



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART V

#### PROVISIONS RELATING TO THE SCHEDULE E CHARGE

#### CHAPTER IV

#### OTHER EXEMPTIONS AND RELIEFS

##### *Foreign emoluments and earnings, pensions and certain travel facilities*

#### **192 Relief from tax for foreign emoluments**

- (1) In this Part “foreign emoluments” means the emoluments of a person not domiciled in the United Kingdom from an office or employment under or with any person, body of persons or partnership resident outside, and not resident in, the United Kingdom, but shall be taken not to include the emoluments of a person resident in the United Kingdom from an office or employment under or with a person, body of persons or partnership resident in the Republic of Ireland.
- (2) Where the duties of an office or employment are performed wholly outside the United Kingdom and the emoluments from the office or employment are foreign emoluments, the emoluments shall be excepted from Case I of Schedule E.
- (3) If it appears to the Board on a claim made by the holder of an office or employment that out of any foreign emoluments from the office or employment he has made payments in circumstances corresponding to those in which the payments would have reduced his liability to income tax, the Board may allow those payments as a deduction in computing the amount of the emoluments.
- (4) Subject to subsection (2) above, there shall be allowed in charging tax on foreign emoluments from an office or employment under Case I or II of Schedule E for the year of assessment 1988-89 a deduction equal to one-quarter of the emoluments in any case where—

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- (a) the holder of the office or employment was in that year of assessment not resident in the United Kingdom or was not resident in the United Kingdom for at least two of the preceding ten years of assessment; and
  - (b) he—
    - (i) held an office or employment the emoluments of which were foreign emoluments chargeable under Case I or II of Schedule E at any time in the period beginning with 6th April 1983 and ending with 13th March 1984, or
    - (ii) in fulfilment of an obligation incurred before 14th March 1984, performed duties of such an office or employment in the United Kingdom before 1st August 1984,
 and he held such an office or employment in the year 1984-85 and in each subsequent year of assessment.
- (5) Paragraph 2(2) and (3) of Schedule 12 shall have effect with the necessary modifications in relation to the amount of emoluments to be excepted under subsection (2) above as they have effect in relation to the amount of emoluments in respect of which a deduction is allowed under section 193(1), and, subject to that, for the purposes of subsections (2) and (4) above the amount of any emoluments shall be taken to be the amount remaining after any capital allowance and after any deductions under subsection (3) above or section 193(4), 194(1), 195(7), 198, 199, 201, 332, 592 or 594.

### **193 Foreign earnings and travel expenses**

- (1) Where in any year of assessment—
- (a) the duties of an office or employment are performed wholly or partly outside the United Kingdom; and
  - (b) any of those duties are performed in the course of a qualifying period (within the meaning of Schedule 12) which falls wholly or partly in that year and consists of at least 365 days;
- then, in charging tax under Case I of Schedule E on the amount of the emoluments from that employment attributable to that period, or to so much of it as falls in that year of assessment, there shall be allowed a deduction equal to the whole of that amount.
- Schedule 12 shall have effect for the purpose of supplementing this subsection.
- (2) Subsections (3) and (4) below apply where a person (“the employee”) who is resident and ordinarily resident in the United Kingdom holds an office or employment (“the overseas employment”) the duties of which are performed wholly outside the United Kingdom and the emoluments from which are not foreign emoluments.
  - (3) For the purposes of section 198(1) there shall be treated as having been necessarily incurred in the performance of the duties of the overseas employment expenses of the employee in travelling from any place in the United Kingdom to take up the overseas employment and in travelling to any place in the United Kingdom on its termination; and if travel is partly for a purpose mentioned in this subsection and partly for another purpose this subsection applies only to such part of the expenses as is properly attributable to the former purpose.
  - (4) Where, for the purpose of enabling the employee to perform the duties of the overseas employment—

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- (a) board and lodging outside the United Kingdom is provided for him and the cost of it is borne by or on behalf of his employer; or
- (b) he incurs expenses out of the emoluments of the employment on such board and lodging for himself and those expenses are reimbursed by or on behalf of his employer,

there shall be allowed, in charging tax under Case I of Schedule E on the emoluments from that employment, a deduction of an amount equal to so much of that cost, or, as the case may be, those expenses as falls to be included in those emoluments.

Where board and lodging is partly for the purpose mentioned in this subsection and partly for another purpose, this subsection applies only to such part of the cost or expenses as is properly attributable to the former purpose.

