



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 11

#### PAY AS YOU EARN

**Modifications etc. (not altering text)**

**C1** Pt. 11 power to amend or repeal conferred (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 10](#)

### CHAPTER 1

#### INTRODUCTION

#### **682** Scope of this Part

- (1) This Part provides for the assessment, collection and recovery of income tax in respect of PAYE income [<sup>F1</sup>and includes provision in respect of the deduction of certain other amounts from, and the repayment of certain other amounts with, PAYE income].
- (2) The provisions of this Part are contained in—
  - this Chapter (which gives the meaning of “PAYE income”),
  - Chapter 2 (PAYE: general),
  - Chapter 3 (PAYE: special types of payer or payee),
  - Chapter 4 (PAYE: special types of income),
  - Chapter 5 (PAYE settlement agreements), and
  - Chapter 6 (miscellaneous and supplemental).
- (3) Provision for PAYE regulations is made by Chapters 2 to 6.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

### Textual Amendments

**F1** Words in s. 682(1) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 9\(2\)](#)

## 683 PAYE income

- (1) For the purposes of this Act and any other enactment (whenever passed) “PAYE income” for a tax year consists of—
- (a) any PAYE employment income for the year,
  - (b) any PAYE pension income for the year, and
  - (c) any PAYE social security income for the year.
- (2) “PAYE employment income” for a tax year means income which consists of—
- (a) any taxable earnings from an employment in the year (determined in accordance with section 10(2)), and
  - (b) any taxable specific income from an employment for the year (determined in accordance with section 10(3)).
- (3) “PAYE pension income” for a tax year means, subject to <sup>F2</sup>subsections (3A) and (4)], taxable pension income for the year determined in accordance with any of the following provisions—
- section 571 (United Kingdom pensions),
  - section 578 (United Kingdom social security pensions),
  - <sup>F3</sup>section 579B (pension under registered pension scheme),]
  - <sup>F4</sup>section 612, so far as relating to annuities to which section 610 applies (annuities under non-registered occupational pension schemes),]
  - section 616 (certain overseas government pensions paid in the United Kingdom),
  - section 621 (the House of Commons Members' Fund),
  - section 634 (voluntary annual payments).
  - <sup>F5</sup>section 636B (pension treated as arising from payment of trivial commutation lump sum or winding-up lump sum), section 636C (pension treated as arising from payment of trivial commutation or winding-up lump sum death benefit).]
- <sup>F6</sup>(3A) “PAYE pension income” for a tax year also includes any social security pension lump sum (within the meaning of section 7 of F(No.2)A 2005) in respect of which a charge to income tax arises under that section for that tax year.]
- <sup>F7</sup>(4) .....
- (5) “PAYE social security income” for a tax year means taxable social security income for the year determined in accordance with section 658(4) or (5) (taxable United Kingdom social security benefits).

### Textual Amendments

**F2** Words in s. 683(3) substituted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [s. 10\(3\)](#)

**F3** Words in s. 683(3) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [s. 284\(1\)](#), [Sch. 31 para. 14\(2\)](#) (with [Sch. 36](#))

**F4** Words in s. 683(3) inserted (6.4.2007) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 60, 64\(2\)](#)

**F5** Words in s. 683(3) inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [s. 284\(1\)](#), [Sch. 31 para. 14\(3\)](#) (with [Sch. 36](#))

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- F6** S. 683(3A) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 10(4)  
**F7** S. 683(4) repealed (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 31 para. 14(4), Sch. 42 Pt. 3 (with Sch. 36)

**Modifications etc. (not altering text)**

- C2** S. 683 modified (22.7.2004) by Finance Act 2004 (c. 12), Sch. 36 para. 43(3) (with s. 283(5), Sch. 36)  
**C3** S. 683(3) extended (22.7.2004) by Finance Act 2004 (c. 12), Sch. 36 para. 46 (with s. 283(5), Sch. 36)

## CHAPTER 2

### PAYE: GENERAL

#### 684 PAYE regulations

- (1) [<sup>F8</sup>The Commissioners <sup>F9</sup>...] must make regulations (“PAYE regulations”) with respect to the assessment, charge, collection and recovery of income tax in respect of all PAYE income.
- (2) [<sup>F10</sup>The provision that may be made in PAYE regulations includes] any such provision as is set out in the following list.

#### LIST OF PROVISIONS

##### 1. Provision—

- (a) for requiring persons making payments of, or on account of, PAYE income to make, at the [<sup>F11</sup>relevant time], deductions or repayments of income tax calculated by reference to tax tables prepared by [<sup>F8</sup>the Commissioners <sup>F12</sup>...], and
- (b) for making persons who are required to make any such deductions or repayments accountable to or, as the case may be, entitled to repayment from the Board.

##### [<sup>F13</sup>“The relevant time” is—

- (a) if the payment is a notional payment for the purposes of section 710 and the person is treated by virtue of any Act as making it at a time before the date on which the Act is passed, that date, and
- (b) in any other case, the time when the payment is made.]

##### [<sup>F14</sup>1A. Provision—

- (a) for deductions to be made, if and to the extent that the payee does not object, with a view to securing that income tax payable in respect of any income of a payee for a tax year which is not PAYE income is deducted from PAYE income of the payee paid during that year; and
- (b) as to the circumstances and manner in which a payee may object to the making of deductions.

##### 2. Provision—

- (a) for repayments or deductions to be made, if and to the extent that the payee does not object, in respect of any amounts overpaid or [<sup>F15</sup>(or treated as overpaid) on account of, or any amounts other than relevant debts remaining unpaid (or treated as remaining unpaid)] on account of—
- (i) income tax in respect of income for a previous tax year, or

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- (ii) capital gains tax in respect of chargeable gains for such a year; and
- (b) as to the circumstances in which repayments or deductions may be made, and the circumstances and manner in which a payee may object to the making of repayments or deductions.]

[<sup>F16</sup>2A. Provision—

- (a) for deductions to be made in respect of relevant debts of a payee,
- (b) as to the circumstances in which such deductions may be made, and
- (c) where such deductions are made, as to the date on which the relevant debts are to be treated as paid.]

3. Provision for the production to, and inspection by, persons authorised by the Board of wages sheets and other documents and records for the purposes of satisfying themselves that [<sup>F17</sup>amounts have been and are] being deducted, repaid and accounted for in accordance with the regulations.

4. Provision for requiring an employer or former employer to provide any information, within a prescribed time, about payments or other benefits provided or to be provided, including those provided or to be provided in connection with—

- (a) the termination of a person's employment, or
- (b) a change in the duties of or general earnings from a person's employment.

[<sup>F18</sup>4A. Provision authorising the recovery from the payee rather than the payer of any amount that [<sup>F19</sup>an officer of Revenue and Customs] considers should have been deducted by the payer.]

5. Provision for the way in which any matters provided for by the regulations are to be proved.

6. Provision—

- (a) for requiring the payment of interest on sums due to the Board which are not paid by the due date,
- (b) for determining the date (being not less than 14 days after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated, and
- (c) for enabling the repayment or remission of such interest.

7. Provision for requiring the payment of interest on sums due from the Board and for determining the date from which such interest is to be calculated.

