Finance Act 2002

2002 CHAPTER 23

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 2

OTHER PROVISIONS

Employment income and related matters

33 Employer-subsidised public transport bus services

(1) In Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge), section 197AB (exclusion of tax charge in respect of support by employer for certain transport services) is amended as follows.

(2) In subsection (2) (main definitions), in the definition of "qualifying journey" after "means" insert "the whole or part of".

(3) For subsection (3) (conditions of exemption) substitute—

"(3) Except in the case of a local bus service, the exemption conferred by this section is subject to the condition that the terms on which the service is available to the employees mentioned in subsection (1) must not be more favourable than those available to other passengers.

(3A) The exemption conferred by this section is in every case subject to the condition that the service must be available generally to employees of the employer (or each employer) concerned.".

(4) In subsection (4) (minor definitions), at the appropriate place insert—

""local bus service" means a local service as defined by section 2 of the Transport Act 1985;".

(5) After that subsection insert—

"(5) If under this section there is no charge to tax under section 154 (or there would be no charge if the employee were in employment to which Chapter 2 of Part 5 applied), there is no charge to tax under section 141 (non-cash vouchers) in respect of a voucher evidencing the employee's entitlement to use the service.".

(6) This section has effect for the year 2002-03 and subsequent years of assessment.

34 Car fuel: calculation of cash equivalent of benefit

(1) In Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge), section 158 (benefits in kind: car fuel) is amended as follows.

(2) For subsections (2) to (2B) (calculation of cash equivalent) substitute—

"(2) Subject to the following provisions of this section, the cash equivalent of that benefit is the appropriate percentage of £14,400.

The "appropriate percentage" means the appropriate percentage determined under Schedule 6 for the purpose of calculating the cash equivalent of the benefit of the car for which the fuel is provided.".

(3) In subsection (4) (power to substitute different amounts by Treasury order), for "a different Table for any of the Tables in subsection (2) above" substitute "a different amount for that specified in subsection (2) above".

(4) For subsection (5) (proportionate reduction where car unavailable for part of the year) substitute—

"(5) The cash equivalent of the benefit in any year is proportionately reduced (see subsection (8) below) if the car for which the fuel is provided is unavailable (within the meaning of Schedule 6) for any part of the year.".

(5) After subsection (6) (nil cash equivalent where fuel provided on terms that employee meets cost of private use or fuel is made available only for business travel) insert—

"(6A) The cash equivalent of the benefit in any year is proportionately reduced (see subsection (8) below) if for any part of that year—

(a) the facility for the provision of fuel as mentioned in subsection (1) above is not available, or

(b) the employee is required to make good to the person providing the fuel the whole of the expense incurred by him in connection with the provision of the fuel for his private use and he does so, or

(c) the fuel is made available only for business travel.

(6B) The fact that any of the conditions specified in subsection (6A) above is met for part of a year shall be disregarded if there is a time later in that year when any of those conditions is not met.".

(6) At the end of the section add—

"(8) Where the cash equivalent falls to be proportionately reduced under subsection (5) or (6A) above (or under both those subsections), the reduced amount is given by:

$$CE \times \frac{365 - D}{365}$$

where—

CE is the amount of the cash equivalent before any reduction; and

D is the total number of days in the year on which either the car is unavailable or one or more of the conditions in subsection (6A) above is met. ".

(7) After that subsection add—

"(9) References in this section to fuel do not include any facility or means for supplying electrical energy for an electrically propelled vehicle.".

(8) This section has effect for the year 2003-04 and subsequent years of assessment.

35 Statutory paternity pay and statutory adoption pay

In section 150 of the Taxes Act 1988 (allowances and payments charged to income tax under Schedule E), after paragraph (d) insert—

"(e) payments of statutory paternity pay or statutory adoption pay under Part 12ZA or 12ZB of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, under any corresponding legislation in force there.".

36 Exemption of minor benefits: application to non-cash vouchers

(1) In section 155ZB of the Taxes Act 1988 (power to provide for exemption of minor benefits), after subsection (2) add—

"(3) If by virtue of regulations under this section there is no charge to tax under section 154 in respect of a benefit (or there would be no charge if the employee were in employment to which Chapter 2 of Part 5 applied), there is no charge to tax under section 141 (non-cash vouchers) in respect of a voucher evidencing the employee's entitlement to the benefit.".