- (5) Subsection (6) below applies where a person resident and ordinarily resident in the United Kingdom—

- (a) holds two or more offices or employments the duties of one or more of which are performed wholly or partly outside the United Kingdom; and
- (b) travels from one place having performed there duties of one office or employment to another place for the purpose of performing duties of another office or employment (the emoluments from which are not foreign emoluments);

and either or both of those places is outside the United Kingdom.

- (6) For the purposes of section 198(1) expenses incurred by such a person on such travel shall be treated as having been necessarily incurred in the performance of the duties which he is to perform at his destination; and if travel is partly for the purpose of performing those duties and partly for another purpose this subsection applies only to such part of the expenses as is properly attributable to the former purpose.
- (7) References in the Income Tax Acts (including any provision of this Act, but without prejudice to any express reference to subsection (3) above) to section 198 and to deductions allowable under sections 198, 199, 201 or 332 shall be construed as including a reference to subsection (3) above and to deductions allowable under that subsection.

## **194 Other foreign travel expenses**

- (1) Where—

- (a) travel facilities are provided for any journey to which this subsection applies and the cost of them is borne by or on behalf of the employer; or
- (b) expenses are incurred out of the emoluments of any office or employment mentioned in subsection (2), (3) or (5) below on any such journey and those expenses are reimbursed by or on behalf of the employer,

there shall be allowed, in charging tax under Case I of Schedule E on the emoluments from that office or employment, a deduction of an amount equal to so much of that cost or, as the case may be, those expenses as falls to be included in those emoluments.

- (2) Subsection (1) above applies where a person is absent from the United Kingdom for a continuous period of 60 days or more for the purpose of performing the duties of one or more offices or employments and applies to travel of the following descriptions between any place in the United Kingdom and the place of performance of any of those duties outside the United Kingdom, that is to say—

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- (a) any journey by his spouse or any child of his—
  - (i) accompanying him at the beginning of the period of absence; or
  - (ii) to visit him during that period;
- (b) any return journey following a journey of a kind described in paragraph (a) above;

but that subsection does not extend to more than two outward and two return journeys by the same person in any year of assessment.

For the purposes of this subsection “child” includes a stepchild and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the outward journey.

- (3) Where a person holds an office or employment the duties of which are performed partly outside the United Kingdom, subsection (1) above applies, subject to subsection (4) below, to any journey by him—
  - (a) from any place in the United Kingdom to the place of performance of any of those duties outside the United Kingdom;
  - (b) from the place of performance of any of those duties outside the United Kingdom to any place in the United Kingdom.
- (4) Subsection (1) does not apply by virtue of subsection (3) unless the duties concerned can only be performed outside the United Kingdom and the journey is made wholly and exclusively for the purpose—
  - (a) where the journey falls within subsection (3)(a), of performing the duties concerned; or
  - (b) where the journey falls within subsection (3)(b), of returning after performing the duties concerned.
- (5) Where a person is absent from the United Kingdom for the purposes of performing the duties of one or more offices or employments, subsection (1) above applies, subject to subsection (6) below, to—
  - (a) any journey by him from the place of performance of any of those duties outside the United Kingdom to any place in the United Kingdom;
  - (b) any return journey following a journey of a kind described in paragraph (a) above.
- (6) Subsection (1) does not apply by virtue of subsection (5) unless the duties concerned can only be performed outside the United Kingdom and the absence mentioned in subsection (5) was occasioned wholly and exclusively for the purpose of performing the duties concerned.
- (7) For the purpose of applying this section in a case where the duties of the office or employment or (as the case may be) any of the offices or employments are performed on a vessel, in section 132(4)(b) the words from “or which” to the end shall be ignored.
- (8) In such a case as is mentioned in subsection (7) above, subsection (4) above shall have effect as if “the duties concerned” in paragraphs (a) and (b) read “the duties concerned, or those duties and other duties of the office or employment”.
- (9) Where apart from this subsection a deduction in respect of any cost or expenses is allowable under a provision of this section or section 193 and a deduction in respect of the same cost or expenses is also allowable under another provision of this section or section 193 or of any other enactment, a deduction in respect of the cost or expenses may be made under either, but not both, of those provisions.

- (10) References in the Income Tax Acts (including any provision of this Act, but without prejudice to any express reference to subsection (1) above) to section 198 and to deductions allowable under sections 198, 199, 201 or 332 shall be construed as including a reference to subsection (1) above and to deductions allowable under that subsection.

