



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 5

EMPLOYMENT INCOME: DEDUCTIONS ALLOWED FROM EARNINGS

CHAPTER 5

DEDUCTIONS FOR EARNINGS REPRESENTING BENEFITS OR REIMBURSED EXPENSES

Introduction

369 Scope of this Chapter: earnings representing benefits or reimbursed expenses

- (1) A deduction from a person's earnings for an amount is allowed under the following provisions of this Chapter where the amount is included in the earnings in respect of—
 - (a) provision made for the person, or
 - (b) expenses reimbursed by another person.
- (2) In this Chapter references to “the included amount” are references to the amount so included.
- (3) If the included amount is an amount treated as earnings under—
 - (a) Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens),
 - (b) Chapter 5 of Part 3 (taxable benefits: living accommodation), or
 - (c) Chapter 10 of Part 3 (taxable benefits: residual liability to charge),a deduction may be allowed instead in respect of the benefit in question under Chapter 3 of this Part (deductions from benefits code earnings).

Travel costs and expenses where duties performed abroad

370 Travel costs and expenses where duties performed abroad: employee's travel

- (1) A deduction is allowed from earnings which are taxable earnings under section 15 or 21 (earnings for year when employee resident and ordinarily resident in UK) if—
 - (a) the earnings include an amount in respect of—
 - (i) the provision of travel facilities for a journey made by the employee, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey, and
 - (b) the circumstances fall within Case A, B or C.
- (2) The deduction is equal to the included amount.
- (3) Case A is where—
 - (a) the employee is absent from the United Kingdom wholly and exclusively for the purpose of performing the duties of one or more employments,
 - (b) the duties concerned can only be performed outside the United Kingdom, and
 - (c) the journey is—
 - (i) a journey from a place outside the United Kingdom where such duties are performed to a place in the United Kingdom, or
 - (ii) a return journey following such a journey.
- (4) Case B is where—
 - (a) the duties of the employment are performed partly outside the United Kingdom,
 - (b) those duties are not performed on a vessel,
 - (c) the journey is between a place in the United Kingdom and a place outside the United Kingdom where duties of the employment are performed,
 - (d) the duties performed outside the United Kingdom can only be performed there, and
 - (e) the journey is made wholly and exclusively for the purpose of performing them or returning after performing them.
- (5) Case C is where—
 - (a) the duties of the employment are performed partly outside the United Kingdom,
 - (b) those duties are performed on a vessel,
 - (c) the journey is between a place in the United Kingdom and a place outside the United Kingdom where duties of the employment are performed,
 - (d) the duties performed outside the United Kingdom can only be performed there, and
 - (e) the journey is made wholly and exclusively for the purpose of performing those duties, or those duties and other duties of the employment, or returning after performing them.

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

371 Travel costs and expenses where duties performed abroad: visiting spouse's or child's travel

- (1) A deduction is allowed from earnings which are taxable earnings under section 15 or 21 (earnings for year when employee resident and ordinarily resident in UK) if—
 - (a) the earnings include an amount in respect of—
 - (i) the provision of travel facilities for a journey made by the employee's spouse or child, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey, and
 - (b) conditions A to C are met.
- (2) The deduction is equal to the included amount.
- (3) Condition A is that the employee is absent from the United Kingdom for a continuous period of at least 60 days for the purpose of performing the duties of one or more employments.
- (4) Condition B is that the journey is between a place in the United Kingdom and a place outside the United Kingdom where such duties are performed.
- (5) Condition C is that the employee's spouse or child is—
 - (a) accompanying the employee at the beginning of the period of absence,
 - (b) visiting the employee during that period, or
 - (c) returning to a place in the United Kingdom after so accompanying or visiting the employee.
- (6) A deduction is not allowed under this section for more than two outward and two return journeys by the same person in a tax year.
- (7) In this section "child" includes a stepchild and an illegitimate child, but not a person who is 18 or over at the beginning of the outward journey.

372 Where seafarers' duties are performed

For the purposes of—

- (a) section 370 (employee's travel costs and expenses where duties performed abroad), and
- (b) section 371 (visiting spouse's or child's travel costs and expenses where duties performed abroad),

whether duties performed on a vessel are performed in or outside the United Kingdom is determined without regard to section 40(2) (certain duties treated as performed in UK).

Travel costs and expenses of non-domiciled employees where duties performed in UK

373 Non-domiciled employee's travel costs and expenses where duties performed in UK

- (1) This section applies if a person ("the employee") who is not domiciled in the United Kingdom—

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- (a) receives earnings from an employment for duties performed in the United Kingdom, and
 - (b) an amount is included in the earnings in respect of—
 - (i) the provision of travel facilities for a journey made by the employee, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey.
- (2) A deduction is allowed from earnings from the employment which are earnings charged on receipt if the journey meets conditions A and B.
- (3) Condition A is that the journey ends on, or during the period of 5 years beginning with, a date that is a qualifying arrival date in relation to the employee (see section 375).
- (4) Condition B is that the journey is made—
- (a) from the country outside the United Kingdom in which the employee normally lives to a place in the United Kingdom in order to perform duties of the employment, or
 - (b) to that country from a place in the United Kingdom in order to return to that country after performing such duties.
- (5) If the journey is wholly for a purpose specified in subsection (4), the deduction is equal to the included amount.
- (6) If the journey is only partly for such a purpose, the deduction is equal to so much of the included amount as is properly attributable to that purpose.

