

*These notes refer to the Corporation Tax Act 2009
(c.4) which received Royal Assent on 26 March 2009*

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Trading income

Overview

Chapter 9: Trade profits: other specific trades

Overview

Section 139: Deduction for deemed employment payment

537. This section sets out the trading income rules that were originally part of the “IR35” scheme for the taxation of workers supplied by an intermediary. It is based on paragraph 17 of Schedule 12 to FA 2000. The corresponding rule for income tax is in section 163 of ITTOIA.
538. The worker is treated as receiving a “deemed employment payment” and is taxed accordingly (see Chapter 8 of Part 2 of ITEPA). This section ensures that an equivalent amount is allowed as a trading deduction in calculating the profits of the intermediary.
539. *Subsection (3)* is a timing rule. Generally, the deemed employment payment is treated as made at the end of the tax year (see section 50(3) of ITEPA). In some circumstances the payment is treated as made earlier (see section 57 of ITEPA). In either case, the trading deduction is given for the period of account in which the payment is treated as made.
540. *Subsection (4)* is the rule that prevents any double deduction. It caters for the possibility that the payment may qualify as a trading deduction on first principles and also qualify as a trading deduction in a period of account different from that specified in subsection (3).