[<sup>F20</sup>7A. Provision for excluding payments of such description as may be specified from the operation of the regulations in such circumstances as may be specified. Provision for excluding payments of such description as may be specified from the operation of the regulations in such circumstances as may be specified.

8. Provision for the making of decisions by [<sup>F21</sup>Her Majesty's Revenue and Customs] as to any matter required to be decided for the purposes of the regulations and for appeals against such decisions.]

9. Provision for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal.

10. Different provision for different cases or classes of case.

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11. Any incidental, consequential, supplementary and transitional provision which appears to the Board to be expedient.

- (3) The deductions of income tax required to be made by PAYE regulations under item 1 in the above list may be required to be made at the basic rate or other rates in such cases or classes of case as may be provided by the regulations.
- [<sup>F22</sup>(3A) PAYE regulations under item 2A in the above list may not make provision enabling deductions totalling more than £2,000 to be made from a payee's income for a tax year without the payee's consent.
- (3B) The Treasury may by order amend the amount specified in subsection (3A).]
- (4) Interest required to be paid by PAYE regulations under item 6 or 7 in the above list must be paid without any deduction of income tax and may not be taken into account in computing any income, profits or losses for any tax purposes.
- (5) PAYE regulations must not affect any right of appeal to the [<sup>F23</sup>tribunal] which a person would have apart from the regulations.
- (6) It does not matter for the purposes of PAYE regulations that income is wholly or partly income for a tax year other than that in which the payment is made.
- (7) PAYE regulations have effect despite anything in the Income Tax Acts.
- (7A) [<sup>F24</sup>Nothing in PAYE regulations may be read—
- (a) as preventing the making of arrangements for the collection of tax [<sup>F25</sup>or other amounts] in such manner as may be agreed by, or on behalf of, the payer and [<sup>F19</sup>an officer of Revenue and Customs], or
  - (b) as requiring the payer to comply with the regulations in circumstances in which [<sup>F19</sup>an officer of Revenue and Customs] is satisfied that it is unnecessary or not appropriate for the payer to do so.
- [ In this section “relevant debt”, in relation to a payee, means—
- <sup>F26</sup>(7AA) (a) a sum payable by the payee to the Commissioners under or by virtue of an enactment, other than an excluded debt, and
- (b) a sum payable by the payee to the Commissioners under a contract settlement.
- (7AB) For the purposes of subsection (7AA)—
- (a) child tax credit or working tax credit that the payee is liable to repay is an excluded debt, and
  - (b) if the payee is an employer, any amount that the payee is required to deduct from the PAYE income of employees for a tax year is an excluded debt until the tax year has ended.]

(7B) References in this section and section 685 to income tax in respect of PAYE income are references to income tax in respect of that income if reasonable assumptions are (when necessary) made about other income.

(7C) In this section and section 685—

[<sup>F27</sup>“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

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“contract settlement” means an agreement made in connection with the liability of the payee or another person to make a payment to the Commissioners under or by virtue of an enactment;]

“payer” means any person paying PAYE income and “payee” means any person in receipt of such income;

“specified” means specified in PAYE regulations.]

- (8) In this Act and any other enactment (whenever passed) “PAYE regulations” means regulations under this section.

#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F9** Words in s. 684(1) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 2](#)
- F10** Words in s. 684(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 3\(2\)](#)
- F11** Words in s. 684(2) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 94(3)(a); S.I. 2007/1081, art. 2
- F12** Words in s. 684(2) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 3\(3\)](#)
- F13** Words in s. 684(2) inserted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 94(3)(b); S.I. 2007/1081, art. 2
- F14** S. 684(2) Items 1A and 2 substituted for s. 684(2) Item 2 (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(1)(a)
- F15** Words in s. 684(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 3\(4\)](#)
- F16** Words in s. 684(2) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 3\(5\)](#)
- F17** Words in s. 684(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 3\(6\)](#)
- F18** S. 684(2) Item 4A inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(1)(b)
- F19** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F20** S. 684(2) Items 7A and 8 substituted for s. 684(2) Item 8 (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(1)(c)
- F21** Words in s. 684 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 117](#); S.I. 2005/1126, art. 2(2)(h)
- F22** S. 684(3A)(3B) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 4](#)
- F23** Word in s. 684(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 338](#)
- F24** S. 684(7A)-(7C) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(2)
- F25** Words in s. 684(7A)(a) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 5](#)
- F26** S. 684(7AA)(7AB) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 6](#)
- F27** Words in s. 684(7C) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 7](#)

#### Modifications etc. (not altering text)

- C4** S. 684(2) modified (6.4.2007) by [The Finance Act 2006 \(Section 94\(5\)\) \(PAYE: Retrospective Notional Payments — Appointment of Substituted Date\) Order 2007 \(S.I. 2007/1081\)](#), art. 2; as provided for by [2006 c. 25](#), s. 94(5)

## 685 Tax tables

- (1) [<sup>F8</sup>The Commissioners <sup>F28</sup>...] must construct tax tables with a view to securing that so far as possible—

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- (a) the total income tax payable in respect of PAYE income for any tax year is deducted from PAYE income paid during that year, and
  - (b) the income tax deductible or repayable on the occasion of any payment of, or on account of, PAYE income is such that the following proportions are the same—
    - (i) the proportion which the total net income tax deducted since the beginning of the tax year bears to the total income tax payable for the year, and
    - (ii) the proportion which the part of the tax year which ends with the date of the payment bears to the whole year.
- (2) References in subsection (1) to the total income tax payable for the year are to be read as references to the total income tax estimated to be payable for the year in respect of the income in question—
- (a) subject to a provisional deduction for allowances and reliefs, and
  - [<sup>F29</sup>(b) subject to an adjustment in respect of amounts required to be deducted or repaid by PAYE regulations made under item 1A]<sup>F30</sup>, 2 or 2A] in the list in section 684(2).]
- (3) For the purpose of estimating the total income tax payable as mentioned in subsection (1)(a), it may be assumed, in relation to any payment of, or on account of, PAYE income, that the following proportions will be the same—
- (a) the proportion which the income paid in the part of the tax year which ends with the making of the payment bears to the income for the whole year, and
  - (b) the proportion which that part of the tax year bears to the whole year.
- [<sup>F31</sup>(4) PAYE regulations may make provision, where it appears to [<sup>F19</sup>an officer of Revenue and Customs] that it is impracticable for a payer to deduct tax by reference to tax tables—
- (a) for deductions to be made by the payer in accordance with other arrangements agreed as mentioned in section 684(7A)(a), or
  - (b) for the payee to be required to keep records and make payments and returns as if he were the payer.]

#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F19** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F28** Words in s. 685(1) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 9\(3\)\(a\)](#)
- F29** S. 685(2)(b) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(3)
- F30** Words in s. 685(2)(b) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 58 para. 9\(3\)\(b\)](#)
- F31** S. 685(4) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(4)

## 686 Meaning of “payment”

- (1) For the purposes of PAYE regulations, a payment of, or on account of, PAYE income of a person is treated as made at the earliest of the following times—

### *Rule 1*

*Status: Point in time view as at 01/04/2010.*

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The time when the payment is made.

*Rule 2*

The time when the person becomes entitled to the payment.

