



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

[^{F1}CHAPTER 10

[^{F1}WORKERS' SERVICES PROVIDED THROUGH INTERMEDIARIES TO PUBLIC AUTHORITIES OR MEDIUM OR LARGE CLIENTS]

[^{F1}61O Conditions where intermediary is a company

- (1) The conditions mentioned in section 61N(9)(b) are that—
- (a) the intermediary is not an associated company of the client that falls within subsection (2), and
 - [^{F2}(b) subsection (1A) or (1B) is satisfied.]

[This subsection is satisfied where the worker has a material interest in the intermediary.
^{F3}(1A)

- (1B) This subsection is satisfied where—
- (a) the worker has a non-material interest in the intermediary,
 - (b) the worker—
 - (i) has received,
 - (ii) has rights which entitle, or which in any circumstances would entitle, the worker to receive, or
 - (iii) expects to receive,a chain payment from the intermediary, and
 - (c) the chain payment does not, or will not, wholly constitute employment income of the worker (apart from as a result of this Chapter).]

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Section 61O. (See end of Document for details)

- (2) An associated company of the client falls within this subsection if it is such a company by reason of the intermediary and the client being under the control—
- (a) of the worker, or
 - (b) of the worker and other persons.
- (3) The worker is treated as having a material interest in the intermediary if—
- (a) the worker, alone or with one or more associates of the worker, or
 - (b) an associate of the worker, with or without other associates of the worker, has a material interest in the intermediary.
- (4) For this purpose “material interest” has the meaning given by section 51(4) and (5).
- [The worker is treated as having a non-material interest in the intermediary if—
- ^{F4}(4A) (a) the worker, alone or with one or more associates of the worker, or
- (b) an associate of the worker, with or without other associates of the worker, has a non-material interest in the intermediary.
- (4B) For this purpose a non-material interest means—
- (a) beneficial ownership of, or the ability to control, directly or through the medium of other companies or by any other indirect means, 5% or less of the ordinary share capital of the company,
 - (b) possession of, or entitlement to acquire, rights entitling the holder to receive 5% or less of any distributions that may be made by the company, or
 - (c) where the company is a close company, possession of, or entitlement to acquire, rights that would in the event of the winding up of the company, or in any other circumstances, entitle the holder to receive 5% or less of the assets that would then be available for distribution among the participators.
- (4C) In subsection (4B)(c) “participator” has the meaning given by section 454 of CTA 2010.]
- (5) In this section “associated company” has the meaning given by section 449 of CTA 2010.]

Textual Amendments

- F1** Pt. 2 Ch. 10 inserted (with effect in accordance with Sch. 1 para. 16 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 1 para. 9](#)
- F2** S. 61O(1)(b) substituted (with effect in accordance with s. 21(10) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 21\(3\)\(a\)](#)
- F3** S. 61O(1A)(1B) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 21\(3\)\(b\)](#)
- F4** S. 61O(4A)-(4C) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 21\(3\)\(c\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Section 61O.