



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

CHAPTER 5

TAXABLE EARNINGS: RULES APPLYING TO EMPLOYEE RESIDENT, ORDINARILY RESIDENT OR DOMICILED OUTSIDE UK

When general earnings are received or remitted

31 Receipt of money earnings

- (1) General earnings consisting of money are to be treated for the purposes of this Chapter as received at the earliest of the following times—

Rule 1

The time when payment is made of or on account of the earnings.

Rule 2

The time when a person becomes entitled to payment of or on account of the earnings.

Rule 3

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

- (a) the time when sums on account of the earnings 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 earnings for a period is determined by the end of the period, the time when the period ends;
 - (c) if the amount of the earnings for a period is not determined until after the period has ended, the time when the amount is determined.
- (2) Rule 3 applies if the employee 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 body,
 - (b) in relation to a company whose affairs are managed by a single director or similar 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 directors of the company (as defined above) are accustomed to act.
- (4) For the purposes of subsection (3) a person is not to be regarded as a person in accordance with whose directions or instructions the directors of the company are accustomed to act merely because the directors act on advice given by that person in a professional capacity.
- (5) Where this section applies—
- (a) to a payment on account of general earnings, or
 - (b) to sums on account of general earnings,
- it so applies for the purpose of determining the time when an amount of general earnings corresponding to the amount of that payment or those sums is to be treated as received for the purposes of this Chapter.

32 Receipt of non-money earnings

- (1) General earnings not consisting of money are to be treated for the purposes of this Chapter as received at the following times.
- (2) If an amount is treated as earnings for a particular tax year under any of the following provisions, the earnings are to be treated as received in that year—
- section 81 (taxable benefits: cash vouchers),
 - section 94 (taxable benefits: credit-tokens),
 - Chapter 5 of Part 3 (taxable benefits: living accommodation),
 - Chapter 6 of Part 3 (taxable benefits: cars, vans and related benefits),
 - Chapter 7 of Part 3 (taxable benefits: loans),
 - Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares),
 - Chapter 9 of Part 3 (taxable benefits: disposals of shares for more than market value),
 - Chapter 10 of Part 3 (taxable benefits: residual liability to charge),
 - section 222 (payments treated as earnings: payments on account of tax where deduction not possible),
 - section 223 (payments treated as earnings: payments on account of director’s tax).

- (3) If an amount is treated as earnings under section 87 (taxable benefits: non-cash vouchers), the earnings are to be treated as received in the tax year mentioned in section 88.
- (4) If subsection (2) or (3) does not apply, the earnings are to be treated as received at the time when the benefit is provided.

33 Earnings remitted to UK

- (1) This section explains what is meant for the purposes of this Chapter by general earnings being remitted to the United Kingdom.
- (2) If general earnings are—
 - (a) paid, used, or enjoyed in the United Kingdom, or
 - (b) transmitted or brought to the United Kingdom in any manner or form,they are to be treated as remitted to the United Kingdom at the time when they are so paid, used or enjoyed or dealt with as mentioned in paragraph (b).
- (3) If, in the case of an employee who is ordinarily resident in the United Kingdom, general earnings are used outside the United Kingdom to satisfy a UK-linked debt, they are to be treated as remitted to the United Kingdom at the time when they are so used.

This is subject to subsection (5)(b).

- (4) In subsection (3) “UK-linked” debt, in relation to an employee, means—
 - (a) a debt for money lent to the employee in the United Kingdom, or for interest on money so lent, or
 - (b) a debt for money lent to the employee outside the United Kingdom and received in the United Kingdom, or
 - (c) a debt incurred for satisfying—
 - (i) a debt falling within paragraph (a) or (b), or
 - (ii) another debt falling within this paragraph.
- (5) In the case of a debt (within subsection (4)(b) or (c)) for money lent to the employee outside the United Kingdom—
 - (a) it does not matter whether the money lent is received in the United Kingdom before or after the general earnings are used to satisfy the debt, but
 - (b) if the money lent is not received in the United Kingdom until after the general earnings are used to satisfy the debt, the general earnings are to be treated as remitted to the United Kingdom at the time when the money lent is received there (instead of at the time provided in subsection (3)).
- (6) In subsections (4) and (5) any reference to money lent being received in the United Kingdom includes a reference to its being brought there.
- (7) Section 34 (further provisions about UK-linked debts) applies for the purposes of subsections (3) to (5).

34 Earnings remitted to UK: further provisions about UK-linked debts

- (1) This section applies for the purposes of the provisions of section 33 which relate to general earnings that are used to satisfy a UK-linked debt.

- (2) General earnings are to be treated as used to satisfy a debt for money lent to a person (“the borrower”) if conditions A and B are met.
- (3) Condition A is that the earnings are dealt with in such a way that the lender holds money or property representing the earnings on behalf of or on account of the borrower in such circumstances that it is available to the lender to satisfy or reduce the debt (by set-off or otherwise).
- (4) Condition B is that under an arrangement between the borrower and the lender—
 - (a) the amount for the time being owed by the borrower to the lender, or
 - (b) the time at which the debt is to be wholly or partly repaid,depends in any respect, directly or indirectly, on the amount or value the lender holds on behalf of or on account of the borrower as mentioned in subsection (3).
- (5) If and to the extent that money lent is used to satisfy a debt, the debt for the money lent is to be treated as incurred for satisfying that other debt.
- (6) In this section “lender” includes, in relation to any money lent, any person for the time being entitled to repayment.
- (7) In this section and section 33 “satisfy”, in relation to a debt, means satisfy wholly or in part.