*Rule 3*

If the person is a director of a company and the income is income from employment with the company (whether or not as director), whichever is the earliest of—

- (a) the time when sums on account of the income are credited in the company's accounts or records (whether or not there is any restriction on the right to draw the sums);
- (b) if the amount of the income for a period is determined before the period ends, the time when the period ends;
- (c) if the amount of the income for a period is not determined until after the period has ended, the time when the amount is determined.

[<sup>F32</sup>But this is subject to subsection (5) (PAYE pension income: social security pension lump sums).]

(2) Rule 3 applies if the person is a director of the company at any time in the tax year in which the time mentioned falls.

(3) In this section “director” means—

- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or body,
- (b) in relation to a company whose affairs are managed by a single director or other person, that director or person, and
- (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,

and includes any person in accordance with whose directions or instructions the company's directors (as defined above) are accustomed to act.

(4) For the purposes of subsection (3) a person is not regarded as a person in accordance with whose directions or instructions the company's directors are accustomed to act merely because the directors act on advice given by that person in a professional capacity.

[<sup>F33</sup>(5) For the purposes of PAYE regulations, a payment of, or on account of, an amount which is PAYE pension income of a person by virtue of section 683(3A) (social security pension lump sums) is to be treated as made at the time when the payment is made.]

**Textual Amendments**

**F32** Words in s. 686(1) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 10(5)

**F33** S. 686(5) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 10(6)



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## CHAPTER 3

### PAYE: SPECIAL TYPES OF PAYER OR PAYEE

#### 687 Payments by intermediary

- (1) If any payment of, or on account of, PAYE income of an employee is made by an intermediary of the employer, the employer is to be treated, for the purposes of PAYE regulations, as making a payment of the income of an amount equal to the amount given by subsection (3).
- (2) Subsection (1) does not apply if the intermediary (whether or not a person to whom PAYE regulations apply) deducts income tax from the payment the intermediary makes, and accounts for it, in accordance with PAYE regulations.
- (3) The amount referred to is—
  - (a) if the amount of the payment made by the intermediary is an amount to which the recipient is entitled after deduction of income tax, the aggregate of the amount of the payment and the amount of any income tax due, and
  - (b) in any other case, the amount of the payment.
- (4) For the purposes of this section a payment of, or on account of, PAYE income of an employee is made by an intermediary of the employer if it is made—
  - (a) by a person acting on behalf of the employer and at the expense of the employer or a person connected with the employer, or
  - (b) by trustees holding property for any persons who include or class of persons which includes the employee.

#### 688 Agency workers

- (1) If the remuneration receivable by an individual under or in consequence of any contract falls to be treated under section 44 (agency workers) as earnings from an employment, the relevant provisions have effect as if the individual held the employment with or under the agency.
- (2) If—
  - (a) the remuneration receivable by an individual under or in consequence of any contract falls to be so treated under section 44, and
  - (b) a payment of, or on account of, PAYE income of the individual is made by a person acting on behalf of the client, and at the expense of the client or a person connected with the client,section 687 and, in relation to any payment treated as made by the client under section 687, section 710 have effect in relation to the payment as if the client and not the agency were the employer for the purposes of the relevant provisions.
- (3) In subsections (1) and (2)—
  - “the agency” and “the client” have the same meanings as in section 44;
  - “the relevant provisions” means this Chapter except section 691, Chapter 4 of this Part and section 710.

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### [<sup>F34</sup>688A Managed service companies: recovery from other persons

- (1) PAYE regulations may make provision authorising the recovery from a person within subsection (2) of any amount that an officer of Revenue and Customs considers should have been deducted by a managed service company (“the MSC”) from a payment of, or on account of, PAYE income of an individual.
- (2) The persons are—
  - (a) a director or other office-holder, or an associate, of the MSC,
  - (b) an MSC provider,
  - (c) a person who (directly or indirectly) has encouraged or been actively involved in the provision by the MSC of the services of the individual, and
  - (d) a director or other office-holder, or an associate, of a person (other than an individual) who is within paragraph (b) or (c).
- (3) A person does not fall within subsection (2)(c) merely by virtue of—
  - (a) providing legal or accountancy advice in a professional capacity, or
  - (b) placing the individual with persons who wish to obtain the services of the individual (including by contracting with the MSC for the provision of those services).
- (4) The supplementary provision that may be made by the regulations includes provision as to the liability of one person within subsection (2) to another such person.
- (5) In this section—
  - “associate” has the meaning given by section 61I,
  - “director” has the meaning given by section 67,
  - “managed service company” has the meaning given by section 61B, and
  - “MSC provider” means an MSC provider who is involved with the MSC (within the meaning of section 61B).
- (6) Section 61C(4) (extended meaning of “associate”) applies for the purposes of subsection (2)(d).
- (7) The Treasury may by order amend this section (but not this subsection or subsection (8)).
- (8) The Treasury must not make an order under subsection (7) unless a draft of it has been laid before and approved by a resolution of the House of Commons.]

#### Textual Amendments

**F34** S. 688A inserted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), s. 25(2), [Sch. 3 para. 6](#)

### 689 Employee of non-UK employer

- (1) This section applies if—
  - (a) an employee during any period works for a person (“the relevant person”) who is not the employer of the employee,
  - (b) any payment of, or on account of, PAYE income of the employee in respect of that period is made by a person who is the employer or an intermediary of the employer or of the relevant person,

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- (c) PAYE regulations do not apply to the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, the employer, and
  - (d) income tax is not deducted, or not accounted for, in accordance with the regulations by the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, the employer.
- (2) The relevant person is to be treated, for the purposes of PAYE regulations, as making a payment of PAYE income of the employee of an amount equal to the amount given by subsection (3).
- (3) The amount referred to is—
- (a) if the amount of the payment actually made is an amount to which the recipient is entitled after deduction of income tax, the aggregate of the amount of the payment and the amount of any income tax due, and
  - (b) in any other case, the amount of the payment.
- (4) If, by virtue of any of sections 693 to 700, an employer would be treated for the purposes of PAYE regulations (if they applied to the employer) as making a payment of any amount to an employee, this section has effect as if—
- (a) the employer were also to be treated for the purposes of this section as making an actual payment of that amount, and
  - (b) paragraph (a) of subsection (3) were omitted.
- (5) For the purposes of this section a payment of, or on account of, PAYE income of an employee is made by an intermediary of the employer or of the relevant person if it is made—
- (a) by a person acting on behalf of the employer or the relevant person and at the expense of the employer or the relevant person or a person connected with the employer or the relevant person, or
  - (b) by trustees holding property for any persons who include or class of persons which includes the employee.
- (6) In this section and sections 690 and 691 “work”, in relation to an employee, means the performance of any duties of the employment of the employee and any reference to the employee’s working is to be read accordingly.

#### **690 Employee non-resident etc.**

- (1) This section applies in relation to an employee in a tax year only if the employee—
- (a) is not resident or, if resident, not ordinarily resident in the United Kingdom, and
  - (b) works or will work in the United Kingdom and also works or is likely to work outside the United Kingdom.
- (2) If in relation to an employee to whom this section applies and any tax year it appears to <sup>F19</sup>[an officer of Revenue and Customs] —
- (a) some of the income paid to the employee by the employer is PAYE income, but
  - (b) some of that income may not be PAYE income,

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

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[<sup>F19</sup>an officer of Revenue and Customs] may, on an application made by the appropriate person, give a direction for determining a proportion of any payment made in that year of, or on account of, income of the employee which is to be treated as PAYE income.

