



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

CHAPTER 8

[^{F1}WORKERS' SERVICES PROVIDED THROUGH INTERMEDIARIES TO SMALL CLIENTS]

The deemed employment payment

54 Calculation of deemed employment payment

- (1) The amount of the deemed employment payment for a tax year (“the year”) is the amount resulting from the following steps—

Step 1

Find (applying section 55) the total amount of all payments and benefits received by the intermediary in the year in respect of the relevant engagements, and reduce that amount by 5%.

Step 2

Add (applying that section) the amount of any payments and benefits received by the worker in the year in respect of the relevant engagements, otherwise than from the intermediary, that—

- (a) are not chargeable to income tax as employment income, and
- (b) would be so chargeable if the worker were employed by the client.

Step 3

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Section 54. (See end of Document for details)

Deduct (applying Chapters 1 to 5 of Part 5) the amount of any expenses met in the year by the intermediary that would have been deductible from the taxable earnings from the employment if—

- (a) the worker had been employed by the client, and
- (b) the expenses had been met by the worker out of those earnings.

If the result at this or any later point is nil or a negative amount, there is no deemed employment payment.

Step 4

Deduct the amount of any capital allowances in respect of expenditure incurred by the intermediary that could have been deducted from employment income under section 262 of CAA 2001 (employments and offices) if the worker had been employed by the client and had incurred the expenditure.

Step 5

Deduct any contributions made in the year for the benefit of the worker by the intermediary to a [^{F1}registered pension scheme] that if made by an employer for the benefit of an employee would not be chargeable to income tax as income of the employee.

This does not apply to excess contributions made and later repaid.

Step 6

Deduct the amount of any employer's national insurance contributions paid by the intermediary for the year in respect of the worker.

Step 7

Deduct the amount of any payments and benefits received in the year by the worker from the intermediary—

- (a) in respect of which the worker is chargeable to income tax as employment income, and
- (b) which do not represent items in respect of which a deduction was made under step 3.

Step 8

Assume that the result of step 7 represents an amount together with employer's national insurance contributions on it, and deduct what (on that assumption) would be the amount of those contributions.

The result is the deemed employment payment.

[^{F2}(1A) For the purposes of step 1 of subsection (1), any payment or benefit which is employment income of the worker by virtue of section 863G(4) of ITTOIA 2005 (salaried members of limited liability partnerships: anti-avoidance) is to be ignored.]

(2) If [^{F3}section 61 of the Finance Act 2004] applies (sub-contractors in the construction industry: payments to be made under deduction), the intermediary is treated for the purposes of step 1 of subsection (1) as receiving the amount that would have been received had no deduction been made under that section.

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- (3) In step 3 of subsection (1), the reference to expenses met by the intermediary includes—
- (a) expenses met by the worker and reimbursed by the intermediary, and
 - (b) where the intermediary is a partnership and the worker is a member of the partnership, expenses met by the worker for and on behalf of the partnership.
- (4) In step 3 of subsection (1), the expenses deductible include the amount of any mileage allowance relief for the year which the worker would have been entitled to in respect of the use of a vehicle falling within subsection (5) if—
- (a) the worker had been employed by the client, and
 - (b) the vehicle had not been a company vehicle (within the meaning of Chapter 2 of Part 4).
- (5) A vehicle falls within this subsection if—
- (a) it is provided by the intermediary for the worker, or
 - (b) where the intermediary is a partnership and the worker is a member of the partnership, it is provided by the worker for the purposes of the business of the partnership.
- (6) Where, on the assumptions mentioned in paragraphs (a) and (b) of step 3 of subsection (1), the deductibility of the expenses is determined under sections 337 to 342 (travel expenses), the duties performed under the relevant engagements are treated as duties of a continuous employment with the intermediary.
- (7) In step 7 of subsection (1), the amounts deductible include any payments received in the year from the intermediary that—
- (a) are exempt from income tax by virtue of section 229 or 233 (mileage allowance payments and passenger payments), and
 - (b) do not represent items in respect of which a deduction was made under step 3.
- (8) For the purposes of subsection (1) any necessary apportionment is to be made on a just and reasonable basis of amounts received by the intermediary that are referable—
- (a) to the services of more than one worker, or
 - (b) partly to the services of the worker and partly to other matters.

Textual Amendments

- F1** Words in s. 54(1) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 35 para. 56](#) (with [Sch. 36](#))
- F2** S. 54(1A) inserted (retrospective to 6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 17 paras. 5, 6](#)
- F3** Words in s. 54(2) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 17\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 54(1) applied in part (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pension Protection Fund \(Tax\) \(2005-06\) Regulations 2005 \(S.I. 2005/1907\)](#), [regs. 1\(1\), 13](#)
- C2** S. 54(1) applied in part (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), [regs. 1, 39](#)

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Section 54.