



Finance (No. 2) Act 2017

2017 CHAPTER 32

PART 1

DIRECT TAXES

Income tax: employment and pensions

4 Legal expenses etc

- (1) ITEPA 2003 is amended as follows.
- (2) In section 346 (deduction for employee liabilities)—
 - (a) in the heading, at the end insert “ and expenses ”,
 - (b) after paragraph B (in subsection (1)) insert—

Payment of any costs or expenses not falling within paragraph B which are incurred in connection with the employee giving evidence about matters related to the employment in, or for the purposes of—

- (a) a proceeding or other process (whether or not involving the employee), or
- (b) an investigation (whether or not likely to lead to any proceeding or other process involving the employee).

Payment of any costs or expenses not falling within paragraph B or BA which are incurred in connection with a proceeding or other process, or an investigation, in which—

- (a) acts of the employee related to the employment, or
- (b) any other matters related to the employment, are being or are likely to be considered.”,
- (c) in paragraph C(b) (in subsection (1)), after “B” insert “ , BA or BB ”,

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- (d) in subsection (2) for “or B” substitute “ B, BA or BB ”,
 - (e) in subsection (2A), for “paragraph A, B or C” substitute “ any of paragraphs A to C ”, and
 - (f) after subsection (3) insert—
 - “(4) In this section and section 349—
 - (a) “acts” includes failures to act and acts are “related to the employment” if the employee was acting—
 - (i) in the employee's capacity as holder of the employment, or
 - (ii) in any other capacity in which the employee was acting in the performance of the duties of the employment,
 - (b) “giving evidence” includes making a formal or informal statement or answering questions,
 - (c) “proceeding or other process” includes any civil, criminal or arbitration proceedings, any disciplinary or regulatory proceedings of any kind and any process operated for resolving disputes or adjudicating on complaints, and
 - (d) references to a proceeding or other process or an investigation include a reference to a proceeding or other process or an investigation that is likely to take place.”
- (3) In section 349 (section 346: meaning of “qualifying insurance contract”), in subsection (2)—
- (a) after paragraph (c) insert—
 - “(ca) the payment of costs or expenses incurred in connection with an employee giving evidence about matters related to the employee's employment in, or for the purposes of—
 - (i) a proceeding or other process (whether or not involving the employee), or
 - (ii) an investigation (whether or not likely to lead to any proceeding or other process involving the employee),
 - (cb) the payment of any costs or expenses incurred in connection with a proceeding or other process, or an investigation, in which—
 - (i) acts of an employee related to the employment, or
 - (ii) any other matters related to the employment of an employee,

are being or are likely to be considered,” and
 - (b) in subsection (2)(d), after “(c)” insert “ , (ca) or (cb) ”.
- (4) In section 409 (payments and benefits on termination of employment etc: exception for payments and benefits in respect of employee liabilities and indemnity insurance)—
- (a) in the heading, for “employee liabilities” substitute “ certain legal expenses etc ”, and
 - (b) in subsection (3), at the end insert “ or by the employer or former employer on behalf of the individual ”.

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- (5) In section 410 (payments and benefits on termination of employment etc: exception for certain payments and benefits received by personal representatives of deceased individual)—
- (a) in the heading for “employee liabilities” substitute “ certain legal expenses etc ”, and
 - (b) in subsection (3), at the end insert “ or by the former employer on behalf of the individual's personal representatives ”.
- (6) In section 558 (deductions for liabilities of former employees: meaning of “deductible payment”)—
- (a) after paragraph B (in subsection (1)) insert—

Payment of any costs or expenses not falling within paragraph B which are incurred in connection with the former employee giving evidence about matters related to the former employment in, or for the purposes of—

- (a) a proceeding or other process (whether or not involving the former employee), or
- (b) an investigation (whether or not likely to lead to any proceeding or other process involving the former employee).

Payment of any costs or expenses not falling within paragraph B or BA which are incurred in connection with a proceeding or other process, or an investigation, in which—

- (a) acts of the former employee related to the former employment, or
- (b) any other matters related to the former employment, are being or are likely to be considered.”, and
- (b) in paragraph C(b) (in subsection (1)), after “B” insert “ , BA or BB ”,
- (c) in subsection (2), for “or B” substitute “ B, BA or BB ”,
- (d) after subsection (3) insert—

“(4) In this section and section 560—

- (a) “acts” includes failures to act and acts are “related to the former employment” if the former employee was acting—
 - (i) in the employee's capacity as holder of the former employment, or
 - (ii) in any other capacity in which the former employee was acting in the performance of the duties of that employment,
- (b) “giving evidence” includes making a formal or informal statement or answering questions,
- (c) “proceeding or other process” includes any civil, criminal or arbitration proceedings, any disciplinary or regulatory proceedings of any kind and any process operated for resolving disputes or adjudicating on complaints, and

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- (d) references to a proceeding or other process or an investigation include a reference to a proceeding or other process or an investigation that is likely to take place.”
- (7) In section 560 (section 558: meaning of “qualifying insurance contract”), in subsection (2)—
- (a) after paragraph (c) insert—
 - “(ca) the payment of costs or expenses incurred in connection with a former employee giving evidence about matters related to the former employment in, or for the purposes of—
 - (i) a proceeding or other process (whether or not involving the former employee), or
 - (ii) an investigation (whether or not likely to lead to any proceeding or other process involving the former employee).
 - (cb) the payment of any costs or expenses incurred in connection with a proceeding or other process, or an investigation, in which—
 - (i) acts of a former employee related to the employment, or
 - (ii) any other matters related to the former employment of a former employee,are being or are likely to be considered,” and
 - (b) in paragraph (d), after “(c)” insert “, (ca) or (cb) ”.
- (8) The amendments made by this section have effect in relation to the tax year 2017-18 and subsequent tax years.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)