

Employee allowance. ITA67 s138B, s195B(3) and (6); FA72 Sch1 PtIII par4; FA74 s64(2); FA80 s3; FA88 s3 and Sch1; FA91 s7; FA93 s10(1); FA94 s4; FA97 s146(1) and Sch9 Ptl par1(9) and par5(3) 472.—(1) (a) In this section—

“emoluments” means emoluments to which Chapter 4 of Part 42 applies or is applied, but does not include—

(i) emoluments paid directly or indirectly by a body corporate (or by any person who would be regarded as connected with the body corporate) to a proprietary director of the body corporate or to the spouse or child of such a proprietary director, and

(ii) emoluments paid directly or indirectly by an individual (or by a partnership in which the individual is a partner) to the spouse or child of the individual;

“director” means—

(i) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or body,

(ii) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person, and

(iii) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate,

and includes any person who is or has been a director;

“proprietary director” means a director of a company who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company;

“specified employed contributor” means a person who is an employed contributor for the purposes of the Social Welfare (Consolidation) Act, 1993 , but does not include a person—

(i) who is an employed contributor for those purposes by reason only of section 9(1)(b) of that Act, or

(ii) to whom Article 81, 82 or 83 of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 ), applies.

(b) For the purposes of the definition of “proprietary director”, ordinary share capital which is owned or controlled as referred to in that definition by a person, being a spouse or a minor child of a director, or by a trustee of a trust for the benefit of a person or persons, being or including any such person or such director, shall be deemed to be owned or controlled by such director and not by any other person.

(2) The exclusion from the definition of “emoluments” of the emoluments referred to in subparagraphs (i) and (ii) of that definition shall not apply for any year of assessment to any such emoluments paid to an individual, being a child (other than a child who is a proprietary director) to whom subparagraph (i) or (ii) of that definition relates, if for that year—

(a) (i) the individual is a specified employed contributor, or

(ii) the Income Tax (Employments) Regulations, 1960 ), in so far as they apply, have, in relation to any such emoluments paid to the individual in the year of assessment, been complied with by the person by whom the emoluments are paid,

(b) the conditions of the office or employment, in respect of which any such emoluments are paid, are such that the individual is required to devote, throughout the year of assessment, substantially the whole of the individual's time to the duties of the office or employment and the individual does in fact do so, and

(c) the amount of any such emoluments paid to the individual in the year of assessment are not less than £3,600.

(3) Where an individual is in receipt of profits or gains from an office or employment held or exercised outside the State, such profits or gains shall be deemed to be emoluments within the meaning of subsection (1) if such profits or gains—

(a) are chargeable to tax in the country in which they arise,

(b) on payment by the person making such payment, are subject to a system of tax deduction similar in form to that provided for in Chapter 4 of Part 42,

(c) are chargeable to tax in the State on the full amount of such profits or gains under Schedule D, and

(d) if the office or employment was held or exercised in the State and the person was resident in the State, would be emoluments within the meaning of that subsection.

(4) Where for any year of assessment a claimant proves that his or her total income for the year consists of or includes emoluments , any emoluments of the claimant's spouse deemed to be income of the claimant by that section for the purposes referred to in that section)—

(a) a deduction of £800 shall be made from so much, if any, of the emoluments (but not including, in the case where the claimant is a married person so assessed, the emoluments, if any, of the claimant's spouse) as arise to the claimant, and

(b) in the case where the claimant is a married person so assessed, a deduction of £800 shall be made from so much, if any, of the emoluments as arise to the claimant's spouse.

(5) Where a deduction under this section is to be made from emoluments for any year of assessment by virtue of the operation of subsection (2), such deduction shall be given by means of repayment of tax.