[<sup>F35</sup>(2A) For the purposes of subsection (2) as it applies in relation to an employee who is UK resident but not ordinarily UK resident in a tax year, the officer may treat section 809B of ITA 2007 (remittance basis) as applying to the employee for that year, even if no claim under that section has been made.]

- (3) In this section—
- (a) “the appropriate person” means the person designated by the employer for the purposes of this section and, if no person is so designated, the employer, and
  - (b) any reference to a payment made by the employer includes a reference to a payment made by a person acting on behalf of the employer and at the expense of the employer or a person connected with the employer.
- (4) An application under subsection (2) must provide such information as is available and is relevant to the application.
- (5) A direction under subsection (2)—
- (a) must specify the employee to whom and the tax year to which it relates,
  - (b) must be given by notice to the appropriate person, and
  - (c) may be withdrawn by notice to the appropriate person from a date specified in the notice.
- (6) The date so specified may not be earlier than 30 days from the date on which the notice of withdrawal is given.
- (7) If—
- (a) a direction under subsection (2) has effect in relation to an employee to whom this section applies, and
  - (b) a payment of, or on account of, the income of the employee is made by the employer in the tax year to which the direction relates,
- the proportion of the payment determined in accordance with the direction is to be treated for the purposes of PAYE regulations as a payment of PAYE income of the employee.
- (8) If in any tax year—
- (a) no direction under subsection (2) has effect in relation to an employee to whom this section applies, and
  - (b) any payment of, or on account of, the income of the employee is made by the employer,
- the entire payment is to be treated for the purposes of PAYE regulations as a payment of PAYE income of the employee.
- (9) Subsections (7) and (8) are without prejudice to—
- (a) any assessment in respect of the income of the employee in question, and
  - (b) any right to repayment of income tax overpaid and any obligation to pay income tax underpaid.
- (10) In a case where section 689 applies—
- (a) the references to the employer in subsection (3)(a) are to be read as references to the relevant person, and

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- (b) any reference to a payment made by the employer is to be read as a reference to a payment treated, for the purposes of PAYE regulations, as made by the relevant person.

In this subsection “the relevant person” has the same meaning as in section 689.

#### Textual Amendments

- F19** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F35** [S. 690\(2A\)](#) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 35](#)

### 691 Mobile UK workforce

- (1) This section applies if it appears to [<sup>F8</sup>the Commissioners for Her Majesty’s Revenue and Customs] that—
- a person (“the relevant person”) has entered into or is likely to enter into an agreement that employees of another person (“the contractor”) are in any period to work for, but not as employees of, the relevant person,
  - payments of, or on account of, PAYE income of the employees in respect of work done in that period are likely to be made by or on behalf of the contractor, and
  - PAYE regulations would apply on the making of such payments but it is likely that income tax will not be deducted, or will not be accounted for, in accordance with the regulations.
- (2) The [<sup>F36</sup>Commissioners] may give a direction that, if—
- any of the employees of the contractor work in any period for, but not as employees of, the relevant person, and
  - any payment is made by the relevant person in respect of work done by the employees in that period,
- income tax is to be deducted in accordance with the provisions of this section by the relevant person on making the payment.
- (3) A direction under subsection (2)—
- must specify the relevant person and the contractor to whom it relates;
  - must be given by notice to the relevant person; and
  - may at any time be withdrawn by notice to the relevant person.
- (4) The [<sup>F36</sup>Commissioners] must take such steps as are reasonably practicable to ensure that a contractor is supplied with a copy of any notice under subsection (3) which relates to him.
- (5) If—
- a direction under subsection (2) has effect, and
  - any employees of the contractor specified in the direction work for, but not as employees of, the relevant person so specified,
- income tax is, subject to and in accordance with PAYE regulations, to be deducted by the relevant person on making any payment in respect of that work as if so much

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

of the payment as is attributable to work done by each employee were a payment of PAYE income of that employee.

#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F36** Words in s. 691 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(3\)\(i\)](#); S.I. 2005/1126, art. 2(2)(h)

### 692 Organised arrangements for sharing tips

- (1) PAYE regulations may make provision with respect to organised arrangements for tips to be shared among employees by a person (“P”) who is not the principal employer.
- (2) PAYE regulations may include provisions which, for the purposes of PAYE regulations—
  - (a) treat every payment made by P to an employee by way of the employee’s share of any tips (including the retention by P of P’s own share if P is an employee) as a payment of PAYE income by P, and
  - (b) treat P as the employer in relation to every such payment.
- (3) PAYE regulations may also include provisions which—
  - (a) apply if P has failed to comply with any of the requirements of PAYE regulations, and
  - (b) treat the principal employer, for the purposes of PAYE regulations, as making payments to the employees of any tips paid over to P by the principal employer.
- (4) In this section—
 

“the principal employer” means the person under whose general control and management the employees work;

“tips” means gratuities and service charges.

## CHAPTER 4

### PAYE: SPECIAL TYPES OF INCOME

#### *Income provided by means of vouchers and tokens*

### 693 Cash vouchers

- (1) If a cash voucher to which Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) applies is received by an employee at any time, the employer is to be treated, for the purposes of PAYE regulations, as making at that time a payment of PAYE income of the employee of an amount equal to the amount ascertained under section 81(2) (benefit of cash voucher treated as earnings).
- (2) This section does not apply to the provision of a cash voucher if—
  - (a) the voucher is used to meet expenses, and

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

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- (b) if the amount for which the voucher is capable of being exchanged had been paid directly to the employee by his or her employer, the amount would not have been PAYE income except by virtue of section 70 (sums in respect of expenses).
- (3) This section does not apply to the provision of a cash voucher if it is exchanged for an amount which—
  - (a) is used to meet expenses, and
  - (b) if it had been paid directly to the employee by the employer, would not have been PAYE income except by virtue of section 70.
- (4) PAYE regulations may exclude from the scope of this section the provision of cash vouchers in circumstances specified in the regulations.
- (5) A cash voucher provided for an employee and appropriated to the employee—
  - (a) by attaching it to a card held for the employee, or
  - (b) in any other way,
 is to be treated for the purposes of this section as having been received by the employee at the time when it is appropriated.

#### **694 Non-cash vouchers**

- (1) If a non-cash voucher to which this section applies is received by an employee, the employer is to be treated, for the purposes of PAYE regulations, as making a payment of PAYE income of the employee of an amount equal to the amount ascertained under section 87(2) (benefit of non-cash voucher treated as earnings).
- (2) This section applies to a non-cash voucher to which Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) applies if—
  - (a) either of the conditions set out below is met with respect to the voucher, and
  - (b) the voucher is not of a description for the time being excluded from the scope of this section by PAYE regulations.
- (3) The first condition is met with respect to a non-cash voucher if it is capable of being exchanged for anything which, if provided to the employee at the time when the voucher is received, would fall to be regarded as a readily convertible asset.
- (4) The second condition is met with respect to a non-cash voucher if (but for section 701(2)(b)) it would fall itself to be regarded as a readily convertible asset.
- (5) A payment under subsection (1) is made—
  - (a) in the case of a non-cash voucher other than a cheque voucher, at the time when the cost of provision is incurred or, if later, the time when the voucher is received by the employee;
  - (b) in the case of a cheque voucher, at the time when the voucher is handed over in exchange for money, goods or services.
- (6) For the purposes of subsection (5)—
  - “cheque voucher” has the same meaning as in Chapter 4 of Part 3;
  - “cost of provision”, in relation to a voucher provided by an employer, has the meaning given by section 87;
  - and a cheque voucher that is posted is to be treated as handed over at the time of posting.

