



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}61W Prevention of double charge to tax and allowance of certain deductions

- (1) Subsection (2) applies where—
 - (a) a person (“the payee”) receives a payment or benefit (“the end-of-line remuneration”) from another person (“the paying intermediary”),
 - (b) the end-of-line remuneration can reasonably be taken to represent remuneration for services of the payee to a [^{F2}another person (“the client”)],
 - (c) a payment (“the deemed payment”) has been treated by section 61N(3) as made to the payee,
 - (d) the underlying chain payment can reasonably be taken to be for the same services of the payee to [^{F3}the client], and
 - (e) the recipient of the underlying chain payment has (whether by deduction from that payment or otherwise) borne the cost of any amounts due, under PAYE regulations and contributions regulations in respect of the deemed payment, from the person treated by section 61N(3) as making the deemed payment.
- (2) For income tax purposes, the paying intermediary and the payee may treat the amount of the end-of-line remuneration as reduced (but not below nil) by any one or more of the following—
 - (a) the amount (see section 61Q) of the deemed payment;

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

- (b) the amount of any capital allowances in respect of expenditure incurred by the paying intermediary that could have been deducted from employment income under section 262 of CAA 2001 if the payee had been employed by the [F4 client] and had incurred the expenditure;
 - (c) the amount of any contributions made, in the same tax year as the end-of-line remuneration, for the benefit of the payee by the paying intermediary to a registered pension scheme that if made by an employer for the benefit of an employee would not be chargeable to income tax as income of the employee.
- (3) Subsection (2)(c) does not apply to—
- (a) excess contributions paid and later repaid,
 - (b) contributions set under subsection (2) against another payment by the paying intermediary, or
 - (c) contributions deductible at Step 5 of section 54(1) in calculating the amount of the payment (if any) treated by section 50 as made in the tax year concerned by the paying intermediary to the payee.
- (4) For the purposes of subsection (3)(c), the contributions to which Step 5 of section 54(1) applies in the case of the particular calculation are “deductible” at that Step so far as their amount does not exceed the result after Step 4 in that calculation.
- (5) In subsection (1)(d) “the underlying chain payment” means the chain payment whose amount is used at Step 1 of section 61Q(1) as the starting point for calculating the amount of the deemed payment.
- (6) Subsection (2) applies whether the end-of-line remuneration—
- (a) is earnings of the payee,
 - (b) is a distribution of the paying intermediary, or
 - (c) takes some other form.]

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** Words in s. 61W(1)(b) substituted (with effect in accordance with Sch. 1 para. 25 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 1 para. 17\(2\)\(a\)](#) (with [Sch. 1 paras. 30-34](#))
- F3** Words in s. 61W(1)(d) substituted (with effect in accordance with Sch. 1 para. 25 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 1 para. 17\(2\)\(b\)](#) (with [Sch. 1 paras. 30-34](#))
- F4** Word in s. 61W(2)(b) substituted (with effect in accordance with Sch. 1 para. 25 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 1 para. 17\(3\)](#) (with [Sch. 1 paras. 30-34](#))

Changes to legislation:

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