## **195 Travel expenses of employees not domiciled in the United Kingdom**

- (1) Subject to subsection (2) below, this section applies in the case of an office or employment in respect of which a person (“the employee”) who is not domiciled in the United Kingdom is in receipt of emoluments for duties performed in the United Kingdom.
- (2) This section does not apply unless subsection (3) below is satisfied in respect of a date on which the employee arrives in the United Kingdom to perform duties of the office or employment; and where subsection (3) is so satisfied, this section applies only for a period of five years beginning with that date.
- (3) This subsection is satisfied in respect of a date if the employee—
- (a) was not resident in the United Kingdom in either of the two years of assessment immediately preceding the year of assessment in which the date falls; or
  - (b) was not in the United Kingdom for any purpose at any time during the period of two years ending with the day immediately preceding the date.
- (4) Where subsection (3) above is satisfied (by virtue of paragraph (a) of that subsection) in respect of more than one date in any year of assessment, only the first of those dates is relevant for the purposes of this section.
- (5) Subsection (7) below applies to any journey by the employee—
- (a) from his usual place of abode to any place in the United Kingdom in order to perform any duties of the office or employment there; or
  - (b) to his usual place of abode from any place in the United Kingdom after performing such duties there.
- (6) Where the employee is in the United Kingdom for a continuous period of 60 days or more for the purpose of performing the duties of one or more offices or employments in the case of which this section applies, subsection (7) below applies to any journey by his spouse, or any child of his, between his usual place of abode and the place of performance of any of those duties in the United Kingdom, if the journey—
- (a) is made to accompany him at the beginning of that period or to visit him during it; or
  - (b) is a return journey following a journey falling within paragraph (a) above;
- but subsection (7) as it applies by virtue of this subsection does not extend to more than two journeys to the United Kingdom and two return journeys by the same person in any year of assessment.
- (7) Subject to subsection (8) below, where—
- (a) travel facilities are provided for any journey to which this subsection applies and the cost of them is borne by or on behalf of a person who is an employer in respect of any office or employment in the case of which this section applies; or

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- (b) expenses are incurred out of the emoluments of any office or employment in the case of which this section applies on such a journey and those expenses are reimbursed by or on behalf of the employer;  
there shall be allowed, in charging tax under Case I or II of Schedule E on the emoluments from the office or employment concerned, a deduction of an amount equal to so much of that cost or, as the case may be, those expenses as falls to be included in those emoluments.
- (8) If a journey is partly for a purpose mentioned in subsection (5) or (6) above and partly for another purpose, only so much of the cost or expenses referred to in subsection (7) as is properly attributable to the former purpose shall be taken into account in calculating any deduction made under subsection (7) as it applies by virtue of subsection (5) or, as the case may be, (6).
- (9) For the purposes of this section a person's usual place of abode is the country (outside the United Kingdom) in which he normally lives.
- (10) In subsection (6) above "child" includes a step-child and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the journey to the United Kingdom.
- (11) References in the Income Tax Acts (including any provision of this Act, but without prejudice to any express reference to subsection (7) above) to section 198 and to deductions allowable under section 198, 199, 201 or 332 shall be construed as including a reference to subsection (7) above and to deductions allowable under it.
- (12) Where apart from this subsection a deduction in respect of any cost or expenses is allowable under a provision of this section and a deduction in respect of the same cost or expenses is also allowable under another provision of this section or of any other enactment, a deduction in respect of the cost or expenses may be made under either, but not both, of those provisions.
- (13) Where by virtue of subsection (3) of section 38 of the Finance Act 1986 any provision of section 37 of that Act applied in the case of any employee at any time during the year 1984-85 or 1985-86 (and that section applied to him immediately before 6th April 1988), this section shall apply in his case for the years 1988-89 to 1990-91 as if the following were substituted for subsections (2) to (4)—

“(2) This section does not apply after 5th April 1991.”.

## **196 Foreign pensions**

A deduction of one-tenth of its amount shall be allowed in charging any pension or annuity to tax under paragraph 4 of Schedule E.

## **197 Leave travel facilities for the armed forces**

- (1) No charge to tax under Schedule E shall arise in respect of travel facilities provided for members of the naval, military or air forces of the Crown going on, or returning from, leave.
- (2) Subsection (1) above applies whether the charge would otherwise have arisen under section 131, 141 or 154 and applies not only to travel vouchers and warrants for particular journeys but also to allowances and other payments for and in respect of leave travel, whether or not a warrant was available.