



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

CHAPTER 5

TAXABLE BENEFITS: LIVING ACCOMMODATION

Exceptions

99 Accommodation provided for performance of duties

- (1) [^{F1}In section 102 (benefit of accommodation treated as earnings) subsection (1A) (accommodation provided otherwise than pursuant to optional remuneration arrangements)] does not apply to living accommodation provided for an employee if it is necessary for the proper performance of the employee's duties that the employee should reside in it.
- (2) [^{F2}In section 102 (benefit of accommodation treated as earnings) subsection (1A)] does not apply to living accommodation provided for an employee if—
 - (a) it is provided for the better performance of the duties of the employment, and
 - (b) the employment is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees.
- (3) But if the accommodation is provided by a company and the employee ("E") is a director of the company or of an associated company, the exception in subsection (1) or (2) only applies if, in the case of each company of which E is a director—
 - (a) E has no material interest in the company, and
 - (b) either—

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Section 99. (See end of Document for details)*

- (i) E’s employment is as a full-time working director, or
 - (ii) the company is non-profit-making or is [^{F3}a charitable company].
- (4) “Non-profit-making” means that the company does not carry on a trade and its functions do not consist wholly or mainly in the holding of investments or other property.
- (5) A company is “associated” with another if—
- (a) one has control of the other, or
 - (b) both are under the control of the same person.

Textual Amendments

- F1** Words in s. 99(1) substituted (with effect in accordance with Sch. 2 para. 62 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 2 para. 9(2)**
- F2** Words in s. 99(2) substituted (with effect in accordance with Sch. 2 para. 62 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 2 para. 9(3)**
- F3** Words in s. 99(3)(b)(ii) substituted (coming into force for the tax year 2012-13 and subsequent tax years) by [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 17(2)**, 34(2); S.I. 2012/736, art. 13

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Section 99.