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- (7) A non-cash voucher provided for an employee and appropriated to the employee—
- (a) by attaching it to a card held for the employee, or
  - (b) in any other way,
- is to be treated for the purposes of this section as having been received by the employee at the time when it is appropriated.

## **695 Credit-tokens**

- (1) On each occasion on which an employee uses a credit-token provided to the employee because of the employee's employment to obtain—
- (a) money, or
  - (b) anything which, if provided to the employee at the time when the credit-token is used, would fall to be regarded as a readily convertible asset,
- the employer is to be treated, for the purposes of PAYE regulations, as making a payment of PAYE income of the employee of an amount equal to the amount ascertained under section 94(2) (benefit of credit-token treated as earnings).
- (2) The use of a credit-token by an employee to obtain money is excluded from the scope of this section if the money—
- (a) is used to meet expenses, and
  - (b) if it had been paid directly to the employee by the employer, would not have been PAYE income except by virtue of section 70 (sums in respect of expenses).
- (3) PAYE regulations may make provision for excluding from the scope of this section any other description of use of a credit-token.

### *Income provided in other ways*

## **696 Readily convertible assets**

- (1) If any PAYE income of an employee is provided in the form of a readily convertible asset, the employer is to be treated, for the purposes of PAYE regulations, as making a payment of that income of an amount equal to the amount given by subsection (2).
- (2) The amount referred to is the amount which, on the basis of the best estimate that can reasonably be made, is the amount of income likely to be PAYE income in respect of the provision of the asset.

## **697 Enhancing the value of an asset**

- (1) This section applies if—
- (a) any PAYE income of an employee is provided in the form of anything enhancing the value of an asset in which the employee or a member of the employee's family or household already has an interest, and
  - (b) that asset, with its value enhanced, would be treated as a readily convertible asset if PAYE income were provided to the employee in the form of the asset at the time of the enhancement.
- (2) Section 696 has effect as if—



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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

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- (a) the employee had been provided, at the time of the enhancement, with PAYE income in the form of the asset (with its value enhanced), instead of with what enhanced its value, and
  - (b) the reference in subsection (2) to the provision of the asset were a reference to the enhancement of its value.
- (3) Any reference in this section to enhancing the value of an asset is a reference to—
- (a) the provision of any services by which the asset or any right or interest in it is improved or otherwise made more valuable,
  - (b) the provision of any property the addition of which to the asset improves it or otherwise increases its value, or
  - (c) the provision of any other enhancement by the application of money or property to the improvement of the asset or to securing an increase in its value or the value of any right or interest in it.
- (4) There is excluded from the scope of what constitutes enhancing the value of an asset for the purposes of this section any enhancement of value arising on the acquisition by the employee (whether or not as a result of the exercise of a right to acquire shares) of—
- (a) any shares acquired by the employee under a scheme approved under Schedule 3 (approved SAYE option schemes) or 4 (approved CSOP schemes), or Schedule 9 to ICTA (approved profit sharing schemes),
  - (b) any right over or interest in shares obtained or acquired by the employee under such a scheme, or
  - (c) any shares acquired by the employee as a result of the exercise of a right over shares obtained before 27th November 1996,
- if the shares in question form part of the share capital of a company falling within section 701(3).
- (5) PAYE regulations may make provision excluding such other matters as may be described in the regulations from the scope of what constitutes enhancing the value of an asset for the purposes of this section.

### **[<sup>F37</sup>698 PAYE: special charges on employment-related securities**

- (1) This section applies where by reason of the operation of—
- (a) section 426 (chargeable events in relation to restricted securities and restricted interests in securities),
  - (b) section 438 (chargeable events in relation to convertible securities and interests in convertible securities),
  - (c) section 446B (charge on acquisition where market value of securities or interest artificially depressed),
  - (d) section 446L (charge where market value of securities artificially enhanced),
  - (e) section 446U (securities or interest acquired for less than market value: charge on discharge of notional loan),
  - [<sup>F38</sup>(ea) section 446UA (securities or interest acquired for less than market value: charge in avoidance cases),]
  - (f) section 446Y (charge where securities or interest disposed of for more than market value), or
  - (g) section 447 (chargeable benefit from securities or interest),

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in relation to employment-related securities, an amount counts as employment income of an employee.

(2) Sections 684 to 691 and 696 have effect as if—

- (a) the employee were provided with PAYE income in the form of the employment-related securities by the employer on the relevant date, and
- (b) the reference in subsection (2) of section 696 to the amount of income likely to be PAYE income in respect of the provision of the asset were to the amount likely to count as employment income.

[<sup>F39</sup>(2A) For the purposes of this section the amount likely to count as employment income under section 426 or 438 means the amount after deducting the amount of any relief likely to be available under section 428A or 442A (relief for secondary Class 1 contributions met by employee).]

(3) In a case in which the employment-related securities are not readily convertible assets, if—

- (a) the amount counts as income by virtue of section 427(3)(c), 439(3)(b), (c) or (d), 446Y or 447, and
- (b) the whole or any part of the consideration or benefit concerned takes the form of a payment or consists in the provision of an asset,

subsection (4) applies.

(4) Sections 684 to 691 and 696 have effect —

- (a) to the extent that the consideration or benefit takes the form of a payment, as if it were a payment of PAYE income of the employee by the employer, and
- (b) to the extent that the consideration or benefit consists in the provision of an asset, as if the provision of the asset were the provision of PAYE income in the form of the asset by the employer on the relevant date.

(5) Section 696 as applied by subsection (4)(b) has effect as if the reference in subsection (2) of that section to the amount of income likely to be PAYE income were to the same proportion of the amount likely to count as employment income as so much of the consideration or benefit as consists in the provision of the asset bears to the whole of the consideration or benefit.

(6) In this section “the relevant date” means—

- (a) in relation to an amount counting as employment income under section 426 or 438, the date on which the chargeable event in question occurs,
- (b) in relation to an amount counting as employment income under section 446B, the date of the acquisition of the securities or interest in securities in question,
- (c) in relation to an amount counting as employment income under section 446L, the valuation date in question,
- (d) in relation to an amount counting as employment income under section 446U, the date on which the notional loan in question is treated as discharged,
- [<sup>F40</sup>(da) in relation to an amount counting as employment income under section 446UA, the date of the acquisition of the securities or interest in securities in question,]
- (e) in relation to an amount counting as employment income under section 446Y, the date of the disposal of the securities or interest in securities in question, and
- (f) in relation to an amount counting as employment income under section 447, the date on which the benefit in question is received.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

(7) In this section “employment-related securities” has the same meaning as in Chapters 1 to 4 of Part 7.

