



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 5

EMPLOYMENT INCOME: DEDUCTIONS ALLOWED FROM EARNINGS

#### CHAPTER 1

DEDUCTIONS ALLOWED FROM EARNINGS: GENERAL RULES

##### *Introduction*

#### **327 Deductions from earnings: general**

- (1) This Part provides for deductions that are allowed from the taxable earnings from an employment in a tax year in calculating the net taxable earnings from the employment in the tax year for the purposes of Part 2 (see section 11(1)).
- (2) In this Part, unless otherwise indicated by the context—
  - (a) references to the earnings from which deductions are allowed are references to the taxable earnings mentioned in subsection (1), and
  - (b) references to the tax year are references to the tax year mentioned there.
- (3) The deductions for which this Part provides are those allowed under—
  - Chapter 2 (deductions for employee's expenses),
  - Chapter 3 (deductions from benefits code earnings),
  - Chapter 4 (fixed allowances for employee's expenses),
  - Chapter 5 (deductions for earnings representing benefits or reimbursed expenses), and
  - Chapter 6 (deductions from seafarers' earnings).

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- (4) Further provision about deductions from earnings is made in—  
 section 232 (giving effect to mileage allowance relief),  
 section 619 of ICTA (contributions under retirement annuity contracts), and  
 section 262 of CAA 2001 (capital allowances to be given effect by treating them  
 as deductions from earnings).
- (5) Further provision about deductions from income including earnings is made in—  
 Part 12 (payroll giving),  
 section 592(7) of ICTA (contributions to exempt approved schemes), and  
 section 594(1) of ICTA (contributions to exempt statutory schemes).

### *General rules*

#### **328 The income from which deductions may be made**

- (1) The general rule is that deductions under this Part are allowed—
  - (a) from any earnings from the employment in question, and
  - (b) not from earnings from any other employment.

This is subject to subsections (2) to (4).
- (2) Deductions under section 351 (expenses of ministers of religion) are allowed from earnings from any employment as a minister of a religious denomination.
- (3) Deductions under section 368 (fixed sum deductions from earnings payable out of public revenue) are allowed only from earnings payable out of the public revenue.
- (4) Deductions limited to specified earnings (see subsection (5)) are allowed—
  - (a) only from earnings from the employment that are taxable earnings under certain of the charging provisions of Chapters 4 and 5 of Part 2, and
  - (b) not from other earnings from it.
- (5) “Deductions limited to specified earnings” are deductions under—  
 sections 336 to 342 (deductions from earnings charged on receipt: see sections 335(2) and 354),  
 section 353 (deductions from earnings charged on remittance),  
 sections 370 to 374 (travel deductions from earnings charged on receipt), and  
 Chapter 6 of this Part (deductions from seafarers' earnings: see section 378(1) (a)).

#### **329 Deductions from earnings not to exceed earnings**

- (1) The amount of a deduction allowed under this Part may not exceed the earnings from which it is deductible.
- (2) If two or more deductions allowed under this Part are deductible from the same earnings, the amounts deductible may not in aggregate exceed those earnings.
- (3) If deductions allowed otherwise than under this Part fall to be allowed from the same earnings as amounts deductible under this Part, the amounts deductible under this Part may not exceed the earnings remaining after the other deductions.

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- (4) Subsections (1) and (2) do not apply to a deduction under section 351 (expenses of ministers of religion), and subsection (3) applies as if such a deduction were allowed otherwise than under this Part.
- (5) This section is to be disregarded for the purposes of the deductibility provisions (see section 332).
- (6) See also section 380 of ICTA (which provides that where a loss in an employment is sustained, relief may be given against other income).

### **330 Prevention of double deductions**

- (1) A deduction from earnings under this Part is not allowed more than once in respect of the same costs or expenses.
- (2) If apart from this subsection—
  - (a) a deduction would be allowed under Chapter 4 of this Part (fixed allowances for employee’s expenses) for a sum fixed by reference to any kind of expenses, and
  - (b) the employee would be entitled under another provision to a deduction for an amount paid in respect of the same kind of expenses,only one of those deductions is allowed.

### **331 Order for making deductions**

- (1) This Part needs to be read with section 835(3) and (4) of ICTA (general rule that deductions are to be allowed in the order resulting in the greatest reduction of liability to income tax).
- (2) In the case of deductions under this Part, the general rule in that section is subject to—
  - (a) section 23(3) (which requires certain deductions to be made in order to establish “chargeable overseas earnings”), and
  - (b) section 381 (which requires deductions under other provisions to be taken into account before deductions under Chapter 6 of this Part (seafarers)).

### **332 Meaning of “the deductibility provisions”**

For the purposes of this Part, “the deductibility provisions” means the following provisions (which refer to amounts or expenses that would be deductible if they were incurred and paid by an employee)—

- the definition of “business travel” in section 171(1) (definitions for Chapter 6 of Part 3),
- section 179(6) (exception for certain advances for necessary expenses),
- the definition of “business travel” in section 236(1) (definitions for Chapter 2 of Part 4),
- section 240(1)(c) and (5) (exemption of incidental overnight expenses and benefits),
- section 252(3) (exception from exemption of work-related training provision for non-deductible travel expenses),
- section 257(3) (exception from exemption for individual learning account training provision for non-deductible travel expenses),

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section 305(5) (offshore oil and gas workers: mainland transfers),  
section 310(6)(b) (counselling and other outplacement services),  
section 311(5)(b) (retraining courses),  
section 361(b) (scope of Chapter 3 of this Part: cost of benefits deductible as if paid by employee),  
section 362(1)(c) and (2)(b) (deductions where non-cash voucher provided),  
section 363(1)(b) and (2)(b) (deductions where credit-token provided),  
section 364(1)(b) and (2) (deductions where living accommodation provided),  
section 365(1)(b) and (2) (deductions where employment-related benefit provided).