

SCHEDULES

SCHEDULE 17

Section 92

MINOR AMENDMENTS OF OR CONNECTED WITH THE INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

Free or subsidised meals

- 1 (1) In Chapter 11 of Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (employment income: miscellaneous exemptions), in section 317 (free or subsidised meals), for subsection (1) substitute—

“(1) No liability to income tax arises in respect of the provision for an employee by the employer of free or subsidised meals if they are provided—
(a) in a canteen, or
(b) on the employer’s business premises,
and conditions A to C are met.”

- (2) This amendment has effect for the year 2004-05 and subsequent tax years.

Payments to non-approved pension schemes: exception for employment where earnings not within main charging provisions

- 2 (1) In Chapter 1 of Part 6 of the Income Tax (Earnings and Pensions) Act 2003 (payments to non-approved pension schemes), for section 389 (exception: employments where earnings charged on remittance) substitute—

“389 Exception: employment where earnings not within main charging provisions

Section 386 does not apply if in the tax year in which the sum is paid the earnings from the employment are not (or would not have been if there were any) general earnings to which any of the following provisions applies—

- (a) section 15 (employee resident, ordinarily resident and domiciled in UK),
(b) section 21 (employee resident and ordinarily resident, but not domiciled in UK),
(c) section 25 (employee resident but not ordinarily resident in UK),
(d) section 27 (UK-based earnings for year when employee not resident in UK).”

- (2) This amendment has effect for the year 2003-04 and subsequent tax years.

Time limit for assessment: income received after year for which it is assessable

- 3 (1) In Part 4 of the Taxes Management Act 1970 (c. 9) (assessments and claims), for section 35 (time limit for assessment: emoluments received after year for which they are assessable) substitute—

“35 Time limit: income received after year for which it is assessable

- (1) Where income to which this section applies is received in a year of assessment subsequent to that for which it is assessable, an assessment to income tax as respects that income may be made at any time within six years after the year of assessment in which it was received.
- (2) This section applies to—
- (a) employment income,
 - (b) pension income, and
 - (c) social security income.”.
- (2) This amendment has effect in relation to income assessable for the year 2004-05 and subsequent years of assessment.

Computation of profits or gains under Schedule D: delayed payment of remuneration

- 4 (1) In section 43 of the Finance Act 1989 (c. 26) (Schedule D: computation)—
- (a) in subsection (1) for “profits or gains of a trade to be charged under Schedule D” substitute “profits or gains to be charged under Schedule D”, and
 - (b) in subsection (5) omit “of the trade”.
- (2) This amendment (which corrects an error in the amendment made by paragraph 157 of Schedule 6 to the Income Tax (Pensions and Earnings) Act 2003 (c. 1)) has effect—
- (a) for the purposes of income tax, for the year 2004-05 and subsequent years of assessment;
 - (b) for the purposes of corporation tax, for accounting periods ending after 5th April 2004.

Donations to charity by individuals: application to Crown employment

- 5 (1) In section 25(2) of the Finance Act 1990 (c. 29) (donations to charity by individuals: qualifying conditions), in paragraph (i)(i) for the words from “or performs duties” to “performed in the United Kingdom” substitute “or is in Crown employment as defined in section 28(2) of the Income Tax (Earnings and Pensions) Act 2003”.
- (2) This amendment (which supersedes the amendment made by paragraph 166(3) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003) has effect for the year 2003-04 and subsequent years of assessment.

Payments on account of income tax

- 6 (1) Section 108 of the Finance Act 1995 (c. 4) shall be deemed not to have been repealed by Part 1 of Schedule 8 to the Income Tax (Earnings and Pensions) Act 2003 and the inclusion of that section among the enactments so repealed shall be deemed not

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to have affected the amendments made by that section in section 59A of the Taxes Management Act 1970 (c. 9) (payments on account of income tax).

- (2) Nothing in this paragraph affects anything done—
- (a) on or after 6th April 2003 (when the Income Tax (Earnings and Pensions) Act 2003 came into force), and
 - (b) before the passing of this Act,
- in reliance on the view that the amendments referred to in sub-paragraph (1) had ceased to have effect.

Tax relief for expenditure on R&D or remediation of contaminated land: staff costs

- 7 (1) In Schedule 20 to the Finance Act 2000 (c. 17) (tax relief for expenditure on research and development), in paragraph 5 (staffing costs)—
- (a) in sub-paragraph (1), for paragraph (a) substitute—
 - “(a) the emoluments paid by the company to directors or employees of the company, including all salaries, wages, perquisites and profits whatsoever other than benefits in kind;”;
 - (b) omit sub-paragraph (1ZA).
- (2) In Schedule 22 to the Finance Act 2001 (c. 9) (remediation of contaminated land), in paragraph 5 (employee costs)—
- (a) in sub-paragraph (1), for paragraph (a) substitute—
 - “(a) the emoluments paid by the company to directors or employees of the company, including all salaries, wages, perquisites and profits whatsoever other than benefits in kind;”;
 - (b) omit sub-paragraph (1A).
- (3) These amendments have effect in relation to expenditure incurred on or after 1st April 2004.

