



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 2

#### EMPLOYMENT INCOME: CHARGE TO TAX

#### [<sup>F1</sup>CHAPTER 10

#### [<sup>F1</sup>WORKERS' SERVICES PROVIDED THROUGH INTERMEDIARIES TO PUBLIC AUTHORITIES OR MEDIUM OR LARGE CLIENTS]

#### [<sup>F1</sup>] [<sup>F2</sup>61WA] **Anti-avoidance**

- (1) This section applies if in any case at least one relevant person in a chain participates in a relevant avoidance arrangement.
- (2) An arrangement is a “relevant avoidance arrangement” if its main purpose, or one of its main purposes, is to secure a tax advantage by securing that at least one of the conditions mentioned in section 61O or 61P is not met in relation to an intermediary.
- (3) Section 61N(3) has effect as if the reference to the fee-payer were a reference to the participating person, but—
  - (a) section 61N(4) continues to have effect as if the reference to the fee-payer were a reference to the deemed employer, and
  - (b) Step 1 of section 61Q(1) continues to have effect as referring to the chain payment made by the deemed employer.
- (4) The participating person is—
  - (a) in a case where only one relevant person participates in the arrangement, that person;
  - (b) in any other case the highest relevant person in the chain who participated in the arrangement and from whom HMRC considers there is a realistic prospect

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

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of recovering, within a reasonable period, the amount of tax that would have been paid (or not repaid) in the absence of the arrangement.

(5) Subsection (3) has effect even though that may involve a participating person being treated as both employer and employee in relation to the deemed employment under section 61N(3).

(6) In this section—

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“deemed employer” means a person who would, but for this section, be treated by section 61N(3) as making a payment to the worker;

“relevant person” means—

(a) the worker;

(b) a person who is resident in the United Kingdom or who has a place of business in the United Kingdom;

“tax” means income tax (and “tax advantage” is to be construed accordingly”);

“tax advantage” includes—

(a) avoidance or reduction of a charge to tax or an assessment to tax,

(b) repayment or increased repayment of tax,

(c) avoidance of a possible assessment to tax, and

(d) deferral of a payment of tax or advancement of a repayment of tax.]]

#### 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. 61WA](#) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 21\(8\)](#)

**Changes to legislation:**

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