



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

CHAPTER 7

APPLICATION OF PROVISIONS TO AGENCY WORKERS

Agency workers

[^{F1}44 Treatment of workers supplied by agencies

- (1) This section applies if—
- (a) an individual (“the worker”) personally provides services (which are not excluded services) to another person (“the client”),
 - (b) there is a contract between—
 - (i) the client or a person connected with the client, and
 - (ii) a person other than the worker, the client or a person connected with the client (“the agency”), and
 - (c) under or in consequence of that contract—
 - (i) the services are provided, or
 - (ii) the client or any person connected with the client pays, or otherwise provides consideration, for the services.
- (2) But this section does not apply if—
- (a) it is shown that the manner in which the worker provides the services is not subject to (or to the right of) supervision, direction or control by any person, or

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 7. (See end of Document for details)

- (b) remuneration receivable by the worker in consequence of providing the services constitutes employment income of the worker apart from this Chapter.
- (3) If this section applies—
 - (a) the worker is to be treated for income tax purposes as holding an employment with the agency, the duties of which consist of the services the worker provides to the client, and
 - (b) all remuneration receivable by the worker (from any person) in consequence of providing the services is to be treated for income tax purposes as earnings from that employment,
 but this is subject to subsections (4) to (6).
- (4) Subsection (5) applies if (whether before or after the worker begins to provide the services)—
 - (a) the client provides the agency with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (2)(a), this section does not or will not apply, or
 - (b) a relevant person provides the agency with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (2)(b), this section does not or will not apply.
- (5) In relation to services the worker provides to the client after the fraudulent document is provided—
 - (a) subsection (3) does not apply,
 - (b) the worker is to be treated for income tax purposes as holding an employment with the client or (as the case may be) with the relevant person, the duties of which consist of the services, and
 - (c) all remuneration receivable by the worker (from any person) in consequence of providing the services is to be treated for income tax purposes as earnings from that employment.
- (6) In subsections (4) and (5) “relevant person” means a person, other than the client, the worker or a person connected with the client or with the agency, who—
 - (a) is resident, or has a place of business, in the United Kingdom, and
 - (b) is party to a contract with the agency or a person connected with the agency, under or in consequence of which—
 - (i) the services are provided, or
 - (ii) the agency, or a person connected with the agency, makes payments in respect of the services.]

Textual Amendments

F1 S. 44 substituted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\), s. 16\(2\)\(11\)](#)

45 Arrangements with agencies

If—

- (a) an individual (“the worker”), with a view to personally providing services (which are not excluded services) to another person (“the client”), enters into arrangements with a third person ^{F2}..., and

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 7. (See end of Document for details)

- (b) the arrangements are such that the services (if and when they are provided) will be treated for income tax purposes under section 44 as duties of an employment held by the worker^{F3} ...,
- any remuneration receivable under or in consequence of the arrangements is to be treated for income tax purposes as earnings from that employment.

Textual Amendments

- F2** Words in s. 45(a) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\), s. 16\(3\)\(a\)\(11\)](#)
- F3** Words in s. 45(b) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\), s. 16\(3\)\(b\)\(11\)](#)

46 Cases involving unincorporated bodies etc.

- (1) Section 44 also applies—
- (a) if the worker personally provides^{F4}... the services in question as a partner in a firm or a member of an unincorporated body;
 - (b) if the agency in question is an unincorporated body of which the worker is a member.
- (2) In a case within subsection (1)(a), remuneration receivable [^{F5}in consequence of the worker providing the services] is to be treated for income tax purposes as income of the worker and not as income of the firm or body.

Textual Amendments

- F4** Words in s. 46(1)(a) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\), s. 16\(4\)\(a\)\(11\)](#)
- F5** Words in s. 46(2) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\), s. 16\(4\)\(b\)\(11\)](#)

[^{F6}Anti-avoidance]

Textual Amendments

- F6** S. 46A and cross-heading inserted (6.4.2014) by [Finance Act 2014 \(c. 26\), s. 16\(5\)\(11\)](#)

46A Anti-avoidance

- (1) This section applies if—
- (a) an individual (“W”) personally provides services (which are not excluded services) to another person (“C”),
 - (b) a third person (“A”) enters into arrangements the main purpose, or one of the main purposes, of which is to secure that the services are not treated for income tax purposes under section 44 as duties of an employment held by W with A, and
 - (c) but for this section, section 44 would not apply in relation to the services.
- (2) In subsection (1)(b) “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations.

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 7. (See end of Document for details)*

- (3) Subject to subsection (2) of section 44, that section applies in relation to the services.
- (4) For the purposes of subsection (3)—
 - (a) W is to be treated as being the worker,
 - (b) C is to be treated as being the client,
 - (c) A is to be treated as being the agency, and
 - (d) section 44 has effect as if subsections (4) to (6) of that section were omitted.]

Supplementary

47 Interpretation of this Chapter

^{F7}(1)

- (2) In this Chapter “excluded services” means—
 - (a) services as an actor, singer, musician or other entertainer or as a fashion, photographic or artist’s model, or
 - (b) services provided wholly—
 - (i) in the worker’s own home, or
 - (ii) at other premises which are neither controlled or managed by the client nor prescribed by the nature of the services.
- (3) For the purposes of this Chapter “remuneration”—
 - (a) does not include anything that would not have constituted employment income of the worker if it had been receivable in connection with an employment apart from this Chapter, but
 - (b) subject to paragraph (a), includes every form of payment, gratuity, profit and benefit.

Textual Amendments

F7 S. 47(1) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [s. 16\(6\)\(11\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 7.