit only if such conditions as may be prescribed are met as to the terms on which, and persons to whom, it is provided.

### *Workplace meals*

#### **317 Subsidised meals**

- (1) No liability to income tax arises in respect of the provision for an employee by the employer of free or subsidised meals if—
  - (a) they are provided in a canteen where meals are provided for the employer’s employees generally or generally to those at a particular location, or
  - (b) they are provided on the employer’s business premises and conditions A to C are met.
- (2) Condition A is that the meals are provided on a reasonable scale.
- (3) Condition B is that all the employer’s employees or all of them at a particular location may obtain one or both of the following—
  - (a) a free or subsidised meal, or
  - (b) a free or subsidised meal voucher or token.
- (4) Condition C is that if the meals are provided in the restaurant or dining room of a hotel or a catering or similar business at a time when meals are being served to the public—
  - (a) part of the restaurant or dining room is designated for the use of employees only, and
  - (b) the meals are taken in that part.
- (5) In this section “free or subsidised meal voucher or token” means a voucher, ticket, pass or other document or token which—
  - (a) is intended to enable a person to obtain a meal, and
  - (b) is provided to the employee free of charge or for less than the cost of the meals to be obtained by it.
- (6) In this section “meals” includes light refreshments.

### *Childcare*

#### **318 Care for children**

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision for an employee of care for a child if conditions A to C are met.
- (2) If those conditions are met only as respects part of the provision, no such liability arises in respect of that part.
- (3) Condition A is that the child is under 18 and—
  - (a) is a child of the employee maintained at the employee’s expense,

- (b) is resident with the employee, or
- (c) is a child in respect of whom the employee has all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property.

In paragraph (a) “child” includes stepchild.

- (4) Condition B is that—
- (a) the premises on which the care is provided are not used wholly or mainly as a private dwelling, and
  - (b) any applicable registration requirement is met with respect to the premises.
- (5) In subsection (4), “registration requirement” means a requirement that a person providing the care is registered under—
- (a) section 71 or Part 10A of the Children Act 1989 (c. 41), or
  - (b) Article 118 of the Children (Northern Ireland) Order 1995 (S.I.1995/755 (N.I. 2)),
- with respect to premises.
- (6) Condition C is that—
- (a) the premises on which the care is provided are made available by the employer alone, or
  - (b) the care requirements are met.
- (7) The care requirements are that—
- (a) the care is provided under arrangements made by persons who include the employer,
  - (b) the premises on which it is provided are made available by one or more of those persons, and
  - (c) under the arrangements the employer is wholly or partly responsible for financing and managing the provision of the care.
- (8) In this section “care” means—
- (a) any form of care, and
  - (b) any form of supervised activity which is not provided primarily for education purposes.

### *Telephones and computer equipment*

## **319 Mobile telephones**

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision for an employee or a member of the employee's family or household of a mobile telephone without any transfer of property in it.
- (2) In this section “mobile telephone” means telephone apparatus which—
- (a) is not physically connected to a land-line, and
  - (b) is not a cordless telephone or a telepoint telephone.
- (3) For the purposes of subsection (2)—

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“cordless telephone” means telephone apparatus designed or adapted to provide a wireless extension to a telephone and used only as such an extension to a telephone which is physically connected to a land-line,

“telephone apparatus” means wireless telegraphy apparatus designed or adapted for the purpose of transmitting and receiving spoken messages and connected to a public telecommunication system (as defined in section 9(1) of the Telecommunications Act 1984 (c. 12)), and

“telepoint telephone” means telephone apparatus used for the purpose of a short-range radio communications service at frequencies between 864 and 868 megahertz (inclusive).

### **320 Limited exemption for computer equipment**

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of computer equipment if conditions A to C are met.
- (2) Condition A is that the equipment is made available to the employee or to a member of the employee’s family or household without any transfer of property in it.
- (3) Condition B is that the arrangements under which computer equipment is made available to employees of the employer, or to members of their families or households, do not favour directors (see subsection (6)).
- (4) Condition C is that the aggregate cash equivalent of the benefit of the provision of such equipment in the tax year does not exceed £500.
- (5) If conditions A and B are met, but condition C is not, the employee is only liable to income tax in the tax year by virtue of Chapter 10 of Part 3 on so much of that aggregate cash equivalent as exceeds £500.
- (6) The arrangements referred to in condition B are only taken to favour directors if—
  - (a) the only such arrangements are arrangements under which the employee is required to be a director of a company, or
  - (b) taking all such arrangements together, the terms on which the equipment is made available are more favourable in some or all cases where the employee is a director than in one or more cases where the employee is not.
- (7) In this section—
  - (a) “computer equipment” includes printers, scanners, modems, discs and other peripheral devices designed to be used by being connected to or inserted in a computer,
  - (b) “director” has the meaning given by section 67(1),
  - (c) references to making computer equipment available—
    - (i) include references to the provision, together with any computer equipment made available, of a right to use computer software, but
    - (ii) do not include references to the provision of access to, or the use of, any public telecommunication system, and
  - (d) “public telecommunication system” has the same meaning as in the Telecommunications Act 1984 (see section 9(1)).

### *Awards and gifts*

#### **321 Suggestion awards**

- (1) This section applies where an employer establishes a scheme for the making of suggestions that is open on the same terms—
  - (a) to employees of the employer generally, or
  - (b) to a particular description of them.
- (2) No liability to income tax arises in respect of an encouragement award or financial benefit award made under the scheme for a suggestion which meets conditions A to C if, or to the extent that, it does not exceed the permitted maximum for the award under section 322.
- (3) Condition A is that the suggestion relates to the activities carried on by the employer.
- (4) Condition B is that the suggestion is made by an employee who could not reasonably be expected to make it in the course of the duties of the employment, having regard to the employee's experience.
- (5) Condition C is that the suggestion is not made at a meeting held for the purpose of proposing suggestions.
- (6) In this section and section 322—
  - “encouragement award” means an award, other than a financial benefit award, made for a suggestion with intrinsic merit or showing special effort, and
  - “financial benefit award” means an award for a suggestion relating to an improvement in efficiency or effectiveness which the employer has decided to adopt and reasonably expects will result in a financial benefit.

