
INCOME TAX (EARNINGS AND PENSIONS) ACT 2003: MINOR CORRECTIONS

Who is likely to be affected?

1. Employees and employers whose income falls to be taxed under the provisions of Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and companies claiming Research and Development (R&D) or contaminated land tax credits.

General description of the measure

2. This measure corrects a number of errors in ITEPA, including typographical errors, updates of language and references, and clarifies the meaning of certain sections of the Act.

Operative date

3. 6 April 2004 for many of the measures but some have more detailed commencement provisions, set out below.

Current law and proposed revisions

4. The majority of these corrections update reference errors or return the law to the position prior to ITEPA's enactment in April 2003. Five of the corrections are more substantial:

Repeal of Section 108 Finance Act 1995

5. Schedule 8 ITEPA 2003 inadvertently repealed section 108 Finance Act 1995 which affects those subject to the income tax self assessment payment on account regime. Section 108 Finance Act 1995 amended the rules for payments on account and should not have been repealed. The position is therefore being clarified.

Research & Development tax credits

6. ITEPA amended the rules determining the expenditure on staffing costs which qualify for R&D tax credits and vaccines research relief. Prior to ITEPA, benefits in kind were excluded from relief. ITEPA amended this to include, among other employee-related expenditure, benefits in kind as qualifying for relief.

7. The position is being returned to the pre-ITEPA position so that benefits in kind do not qualify for R&D tax credits or vaccines research relief. This will have effect for expenditure incurred by both large companies and SMEs on or after 1 April 2004.

Remediation of contaminated land

8. ITEPA amended the rules determining the expenditure on staffing costs which qualify for relief under the provisions applying to the remediation of contaminated land. Prior to ITEPA, benefits in kind were excluded from relief. ITEPA amended this to include, among other employee-related expenditure, benefits in kind as qualifying for relief.

9. The position is being returned to the pre-ITEPA position so that benefits in kind do not qualify for contaminated land relief. This will have effect for expenditure incurred by companies on or after 1 April 2004.

Exemption for the Benefit of Subsidised Workplace Meals

10. Section 317(1)(a) ITEPA 2003 affects employers providing free or subsidised meals in a staff canteen. This corrects a drafting defect in the law to ensure that, for the exemption to apply, subsidised meals have to be available to employees generally. The existing law exempting the benefit of subsidised canteen meals for employees contains a loophole which could allow the exemption to apply, even though a meals subsidy was not offered to all employees. This amendment removes that unintended effect so that the exemption will not apply unless subsidised canteen meals are available to employees generally.

Employments where Earnings Charged on Remittance

11. Section 389 ITEPA 2003 affects certain employees whose employers make contributions to non-approved pension schemes. This section exempts employees from tax on contributions made on their behalf by their employer to a non-approved retirement benefits scheme. The exemption applies only if the employee's income was of the sort previously taxable under Case III of Schedule E.

12. Prior to ITEPA 2003 the exemption applied provided the employee did not have any earnings from the employment which were taxable under 'Cases I or II of Schedule E'. The current law erroneously excludes the rare situations in which, although there were earnings, no earnings were chargeable under any of the three Cases of Schedule E (which is the case, for example, for certain non-residents). The proposed revision will ensure that the exemption continues to operate properly from

April 2003 when ITEPA was enacted, and will address concerns raised by those affected.

Further advice

13. If you have any questions about these changes, please contact your local Inland Revenue tax office.

www.inlandrevenue.gov.uk