[<sup>F41</sup>(8) This section is subject to section 700A (employment-related securities etc: remittance basis).]

#### Textual Amendments

**F37** S. 698 substituted for ss. 698, 699 (1.9.2003 with effect in accordance with Sch. 22 para. 12(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 12\(1\)](#); S.I. 2003/1997, art. 2

**F38** S. 698(1)(ea) inserted (with effect in accordance with Sch. 2 para. 16(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 2 para. 16\(2\)](#)

**F39** S. 698(2A) inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), s. 85(2), [Sch. 16 para. 4\(2\)](#); S.I. 2004/1945, art. 2

**F40** S. 698(6)(da) inserted (with effect in accordance with Sch. 2 para. 16(4) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 2 para. 16\(3\)](#)

**F41** S. 698(8) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 36](#)

#### <sup>F37</sup>**699 PAYE: conversion of shares**

#### Textual Amendments

**F37** S. 698 substituted for ss. 698, 699 (1.9.2003 with effect in accordance with Sch. 22 para. 12(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 12\(1\)](#); S.I. 2003/1997, art. 2

#### [<sup>F42</sup>**700 PAYE: gains from securities options**

(1) This section applies where by reason of the operation of section 476 (acquisition of securities pursuant to securities option etc) in relation to an employment-related securities option an amount counts as employment income of an employee.

(2) In a case where the amount counts as employment income by virtue of section 477(3) (a) (acquisition of securities), sections 684 to 691 and 696 have effect as if—

- (a) the employee were provided with PAYE income in the form of the securities by the employer on the relevant date, and
- (b) the reference in subsection (2) of section 696 to the amount of income likely to be PAYE income in respect of the provision of the asset were to the amount likely to count as employment income.

(3) In a case where the amount counts as income by virtue of section 477(3)(b) or (c) (assignment or release for consideration or receipt of benefit), sections 684 to 691 and 696 have effect —

- (a) to the extent that the consideration or benefit takes the form of a payment, as if it were a payment of PAYE income of the employee by the employer, and
- (b) to the extent that the consideration or benefit consists in the provision of an asset, as if the provision of the asset were the provision of PAYE income in the form of the asset by the employer on the relevant date.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

- (4) Section 696 as applied by subsection (3)(b) has effect as if the reference in subsection (2) of that section to the amount of income likely to be PAYE income were to the same proportion of the amount likely to count as employment income as so much of the consideration or benefit as consists in the provision of the asset bears to the whole of the consideration or benefit.
- [<sup>F43</sup>(4A) For the purposes of this section the amount likely to count as employment income under section 476 means the amount after deducting the amount of any relief likely to be available under section 481 or 482 (relief for secondary Class 1 contributions or special contribution met by employee).]
- (5) In this section “the relevant date” means the date on which the chargeable event in question occurs.
- (6) In this section—  
     “employment-related securities option”, and  
     “securities”,  
     have the same meaning as in Chapter 5 of Part 7.
- [<sup>F44</sup>(7) This section is subject to section 700A (employment-related securities etc: remittance basis).]

#### Textual Amendments

- F42** S. 700 substituted (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 13\(1\)](#); S.I. 2003/1997, art. 2
- F43** S. 700(4A) inserted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), s. 85(2), [Sch. 16 para. 4\(3\)](#); S.I. 2004/1945, art. 2
- F44** S. 700(7) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 37](#)

#### [<sup>F45</sup>700A Employment-related securities etc: remittance basis

- (1) This section applies if—  
     (a) section 698 or 700 applies, and  
     (b) part or all of the amount that counts as employment income is foreign securities income or is likely to be foreign securities income.
- (2) The amount of the payment treated under section 696 as made is limited to—  
     (a) the amount that, on the basis of the best estimate that can reasonably be made, is likely to count as employment income, minus  
     (b) the amount that, on the basis of such an estimate, is likely to be foreign securities income.
- (3) References in this section to “foreign securities income” are to income that is foreign securities income for the purposes of section 41A.]

#### Textual Amendments

- F45** [S. 700A](#) inserted (with effect in accordance with Sch. 7 para. 80 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 38](#)

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

## Supplemental

### 701 Meaning of “asset”

- (1) In this Chapter “asset” includes any property and in particular any investment of a kind specified in Part 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).

This is subject to subsection (2).

- (2) In this Chapter “asset” does not include—

- (a) any payment actually made of, or on account of, PAYE income;
- (b) <sup>F46</sup>... any cash voucher, non-cash voucher or credit-token;
- (c) the following—
  - (i) any shares acquired by the employee (whether or not as a result of the exercise of a right to acquire shares) under a scheme approved under Schedule 3 (approved SAYE option schemes) <sup>F47</sup> ..., or Schedule 9 to ICTA (approved profit sharing schemes),
  - <sup>F48</sup>(ia) any shares acquired by the employee [<sup>F49</sup>under a scheme approved under Schedule 4 (approved CSOP schemes) in circumstances in which Condition A or B as set out in section 524(2) or (2A) is met;]
  - <sup>F50</sup>(ii) .....
  - (iii) any shares acquired by the employee as the result of the exercise of a right over shares obtained before 27th November 1996 [<sup>F51</sup>where the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the right was obtained or is exercised],  
if the shares in question form part of the ordinary share capital of a company falling within subsection (3); or
- (d) any description of property for the time being excluded from the scope of this section by PAYE regulations.

- (3) A company falls within this subsection if it—

- (a) is the employer (“the employer company”);
- (b) has control of the employer company; or
- (c) either is, or has control of, a company which is a member of a consortium owning either the employer company or a company having control of the employer company.

<sup>F52</sup>(3A) Paragraph (c) of subsection (2) does not apply to shares after their acquisition as mentioned in that paragraph.]

- (4) In this section “share” includes stock.

- (5) For the purposes of this section a company is a member of a consortium owning another company if it is one of a number of companies which between them beneficially own not less than 75% of the other company’s ordinary share capital and each of which beneficially owns not less than 5% of that capital.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

### Textual Amendments

- F46** Words in s. 701(2)(b) repealed (1.9.2003) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 14\(1\), Sch. 43 Pt. 3\(4\)](#); [S.I. 2003/1997, art. 2](#)
- F47** Words in s. 701(2)(c)(i) repealed (with effect in accordance with Sch. 21 para. 18(5) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 21 para. 18\(2\), Sch. 43 Pt. 3\(3\)](#)
- F48** S. 701(2)(c)(ia) inserted (with effect in accordance with Sch. 21 para. 18(5) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 21 para. 18\(3\)](#)
- F49** Words in s. 701(2)(c)(ia) substituted (18.6.2004 with effect in accordance with s. 88(11)-(13) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 88\(9\)\(a\)](#)
- F50** S. 701(2)(c)(ii) repealed (18.6.2004 with effect in accordance with s. 88(11)-(13) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 88\(9\)\(b\), Sch. 42 Pt. 2\(11\)](#)
- F51** Words in s. 701(2)(c)(iii) inserted (18.6.2004 with effect in accordance with s. 88(11)-(13) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 88\(9\)\(c\)](#)
- F52** S. 701(3A) inserted (18.6.2004 with effect in accordance with s. 88(11)-(13) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 88\(10\)](#)

