



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 5

EMPLOYMENT INCOME: DEDUCTIONS ALLOWED FROM EARNINGS

CHAPTER 2

DEDUCTIONS FOR EMPLOYEE'S EXPENSES

Special rules for earnings with a foreign element

353 Deductions from earnings charged on remittance

- (1) A deduction is allowed from earnings charged on remittance for expenses within subsection (2) if the condition in subsection (3) is met.
- (2) The expenses are—
 - (a) any expenses—
 - (i) paid by the employee out of the earnings, or
 - (ii) paid on the employee's behalf by another person and included in the earnings, and
 - (b) any other expenses paid in the United Kingdom in the tax year or an earlier tax year in which the employee has been resident in the United Kingdom.
- (3) The condition is that the expenses would have been deductible under sections 336 to 342 if the earnings had been earnings charged on receipt in the tax year in which the expenses were incurred.
- (4) Where—

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Special rules for earnings with a foreign element. (See end of Document for details)*

- (a) any of the deductibility provisions refers to amounts or expenses that would be deductible from earnings if they were paid by a person, and
 - (b) the earnings in question are earnings charged on remittance,
- it is assumed for the purposes of those provisions that the person pays the amounts or expenses out of those earnings.

Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 2 restricted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 33 para. 1(5)** (with [Sch. 36](#))

354 Disallowance of expenses relating to earnings taxed on different basis or untaxed

- (1) If the earnings from an employment for a tax year include both earnings charged on receipt and other earnings (except earnings charged under section 22), no deduction is allowed under sections 336 to 342 from the earnings charged on receipt for an amount paid in respect of duties of the employment to which the other earnings relate.
- (2) If the earnings from an employment for a tax year include both earnings charged on remittance under section 26 and other earnings, no deduction is allowed under section 353 from the earnings charged on remittance for an amount paid in respect of duties of the employment to which the other earnings relate.
- (3) This section is to be disregarded for the purposes of the deductibility provisions.

355 Deductions for corresponding payments by non-domiciled employees with foreign employers

- (1) An employee may make a claim to [^{F1}the Commissioners for Her Majesty's Revenue and Customs] under this section if conditions A to D are met.
- (2) Condition A is that the employee is not domiciled in the United Kingdom [^{F2}(and section 835BA of ITA 2007 (deemed domicile) applies for the purposes of this subsection)] .
- (3) Condition B is that the employment is with a foreign employer.
- (4) Condition C is that the employee has made a payment out of earnings from the employment.
- (5) Condition D is that the payment does not reduce the employee's liability to United Kingdom income tax, but was made in circumstances corresponding to those in which it would do so.
- (6) If the [^{F3}Commissioners] are satisfied that conditions A to D are met, they may allow the payment as a deduction under this Chapter.

Textual Amendments

- F1** 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)
- F2** Words in s. 355(2) inserted (with effect in accordance with Sch. 8 para. 10(6) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 8 para. 10(2)**

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F3 Word in s. 355 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 102(3)(f)**; S.I. 2005/1126, art. 2(2)(h)

Modifications etc. (not altering text)

C2 S. 355 restricted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 33 para. 1(5)** (with Sch. 36)

Changes to legislation:

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