



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

Travel expenses

[^{F1}339A Travel for necessary attendance: employment intermediaries

- (1) This section applies where an individual (“the worker”)—
 - (a) personally provides services (which are not excluded services) to another person (“the client”), and
 - (b) the services are provided not under a contract directly between the client or a person connected with the client and the worker but under arrangements involving an employment intermediary.

This is subject to the following provisions of this section.

- (2) Where this section applies, each engagement is for the purposes of sections 338 and 339 to be regarded as a separate employment.
- (3) This section does not apply if 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.
- (4) Subsection (3) does not apply in relation to an engagement if—
 - (a) Chapter 8 of Part 2 applies in relation to the engagement,

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- (b) the conditions in section 51, 52 or 53 are met in relation to the employment intermediary, and
 - (c) the employment intermediary is not a managed service company.
- (5) This section does not apply in relation to an engagement if—
- (a) Chapter 8 of Part 2 does not apply in relation to the engagement merely because the circumstances in section 49(1)(c) are not met,
 - (b) assuming those circumstances were met, the conditions in section 51, 52 or 53 would be met in relation to the employment intermediary, and
 - (c) the employment intermediary is not a managed service company.
- (6) In determining for the purposes of subsection (4) or (5) whether the conditions in section 51, 52 or 53 are or would be met in relation to the employment intermediary—
- (a) in section 51(1)—
 - (i) disregard “either” in the opening words, and
 - (ii) disregard paragraph (b) (and the preceding or), and
 - (b) read references to the intermediary as references to the employment intermediary.
- [Subsection (3) does not apply in relation to an engagement if—
- ^{F2}(6A) (a) sections 61N to 61R in Chapter 10 of Part 2 apply in relation to the engagement,
- (b) one of Conditions A to C in section 61N is met in relation to the employment intermediary, and
 - (c) the employment intermediary is not a managed service company.
- (6B) This section does not apply in relation to an engagement if—
- (a) sections 61N to 61R in Chapter 10 of Part 2 do not apply in relation to the engagement because the circumstances in section 61M(1)(d) are not met,
 - (b) assuming those circumstances were met, one of Conditions A to C in section 61N would be met in relation to the employment intermediary, and
 - (c) the employment intermediary is not a managed service company.
- (6C) In determining for the purposes of subsection (6A) or (6B) whether one of Conditions A to C in section 61N is or would be met in relation to the employment intermediary, read references to the intermediary as references to the employment intermediary.]
- (7) Subsection (8) applies if—
- (a) the client or a relevant person provides the employment intermediary (whether before or after the worker begins to provide the services) with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (3), this section does not or will not apply in relation to the services,
 - (b) that section is taken not to apply in relation to the services, and
 - (c) in consequence, the employment intermediary does not under PAYE regulations deduct and account for an amount that would have been deducted and accounted for under those regulations if this section had been taken to apply in relation to the services.
- (8) For the purpose of recovering the amount referred to in subsection (7)(c) (“the unpaid tax”)—

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- (a) the worker is to be treated as having an employment with the client or relevant person who provided the document, the duties of which consist of the services, and
 - (b) the client or relevant person is under PAYE regulations to account for the unpaid tax as if it arose in respect of earnings from that employment.
- (9) In subsections (7) and (8) “relevant person” means a person, other than the client, the worker or a person connected with the employment intermediary, who—
- (a) is resident, or has a place of business, in the United Kingdom, and
 - (b) is party to a contract with the employment intermediary or a person connected with the employment intermediary under or in consequence of which—
 - (i) the services are provided, or
 - (ii) the employment intermediary, or a person connected with the employment intermediary, makes payments in respect of the services.
- (10) In determining whether this section applies, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that this section does not to any extent apply.
- (11) In this section—
- “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not enforceable, and any associated operations;
 - “employment intermediary” means a person, other than the worker or the client, who carries on a business (whether or not with a view to profit and whether or not in conjunction with any other business) of supplying labour;
 - “engagement” means any such provision of service as is mentioned in subsection (1)(a);
 - “excluded services” means services provided wholly in the client's home;
 - “managed service company” means a company which—
 - (a) is a managed service company within the meaning given by section 61B, or
 - (b) would be such a company disregarding subsection (1)(c) of that section.]

Textual Amendments

- F1** S. 339A inserted (with effect in accordance with s. 14(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 14\(1\)](#)
- F2** Ss. 339A(6A)-(6C) inserted (with effect in accordance with Sch. 1 para. 15 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 1 para. 12](#)

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