## 702 Meaning of “readily convertible asset”

- (1) In this Chapter “readily convertible asset” means—
- (a) an asset capable of being sold or otherwise realised on—
    - (i) a recognised investment exchange (within the meaning of the Financial Services and Markets Act 2000 (c. 8)),
    - (ii) the London Bullion Market,
    - (iii) the New York Stock Exchange, or
    - (iv) a market for the time being specified in PAYE regulations;
  - (b) an asset consisting in—
    - (i) the rights of an assignee, or any other rights, in respect of a money debt that is or may become due to the employer or any other person,
    - (ii) property that is subject to a warehousing regime, or any right in respect of property so subject, or
    - (iii) anything that is likely (without anything being done by the employee) to give rise to, or to become, a right enabling a person to obtain an amount or total amount of money which is likely to be similar to the expense incurred in the provision of the asset; or
  - (c) an asset for which trading arrangements are in existence, or are likely to come into existence in accordance with—
    - (i) any arrangements of another description existing when the asset is provided, or
    - (ii) any understanding existing at that time.
- (2) For the purposes of this section trading arrangements for any asset provided to any person exist whenever there exist any arrangements the effect of which in relation to that asset is to enable—
- (a) that person, or
  - (b) a member of that person’s family or household,
- to obtain an amount or total amount of money that is, or is likely to be, similar to the expense incurred in the provision of that asset.

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(3) PAYE regulations may exclude any description of arrangements from being trading arrangements for the purposes of this section.

(4) References in this section to enabling a person to obtain an amount of money are to be read—

(a) as references to enabling an amount to be obtained by that person by any means at all, including in particular—

(i) by using any asset or other property as security for a loan or advance, or

(ii) by using any rights comprised in or attached to any asset or other property to obtain any asset for which trading arrangements exist; and

(b) as including references to cases where a person is enabled to obtain an amount as a member of a class or description of persons, as well as where the person is so enabled in the person's own right.

(5) For the purposes of this section an amount is similar to the expense incurred in the provision of any asset if it is, or is an amount of money equivalent to—

(a) the amount of the expense so incurred, or

(b) a greater amount, or

(c) an amount that is less than that amount but not substantially so.

[<sup>F53</sup>(5A) An asset consisting in securities which is not a readily convertible asset apart from this subsection is to be treated as a readily convertible asset unless the securities are shares that are corporation tax deductible.

(5B) For the purposes of subsection (5A) shares are corporation tax deductible if they are acquired by a person—

(a) by reason of that, or another person's, employment with a company, or

(b) pursuant to an option granted by reason of that, or another person's, employment with a company,

and the company is entitled to corporation tax relief in respect of the shares under [<sup>F54</sup>Part 12 of CTA 2009] (corporation tax relief for employee share acquisition).

(5C) If a person acquires additional shares by virtue of holding shares that are corporation tax deductible, the additional shares are to be treated for the purposes of subsection (5A) as if they were corporation tax deductible.

(5D) If—

(a) on a person ceasing to be beneficially entitled to shares that are corporation tax deductible, that person acquires other shares, and

(b) the circumstances are such that the shares to which the person ceases to be beneficially entitled constitute “original shares” and the other shares constitute a “new holding” for the purposes of sections 127 to 130 of TCGA 1992,

the shares that constitute the new holding are to be treated for the purposes of subsection (5A) as if they were corporation tax deductible.]

(6) In this section—

“money” includes money expressed in a currency other than sterling;

“money debt” means any obligation which falls to be, or may be, settled—

(a) by the payment of money, or

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

- (b) by the transfer of a right to settlement under an obligation which is itself a money debt;
- [<sup>F55</sup>"securities" has the same meaning as in Chapters 1 to 5 of Part 7 (employment income from securities) (see section 420),
- “shares” includes—
- (a) an interest in shares, and
- (b) stock or an interest in stock,]
- “warehousing regime” means—
- (a) a warehousing or fiscal warehousing regime (within the meaning of sections 18 to 18F of the Value Added Tax Act 1994 (c. 23)); or
- (b) any corresponding arrangements in a State other than the United Kingdom which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.

#### Textual Amendments

- F53** S. 702(5A)-(5D) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 15\(2\)](#)
- F54** Words in s. 702(5B) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 555](#) (with [Sch. 2 Pts. 1, 2](#))
- F55** Words in s. 702(6) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 15\(3\)](#)

#### Modifications etc. (not altering text)

- C5** S. 702 modified (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 15\(4\)](#)

## CHAPTER 5

### PAYE SETTLEMENT AGREEMENTS

#### 703 Introduction

This Chapter provides—

- (a) for employers to make agreements with [<sup>F19</sup>an officer of Revenue and Customs] (“PAYE settlement agreements”) under which they agree to be accountable to the [<sup>F56</sup>Commissioners] for sums in respect of income tax on general earnings of their employees; and
- (b) for such earnings to be treated for certain purposes of the Income Tax Acts as excluded from the employees' income.

#### Textual Amendments

- F19** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F56** Words in s. 703 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(3\)\(j\)](#); S.I. 2005/1126, art. 2(2)(h)



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## 704 Sums payable by employers under agreements

- (1) PAYE regulations may provide—
- (a) for a person to make a PAYE settlement agreement with [<sup>F19</sup>an officer of Revenue and Customs] ; and
  - (b) to such extent as may be prescribed, for that person’s accountability, and the sums to be accounted for, in respect of income tax on general earnings of that person’s employees to be determined—
    - (i) in accordance with the agreement, and
    - (ii) not in accordance with PAYE regulations which would apply apart from this Chapter.
- (2) Without prejudice to the generality of section 684(2), any power of the [<sup>F57</sup>Commissioners] to make PAYE regulations with respect to sums falling to be accounted for under such regulations includes power to make the corresponding provision with respect to sums falling to be accounted for in accordance with a PAYE settlement agreement.

### Textual Amendments

- F19** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F57** Words in s. 704 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(3\)\(k\)](#); S.I. 2005/1126, art. 2(2)(h)

## 705 Approximations allowed in calculations

PAYE regulations may provide for a PAYE settlement agreement to allow sums which an employer is to account for—

- (a) to be computed, if two or more persons hold employments to which the agreement relates, by reference to a number of those persons all taken together;
- (b) to include sums representing income tax on an estimated amount taken to be the aggregate of the amounts of PAYE income consisting of—
  - (i) taxable benefits provided or made available by reason of the employments to which the agreement relates, and
  - (ii) expenses paid to the persons holding those employments; and
- (c) to be computed in a manner under which they do not necessarily represent an amount of income tax which would be payable (apart from the agreement) by persons holding employments to which the agreement relates.

## 706 Exclusion of general earnings from income etc.

PAYE regulations may provide—

- (a) that sums accountable for by an employer under a PAYE settlement agreement, or any other sums, are not to be treated for any prescribed purpose as tax deducted from general earnings;
- (b) that an employee is to have no right to be treated as having paid tax in respect of sums accountable for by the employer under such an agreement;
- (c) that an employee is to be treated, except—

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

- (i) for the purposes of the obligations imposed on the employer by such an agreement, and
  - (ii) to such further extent as may be prescribed,
- as relieved from any prescribed obligations of the employee under the Income Tax Acts in respect of general earnings from an employment to which the agreement relates; and
- (d) that such earnings are to be treated as excluded from the employee's income for such further purposes of the Income Tax Acts, and to such extent, as may be prescribed.