(2) This section has effect for the year 2002-03 and subsequent years of assessment.

37 Minor amendments to Schedule E charge

(1) Schedule 6 to this Act (which makes a number of minor changes to the Schedule E charge to income tax) has effect.

(2) The amendments made by that Schedule have effect for the year 2002-03 and subsequent years of assessment.

38 Provision of services through an intermediary: minor amendments

(1) Schedule 12 to the Finance Act 2000 (c. 17) (provision of services through an intermediary) is amended as follows.

(2) In Part 2 (the deemed Schedule E payment), after paragraph 7 insert—

"Reimbursed expenses

7A (1) The reference in Step Three of the calculation in paragraph 7 to expenses met by the intermediary includes expenses met by the worker and reimbursed by the intermediary.

(2) Where the intermediary is a partnership and the worker is a member of the partnership, expenses met by the worker for and on behalf of the intermediary shall be treated for the purposes of sub-paragraph (1) as expenses met by the worker and reimbursed by the intermediary.

Treatment of mileage allowances

7B (1) Where—

(a) the intermediary provides a vehicle for the worker, and

(b) the worker would have been entitled to an amount of mileage allowance relief for a tax year in respect of the use of the vehicle if the worker had been employed by the client and the vehicle had not been a company vehicle (within the meaning of paragraph 6 of Schedule 12AA to the Taxes Act 1988),

Step Three of the calculation in paragraph 7 has effect as if that amount were an amount of expenses deductible under that Step.

(2) Where—

(a) the intermediary is a partnership,

(b) the worker is a member of the partnership, and

(c) the worker provides a vehicle for the purposes of the business of the partnership,

then for the purposes of sub-paragraph (1) the vehicle shall be regarded as provided by the intermediary for the worker.

(3) Where the worker receives payments from the intermediary that are exempt from income tax under Schedule E by virtue of section 197AD or 197AE of the Taxes Act 1988 (mileage allowance payments and passenger payments), Step Seven of the calculation in paragraph 7 has effect as if the worker were chargeable to income tax under Schedule E in respect of the payments.".

(3) In Part 3 (supplementary provisions), in paragraph 12(2) (date of deemed payment where intermediary is a company), after "relevant events" insert—

"(za) the company ceasing to trade;".

(4) In that Part, in paragraph 18(3) (restriction on expenses deductible in calculating profits of partnership intermediary), for paragraph (a) substitute—

"(a) the amount that, in calculating the deemed Schedule E payment, is deducted under Step Three of the calculation in paragraph 7, and".

(5) This section has effect for the year 2002-03 and subsequent years of assessment.

39 Employee share ownership plans: minor amendments

(1) Schedule 8 to the Finance Act 2000 (c. 17) (employee share ownership plans) is amended as follows.

(2) In paragraph 94 (PAYE: shares ceasing to be subject to plan), for ", subsection (3) of section 203F of the Taxes Act 1988 (PAYE: tradeable assets)" substitute—

"(a) section 203F of the Taxes Act 1988 (PAYE: readily convertible assets) shall have effect as if the participant were being provided with assessable income in the form of those shares—

(i) at the time the shares cease to be subject to the plan, and

(ii) in respect of the relevant employment in which the participant is employed at that time (or, if he is not employed in relevant employment at that time, the relevant employment in which he was last employed before that time), and

(b) subsection (3) of that section".

(3) In paragraph 95 (PAYE: shares ceasing to be subject to plan), in sub-paragraph (6), for the words from "a company" to "to whom" substitute "the company which employs the participant in relevant employment at the time when the shares cease to be subject to the plan (or, if the participant is not employed in relevant employment at that time, the company which last employed him in relevant employment before that time), provided that that company is one to whom".

(4) In paragraph 96 (PAYE: capital receipts), in sub-paragraph (2), for the words from "the company" to "to whom" substitute "the company which employs the participant in relevant employment at the time the trustees receive the sum of money referred to in sub-paragraph (1) (or, if the participant is not employed in relevant employment at that time, the company which last employed him in relevant employment before that time), provided that that company is one to whom".