Gains and losses of a company from intangible fixed assets: delayed payment of remuneration

- 8 (1) In Schedule 29 to the Finance Act 2002 (c. 23) (gains and losses of a company from intangible fixed assets), paragraph 113 (delayed payments of emolument) is amended as follows.
- (2) In the heading, for “emoluments” substitute “employees' remuneration”.
- (3) In sub-paragraph (1)—
- (a) in paragraph (a), for “emoluments” substitute “employees' remuneration”,
 - (b) in paragraph (b), for “emoluments are” substitute “remuneration is”, and
 - (c) for “emoluments shall” substitute “remuneration shall”.
- (4) For sub-paragraph (2) substitute—
- “(2) Sub-paragraph (1) applies whether the amount is in respect of particular employments or in respect of employments generally.”.
- (5) For sub-paragraph (3) substitute—

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“(3) This paragraph applies to potential employees' remuneration as it applies to employees' remuneration.

For this purpose—

- (a) potential employees' remuneration is an amount reserved in the accounts of an employer, with a view to it becoming employees' remuneration, and
- (b) potential employees' remuneration is regarded as paid when it becomes employees' remuneration that is paid.”.

(6) In sub-paragraph (5)—

- (a) for “*emoluments have not*” substitute “*employees' remuneration has not*”,
- (b) in paragraph (a), for “*they*” substitute “*it*”, and
- (c) in paragraph (b), for “*emoluments are*” substitute “*remuneration is*”.

(7) After that sub-paragraph insert—

“(6) For the purposes of this section remuneration is paid when it—

- (a) is treated as received by an employee for the purposes of the Income Tax (Earnings and Pensions) Act 2003 by section 18, 19, 31 or 32 of that Act (receipt of money and non-money earnings), or
- (b) would be so treated if it were not exempt income.

(7) In this paragraph—

“*employee*” includes an office-holder and “*employment*” correspondingly includes an office, and

“*remuneration*” means an amount which is or is treated as earnings for the purposes of the Income Tax (Earnings and Pensions) Act 2003.”.

(8) These amendments have effect for accounting periods ending after 5th April 2003.

Minor corrections of the Income Tax (Earnings and Pensions) Act 2003

- 9 (1) The Income Tax (Earnings and Pensions) Act 2003 (c. 1) is amended as follows.
- (2) In section 286 (power to amend sections 279 to 285), in the heading and in subsection (1), for “279” substitute “277”.
- (3) In Chapter 11 of Part 7 (supplementary provisions about employee benefit trusts), in section 554(1)(a) (attribution of further interest in company), for “*employment*” substitute “*employee*”.
- (4) In section 577 (United Kingdom social security pensions)—
- (a) in subsection (2), in paragraph (b) of the definition of “*state pension*”, for “48” substitute “48A”, and
 - (b) omit subsection (3).
- (5) In section 677 (UK social security benefits wholly exempt from income tax), in Part 2 of Table B (benefits payable under regulations), omit the entry relating to compensation payments where child support reduced because of a change in legislation.

Other minor corrections

- 10 (1) In section 59A(8)(b) of the Taxes Management Act 1970 (c. 9) (payments on account of income tax), for “that Act” substitute “the principal Act”.
- (2) In section 336 of the Taxes Act 1988 (temporary residents in the United Kingdom) for “Cases I, II and III of Schedule E” substitute “determining taxable earnings from an employment under Chapters 4 and 5 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (employment income: charge to tax)”.
- (3) In section 38(9) of the Finance Act 1988 (c. 39) (maintenance payments under existing obligations: 1989-90 onwards)—
- (a) for “68(1)(b) or 192(3)” substitute “or 68(1)(b)”, and
 - (b) after “Taxes Act 1988” insert “or section 355 of the Income Tax (Earnings and Pensions) Act 2003”.
- (4) In section 76 of the Finance Act 1989 (c. 26) (non-approved retirement benefits schemes)—
- (a) in subsection (3)(b) and (6)(b), for the words from “is treated” to the end substitute “counts as employment income of a person by virtue of section 386 (1) of the Income Tax (Earnings and Pensions) Act 2003 (charge on payments to non-approved retirement benefit schemes)”, and
 - (b) in subsection (6D)(a) for “employer” substitute “employee”.