



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 5

EMPLOYMENT INCOME: DEDUCTIONS ALLOWED FROM EARNINGS

CHAPTER 6

DEDUCTIONS FROM SEAFARERS' EARNINGS

378 Deduction from seafarers' earnings: eligibility

- (1) A deduction is allowed from earnings from an employment as a seafarer if—
 - (a) the earnings are taxable earnings under section 15 or 21 (earnings for year when employee resident and ordinarily resident in UK),
 - (b) the duties of the employment are performed wholly or partly outside the United Kingdom, and
 - (c) any of those duties are performed in the course of an eligible period.
- (2) In this Chapter “eligible period” means a period consisting of at least 365 days which is either—
 - (a) a period of consecutive days of absence from the United Kingdom, or
 - (b) a combined period.
- (3) A combined period is a period—
 - (a) at least half of the days in which are days of absence from the United Kingdom, and
 - (b) which consists of 3 consecutive periods, A, B and C, where—
 - A is a period of consecutive days of absence from the United Kingdom or a period which is itself a combined period,
 - B is a period of not more than 183 days, and

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C is a period of consecutive days of absence from the United Kingdom.

- (4) For this purpose a person is only regarded as being absent from the United Kingdom on any day if absent at the end of the day.

379 Calculating the deduction

- (1) The deduction under section 378—
- (a) is allowed from the amount of the earnings from the employment attributable to the eligible period, and
 - (b) is equal to that amount.
- (2) Earnings from the employment for a period of leave immediately after the eligible period are to be regarded as earnings attributable to the eligible period if or to the extent that they are earnings for the tax year in which the eligible period ends.
- (3) This section is subject to section 380 (limit on deduction where UK duties etc. make amount unreasonable).

380 Limit on deduction where UK duties etc. make amount unreasonable

- (1) If—
- (a) section 378 (deduction from seafarers' earnings: eligibility) applies to earnings for a tax year, and
 - (b) in the tax year the employee performs some of the duties of the employment as a seafarer or of any associated employments in the United Kingdom,
- the amount of earnings in respect of which the deduction under this Chapter is allowed is subject to the following limitation.
- (2) The amount is restricted to the proportion of the aggregate earnings for that year from the employment as a seafarer and all associated employments that is reasonable having regard to—
- (a) the nature of and time devoted to the duties performed outside and in the United Kingdom, and
 - (b) all other relevant circumstances.
- (3) In this section “associated employments” means employments with the same employer or with associated employers.
- (4) The same rules for determining whether employers are associated apply for the purposes of this section as apply for section 24(4) (limit on chargeable overseas earnings where duties of associated employment performed in UK) (see section 24(5)).

381 Taking account of other deductions

For the purposes of sections 379 and 380, the amount of the earnings from an employment for a tax year is the amount remaining after any deductions under—

- (a) section 232 (giving effect to mileage allowance relief),
- (b) Chapter 2, 3, 4 or 5 of this Part,
- (c) section 592(7) of ICTA (contributions to exempt approved schemes),
- (d) section 594(1) of ICTA (contributions to exempt statutory schemes), and

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- (e) section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions from earnings).

382 Duties on board ship

- (1) Duties which a person performs on a ship engaged—
 - (a) on a voyage beginning or ending outside the United Kingdom (but excluding any part of it beginning and ending in the United Kingdom), or
 - (b) on a part beginning or ending outside the United Kingdom of any other voyage,are treated as performed outside the United Kingdom for the purposes of this Chapter.
- (2) Duties which a person performs on a vessel engaged on a voyage not extending to a port outside the United Kingdom are treated for the purposes of this Chapter as performed in the United Kingdom.
- (3) For the purposes of subsection (1) the areas designated under section 1(7) of the Continental Shelf Act 1964 (c. 29) are treated as part of the United Kingdom.
- (4) Subsection (1) applies despite anything to the contrary in section 40 (duties on board vessel or aircraft).

383 Place of performance of incidental duties

- (1) For the purposes of section 378(1)(b) (deduction from seafarers' earnings: eligibility), duties of an employment as a seafarer which are performed outside the United Kingdom are treated as performed in the United Kingdom if conditions A and B are met.
- (2) Condition A is that in the tax year in which the duties are performed the employment is in substance one whose duties fall to be performed in the United Kingdom.
- (3) Condition B is that the performance of the duties performed outside the United Kingdom is merely incidental to the performance of duties in the United Kingdom.
- (4) Section 39 (duties in UK merely incidental to duties outside UK) does not affect the question—
 - (a) where any duties are performed, or
 - (b) whether a person is absent from the United Kingdom,for the purposes of section 378(1) to (3).

384 Meaning of employment “as a seafarer”

- (1) In this Chapter employment “as a seafarer” means an employment (other than Crown employment) consisting of the performance of duties on a ship or of such duties and others incidental to them.
- (2) In this section “Crown employment” means employment under the Crown—
 - (a) which is of a public nature, and
 - (b) the earnings from which are payable out of the public revenue of the United Kingdom or of Northern Ireland.

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385 Meaning of “ship”

In this Chapter “ship” does not include—

- (a) any offshore installation within the meaning of the Mineral Workings (Offshore Installations) Act 1971 (c. 61), or
- (b) what would be such an installation if the references in that Act to controlled waters were to any waters.