



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

CHAPTER 12

PAYMENTS TREATED AS EARNINGS

223 Payments on account of director's tax other than by the director

- (1) This section applies if in a tax year—
- (a) a person (“P”) makes a payment to another person who is employed as the director of a company,
 - (b) the payment is of, or on account of, earnings from the director's employment,
 - (c) PAYE regulations require P to deduct an amount of income tax (“the deductible tax”),
 - (d) P deducts none, or only some, of the deductible tax, and
 - (e) either or both of the following occur—
 - (i) P accounts to the Board of Inland Revenue for some or all of the deductible tax (whether or not P has actually deducted the amount accounted for);
 - (ii) one or more persons other than P (apart from the director) account to the Board of Inland Revenue for some or all of the deductible tax.
- (2) For the purposes of this section it does not matter whether the director's employment is held at the time when P makes the payment mentioned in subsection (1)(a) so long as it is held at some point in the tax year in which the payment is made.

Status: This is the original version (as it was originally enacted).

- (3) References in this section to employment as a director accordingly include prospective or past employment as a director.
- (4) The deductible tax accounted for to the Board of Inland Revenue is to be treated as earnings of the director from the director's employment for the tax year in which it is accounted for.
- (5) But if—
- (a) the deductible tax is accounted for after the director's employment has ceased, and
 - (b) the employment ceased in a tax year before the one in which the deductible tax is accounted for,
- the deductible tax is treated as earnings for the tax year in which the director's employment ceased.
- (6) The following rules apply to the calculation of the amount to be treated as earnings under this section—
- (a) any amount accounted for after the death of the director is to be disregarded;
 - (b) if P deducts some of the deductible tax, the amount treated as earnings is reduced by the amount deducted;
 - (c) if the director makes good to P or to another person some or all of the deductible tax which P or the other person accounts for, the amount treated as earnings is reduced by the amount made good.
- (7) This section does not apply if the director has no material interest in the company and either—
- (a) the director is employed as a full-time working director of the company, or
 - (b) the company is—
 - (i) non-profit-making, or
 - (ii) established for charitable purposes only.
- (8) In this section—
- “director” has the same meaning as in the benefits code (see section 67);
 - “director's employment”, in relation to a person who is employed as a director, means that employment;
 - “full-time working director” has the same meaning as in the benefits code (see section 67);
 - “material interest” has the same meaning as in the benefits code (see section 68);
 - “non-profit-making”, in relation to a company, means that—
 - (a) the company does not carry on a trade, and
 - (b) its functions do not consist wholly or mainly in the holding of investments or other property.