#### **322 Suggestion awards: “the permitted maximum”**

- (1) The permitted maximum for an encouragement award for the purposes of section 321 (suggestion awards) is £25.
- (2) The permitted maximum for a financial benefit award where no such award for the suggestion has been made before is—
  - (a) if only one such award is made for the suggestion, the suggestion maximum, and
  - (b) if two or more such awards are made on the same occasion to different persons for the suggestion, the appropriate proportion of the suggestion maximum.
- (3) If on a later occasion or occasions one or more further such awards are made for the same suggestion, the permitted maximum for each is—
  - (a) if only one such award is made for the suggestion on that occasion, the residue of the suggestion maximum, and
  - (b) if two or more such awards are made on the same occasion to different persons for the suggestion, the appropriate proportion of that residue.
- (4) The suggestion maximum for a financial benefit award is the financial benefit share or £5000 if that is less.
- (5) In subsection (4) “the financial benefit share” means the greater of—

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- (a) half the financial benefit reasonably expected to result from the adoption of the suggestion for the first year after its adoption, and
- (b) one-tenth of the financial benefit reasonably expected to result from its adoption for the first 5 years after its adoption.

(6) In this section—

“the appropriate proportion” means such proportion as the award bears to the total of the financial benefit awards made on the same occasion for the suggestion,

“the residue of the suggestion maximum” means the suggestion maximum less the total previous exemption, and

“the total previous exemption” means the total of the amounts exempted from income tax under section 321 in respect of financial benefit awards for the suggestion made on previous occasions.

### **323 Long service awards**

(1) No liability to income tax arises in respect of a long service award which meets the condition in subsection (3) if or to the extent that the chargeable amount does not exceed the permitted maximum.

(2) In subsection (1)—

“chargeable amount” means the amount of employment income which would be charged to tax in respect of the award apart from subsection (1),

“long service award” means an award made to an employee to mark not less than 20 years' service with the same employer, and

“permitted maximum” means £20 for each year of service in respect of which the award is made.

(3) The condition is that the award must take the form of—

- (a) tangible moveable property,
- (b) shares in a company which is, or belongs to the same group as, the employer, or
- (c) the provision of any other benefit except—
  - (i) a payment,
  - (ii) a cash voucher,
  - (iii) a credit-token,
  - (iv) securities,
  - (v) shares not within paragraph (b), or
  - (vi) an interest in or rights over securities or shares.

(4) Subsection (1) does not apply to an award (“the later award”) if another award to mark a particular period of service with the same employer has been made to the employee in the period of 10 years ending with the date on which the later award is made.

(5) For the purposes of this section, service is treated as being with the same employer if it is with two or more employers—

- (a) each of whom is a successor or predecessor of the others, or
- (b) one of whom is a company which belongs or has belonged to the same group as the others or a predecessor or successor of the others.



- (6) In this section “group” means a body corporate and its 51% subsidiaries.

### **324 Small gifts from third parties**

- (1) No liability to income tax arises in respect of a gift provided for an employee or a member of the employee’s family or household if conditions A to E are met.
- (2) Condition A is that the gift is not provided by the employer or a person connected with the employer.
- (3) Condition B is that neither the employer nor a person connected with the employer has directly or indirectly procured the gift.
- (4) Condition C is that the gift is not made in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.
- (5) Condition D is that the gift is not cash or securities or the use of a service.
- (6) Condition E is that the total cost to the donor of all the eligible gifts in respect of the employee in question during the tax year does not exceed £150.
- (7) For the purposes of condition E, the total cost to the donor includes any value added tax payable on the supply of the gifts to the donor, whether or not the donor is entitled to a credit or repayment in respect of that tax.
- (8) In this section “eligible gifts” means all gifts which—
- (a) meet conditions A to D, or
  - (b) are non-cash vouchers or credit-tokens and meet—
    - (i) conditions A to C, and
    - (ii) conditions A and B in section 270 (exemption for small gifts of vouchers and tokens from third parties).
- (9) Subsection (1) does not apply to non-cash vouchers and credit-tokens (but see section 270 which makes provision for a corresponding exemption for them).

#### *Overseas medical treatment*

### **325 Overseas medical treatment**

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of—
- (a) providing an employee with medical treatment outside the United Kingdom where the need for it arises while the employee is outside the United Kingdom for the purpose of performing the duties of the employment, or
  - (b) providing an employee with insurance against the cost of providing such treatment.
- (2) For the purposes of this section—
- (a) “medical treatment” includes all procedures for diagnosing or treating any physical or mental illness, infirmity or defect, and
  - (b) providing a person with medical treatment includes providing for the person to be an in-patient so that such treatment can be given.

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

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*Expenses incidental to sale etc. of asset*

**326 Expenses incidental to transfer of a kind not normally met by transferor**

- (1) No liability to income tax arises by virtue of the payment or reimbursement of expenses which—
  - (a) are incidental to, and incurred wholly and exclusively as a result of, an employment-related asset transfer, and
  - (b) are of a kind not normally met by the transferor.
- (2) There is an “employment-related asset transfer” if—
  - (a) an asset or the beneficial interest in an asset is transferred to an employee’s employer or a person nominated by the employer, and
  - (b) the right or opportunity to make the transfer arose by reason of the employment.
- (3) In this section references to a transfer are to a sale or any other kind of disposal.