374 Non-domiciled employee’s spouse’s or child’s travel costs and expenses where duties performed in UK

- (1) This section applies if a person (“the employee”) who is not domiciled in the United Kingdom—
- (a) receives earnings from an employment for duties performed in the United Kingdom, and
 - (b) an amount is included in the earnings in respect of—
 - (i) the provision of travel facilities for a journey made by the employee’s spouse or child, or
 - (ii) the reimbursement of expenses incurred by the employee on such a journey.
- (2) A deduction is allowed from earnings from the employment which are earnings charged on receipt if conditions A to C are met.
- (3) Condition A is that the journey—
- (a) is made between the country outside the United Kingdom in which the employee normally lives and a place in the United Kingdom, and
 - (b) ends on, or during the period of 5 years beginning with, a date that is a qualifying arrival date in relation to the employee (see section 375).
- (4) Condition B is that the employee is in the United Kingdom for a continuous period of at least 60 days for the purpose of performing the duties of one or more employments from which the employee receives earnings for duties performed in the United Kingdom.

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- (5) Condition C is that the employee’s spouse or child is—
 - (a) accompanying the employee at the beginning of that period,
 - (b) visiting the employee during that period, or
 - (c) returning to the country outside the United Kingdom in which the employee normally lives, after so accompanying or visiting the employee.
- (6) If the journey is wholly for the purpose of so accompanying or visiting the employee or so returning, the deduction is equal to the included amount.
- (7) If the journey is only partly for that purpose, the deduction is equal to so much of the included amount as is properly attributable to that purpose.
- (8) A deduction is not allowed under this section for more than two inward journeys and two return journeys by the same person in a tax year.
- (9) In this section “child” includes a stepchild and an illegitimate child, but not a person who is 18 or over at the beginning of the inward journey.

375 Meaning of “qualifying arrival date”

- (1) For the purposes of sections 373(3) and 374(3), a date is a qualifying arrival date in relation to a person if—
 - (a) it is a date on which the person arrives in the United Kingdom to perform duties of an employment from which the person receives earnings for duties performed in the United Kingdom, and
 - (b) condition A or B is met.
- (2) Condition A is that the person has not been in the United Kingdom for any purpose during the period of 2 years ending with the day before the date.
- (3) Condition B is that the person was not resident in the United Kingdom in either of the 2 tax years preceding the tax year in which the date falls.
- (4) If, in a case where condition B applies, there are 2 or more dates in the tax year on which the person arrives in the United Kingdom to perform duties of an employment from which the person receives earnings for duties performed in the United Kingdom, the qualifying arrival date is the earliest of them.

Foreign accommodation and subsistence costs and expenses

376 Foreign accommodation and subsistence costs and expenses (overseas employments)

- (1) A deduction from earnings from an employment is allowed if—
 - (a) the duties of the employment are performed wholly outside the United Kingdom,
 - (b) the employee is resident and ordinarily resident in the United Kingdom,
 - (c) in a case where the employer is a foreign employer, the employee is domiciled in the United Kingdom, and
 - (d) the earnings include an amount in respect of—

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- (i) the provision of accommodation or subsistence outside the United Kingdom for the employee for the purpose of enabling the employee to perform the duties of the employment, or
 - (ii) the reimbursement of expenses incurred by the employee on such accommodation or subsistence for that purpose.
- (2) If the accommodation or subsistence is wholly for that purpose, the deduction is equal to the included amount.
- (3) If the accommodation or subsistence is only partly for that purpose, the deduction is equal to so much of the included amount as is properly attributable to that purpose.
- (4) Subsection (5) applies if in the tax year the employment is in substance one whose duties fall to be performed outside the United Kingdom.
- (5) Duties of the employment performed in the United Kingdom, whose performance is merely incidental to the performance of duties outside the United Kingdom, are to be treated for the purposes of subsection (1)(a) as performed outside the United Kingdom.

Personal security assets and services

377 Costs and expenses in respect of personal security assets and services

- (1) This section applies if—
- (a) there is a special threat to an employee’s personal physical security which arises wholly or mainly because of the employee’s employment,
 - (b) an asset or service which improves personal security is provided for or used by the employee to meet the threat,
 - (c) the employee’s earnings include an amount in respect of—
 - (i) the provision or use, or
 - (ii) expenses connected with it,
 because the whole or part of the cost of the provision or use is borne, or the expenses are reimbursed to the employee, by or on behalf of another person (“the provider”), and
 - (d) the provider’s sole object in bearing the whole or part of the cost or reimbursing the expenses is meeting the threat.
- (2) In the case of such an asset, if the provider intends it to be used solely for the purpose of improving personal physical security, a deduction equal to the included amount is allowed.
- (3) If the provider intends the asset to be used solely to improve personal physical security, any use of the asset incidental to that purpose is ignored.
- (4) If the provider intends the asset to be used only partly to improve personal physical security, a deduction equal to the proportion of the included amount attributable to the intended use for that purpose is allowed.
- (5) In determining whether or not this section applies in relation to an asset, it does not matter if—
- (a) the asset becomes fixed to land (even a dwelling or grounds), or
 - (b) the employee is or becomes entitled—
 - (i) to the property in the asset, or

- (ii) if the asset is a fixture, to any estate or interest in the land concerned.
- (6) In the case of a service within subsection (1), if the benefit resulting to the employee consists wholly or mainly of an improvement of the employee’s personal physical security, a deduction equal to the included amount is allowed.
- (7) The fact that an asset or a service improves the personal physical security of a member of the employee’s family or household, as well as that of the employee, does not prevent a deduction being allowed.
- (8) In this section—
 - “asset” includes equipment or a structure (such as a wall), but not a car, ship or aircraft or a dwelling or grounds appurtenant to a dwelling, and
 - “service” does not include a dwelling or grounds appurtenant to a dwelling.