## 707 Interpretation of this Chapter

In this Chapter—

“employment” means any employment the general earnings from which are (or, apart from any regulations made by virtue of [<sup>F58</sup>this Chapter], would be) PAYE income and related expressions are to be construed accordingly;

“prescribed” means prescribed by PAYE regulations;

“taxable benefit”, in relation to an employee, means any benefit provided or made available, otherwise than in the form of a payment of money, to the employee, or to a person who is a member of the employee's family or household.

### Textual Amendments

**F58** Words in s. 707 substituted (10.7.2003) by Finance Act 2003 (c. 14), s. 145(5)

## CHAPTER 6

### MISCELLANEOUS AND SUPPLEMENTAL

## 708 PAYE repayments

- (1) PAYE regulations may provide that no repayment of income tax may be made under such regulations to a person—
  - (a) during a period for which the person has claimed jobseeker's allowance, or
  - (b) at a time when the person is prevented by the trade disputes provisions from being entitled to a jobseeker's allowance, or would be so prevented if the person otherwise met the conditions for entitlement.
- (2) Different provision may be made with respect to—
  - (a) persons within subsection (1)(a), and
  - (b) persons within subsection (1)(b).
- (3) “The trade disputes provisions” means—
  - (a) section 14 of JSA 1995, or
  - (b) Article 16 of JS(NI)O 1995.

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

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## **709 Additional provision for certain assessments**

- (1) This section applies if—
  - (a) an assessment to income tax is made as respects relevant income (with or without other income), and
  - (b) the assessment is made after the end of the period of 12 months following the tax year for which it is made.
- (2) In so far as it relates to relevant income, the assessment is to be made in accordance with the practice generally prevailing at the end of that period.
- (3) “Relevant income” means income which—
  - (a) has been taken into account in the making of deductions or repayments of tax under PAYE regulations, and
  - (b) was received not less than 12 months before the beginning of the tax year in which the assessment is made.

## **710 Notional payments: accounting for tax**

- (1) If an employer makes a notional payment of PAYE income of an employee, the employer must [<sup>F59</sup>, subject to and in accordance with PAYE regulations,] deduct income tax at the relevant time from any payment or payments the employer actually makes of, or on account of, PAYE income of the employee.
- (2) For the purposes of this section—
  - (a) a notional payment is a payment treated as made by virtue of any of sections 687, 689 and 693 to 700, other than a payment whose amount is given by section 687(3)(a) or 689(3)(a), and
  - (b) any reference to an employer includes a reference to a person who is treated as making a payment by virtue of section 689(2).
- (3) Subsection (4) applies if, because the payments actually made are insufficient for the purpose, the employer is unable to deduct the full amount of the income tax as required by subsection (1).
- (4) The employer must [<sup>F60</sup>, subject to and in accordance with PAYE regulations,] account to [<sup>F8</sup>the Commissioners for Her Majesty’s Revenue and Customs] at the relevant time for an amount of income tax equal to the amount of income tax the employer is required, but is unable, to deduct.
- (5) PAYE regulations may make provision—
  - (a) with respect to the time when any notional payment (or description of notional payment) is made;
  - (b) applying (with or without modifications) any specified provisions of the regulations for the time being in force in relation to deductions from actual payments to amounts [<sup>F61</sup>deducted or accounted for (or required to be deducted or accounted for)] in respect of any notional payments;
  - (c) with respect to the collection and recovery of amounts [<sup>F62</sup>deducted or accounted for (or required to be deducted or accounted for)] in respect of notional payments.
- (6) Any amount—
  - (a) which an employer deducts as mentioned in subsection (1), or

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

- (b) for which an employer accounts as mentioned in subsection (4), is to be treated as [<sup>F63</sup>an amount of tax which], at the time when the notional payment is made, [<sup>F63</sup>is deducted] in respect of the employee's liability to income tax.
- (7) “The relevant time” means [<sup>F64</sup>(subject to subsection (7A))]<sup>F64</sup>—
- (a) in subsection (1), any occasion—
    - (i) on or after the time when the notional payment is made, and
    - (ii) falling within the same income tax period, on which the employer actually makes a payment of, or on account of, PAYE income of the employee;
  - (b) in subsection (4), any time within 14 days of the end of the income tax period in which the notional payment was made.
- [<sup>F65</sup>(7A) In a case where the notional payment is treated by virtue of any Act as made before the date on which the Act is passed—
- (a) the reference in sub-paragraph (i) of paragraph (a) of subsection (7) to the time when the notional payment is made is to the date on which the Act is passed,
  - (b) the reference in sub-paragraph (ii) of that paragraph to any occasion falling within the same income tax period is to any occasion falling before the end of the income tax period next after that in which that date falls, and
  - (c) the reference in paragraph (b) of that subsection to the income tax period in which the notional payment was made is to the income tax period next after that in which that date falls.]
- (8) In subsection (7) “income tax period” has the same meaning as in the Income Tax (Employments) Regulations 1993 (S.I. 1993/744), or any subsequent regulations making corresponding provision.

#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F59** Words in s. 710(1) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(6)(a)
- F60** Words in s. 710(4) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(6)(a)
- F61** Words in s. 710(5)(b) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(6)(b)
- F62** Words in s. 710(5)(c) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(6)(b)
- F63** Words in s. 710(6) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 145(6)(c)
- F64** Words in s. 710(7) inserted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 94(4)(a); S.I. 2007/1081, art. 2
- F65** S. 710(7A) inserted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 94(4)(b); S.I. 2007/1081, art. 2

#### Modifications etc. (not altering text)

- C6** S. 710 modified (6.4.2007) by [The Finance Act 2006 \(Section 94\(5\)\) \(PAYE: Retrospective Notional Payments — Appointment of Substituted Date\) Order 2007 \(S.I. 2007/1081\)](#), art. 2; as provided for by 2006 c. 25, s. 94(5)

## 711 Right to make a return

- (1) A person who has PAYE income for a tax year in respect of which deductions or repayments are made under PAYE regulations may by notice require [<sup>F19</sup>an officer of

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 11. (See end of Document for details)*

Revenue and Customs] to give that person a notice under section 8 of TMA 1970 (personal return) for the tax year.

- (2) A notice to [<sup>F19</sup>an officer of Revenue and Customs] under subsection (1) must be given no later than [<sup>F66</sup>3 years] after the 31st October next following the tax year.

#### Textual Amendments

**F19** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

**F66** Words in s. 711(2) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 49](#); S.I. 2009/403, art. 2(2) (with art. 10)

## 712 Interpretation of this Part

- (1) In this Part—

“employee” means a person who holds or has held employment with another person;

“employer” means—

- (a) in relation to an employee, a person with whom the employee holds or has held an employment, and
- (b) in relation to any PAYE income of an employee, the person who is the employer of the employee in relation to the employment in respect of which the income is or was provided or, as the case may be, by reference to which it falls to be regarded as PAYE income. The above definitions are subject to sections 688 and 710(2)(b).

- (2) Sections 4 and 5 apply for the purposes of this Part as they apply for the purposes of the employment income Parts.

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**Changes to legislation:**

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