(5) In paragraph 127 (jointly owned companies), at the end insert—

"(4) A company controlled by a jointly owned company may not—

(a) be a participating company in more than one group plan, or

(b) if the jointly owned company or any other company controlled by it is a participating company in a group plan, be a participating company in a different group plan.".

(6) In paragraph 128(2) (meaning of "readily convertible asset"), after "this Schedule" insert "(and that section in its application in relation to shares which cease to be subject to a plan)".

(7) This section has effect for the year 2002-03 and subsequent years of assessment.

(8) However, nothing in subsection (5) prevents a company continuing to be a participating company in a group plan in which it was a participating company immediately before the day on which this Act is passed (and for the purposes of this subsection "participating company" and "group plan" have the same meaning as in Schedule 8 to the Finance Act 2000).

40 Treatment of deductions from payments to sub-contractors

(1) In Chapter 4 of Part 13 of the Taxes Act 1988 (sub-contractors in the construction industry), after section 559 (deductions on account of tax etc from payments to certain sub-contractors) insert—

"559A Treatment of sums deducted under s.559

(1) A sum deducted under section 559 from a payment made by a contractor—
- (a) shall be paid to the Board, and
- (b) shall be treated for the purposes of income tax or, as the case may be, corporation tax as not diminishing the amount of the payment.

(2) If the sub-contractor is not a company a sum deducted under section 559 and paid to the Board shall be treated as being income tax paid in respect of the sub-contractor's relevant profits.

If the sum is more than sufficient to discharge his liability to income tax in respect of those profits, so much of the excess as is required to discharge any liability of his for Class 4 contributions shall be treated as being Class 4 contributions paid in respect of those profits.

(3) If the sub-contractor is a company—
- (a) a sum deducted under section 559 and paid to the Board shall be treated, in accordance with regulations, as paid on account of any relevant liabilities of the sub-contractor;
- (b) regulations shall provide for the sum to be applied in discharging relevant liabilities of the year of assessment in which the deduction is made;
- (c) if the amount is more than sufficient to discharge the sub-contractor's relevant liabilities, the excess may be treated, in accordance with the regulations, as being corporation tax paid in respect of the sub-contractor's relevant profits; and
- (d) regulations shall provide for the repayment to the sub-contractor of any amount not required for the purposes mentioned in paragraphs (b) and (c).

(4) For the purposes of subsection (3) the "relevant liabilities" of a sub-contractor are any liabilities of the sub-contractor, whether arising before or after the deduction is made, to make a payment to a collector of inland revenue in pursuance of an obligation as an employer or contractor.

(5) In this section—
- (a) "the sub-contractor" means the person for whose labour (or for whose employees' or officers' labour) the payment is made;
- (b) references to the sub-contractor's "relevant profits" are to the profits from the trade, profession or vocation carried on by him in the course of which the payment was received;
- (c) "Class 4 contributions" means Class 4 contributions within the meaning of the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(6) References in this section to regulations are to regulations made by the Board.

(7) Regulations under this section—

(a) may contain such supplementary, incidental or consequential provision as appears to the Board to be appropriate, and

(b) may make different provision for different cases.".

(2) In section 829 of the Taxes Act 1988 (application of Income Tax Acts to public departments), after subsection (2) insert—

"(2A) Subsections (1) and (2) above have effect in relation to Chapter 4 of Part 13 of this Act (sub-contractors in the construction industry) as if the whole of any deduction required to be made under section 559 were in all cases a deduction of income tax.".

(3) In section 59D of the Taxes Management Act 1970 (c. 9) (payment of corporation tax), in subsection (4)(d) (amounts treated as corporation tax previously paid), for "under section 559" substitute "by virtue of regulations under section 559A".

(4) This section has effect in relation to deductions made under section 559 of the Taxes Act 1988 on or after 6th April 2002.

Regulations under section 559A of that Act, inserted by this section, may be made so as to have effect in relation to any such deductions made on or after that date.

41 Parliamentary visits to EU candidate countries: tax treatment of members' expenses

(1) This section amends—

(a) section 200 of the Taxes Act 1988 (which treats allowances paid to a Member of Parliament in respect of, among other things, expenses of visiting the national parliament of another member State as not being income for tax purposes), and

(b) section 200ZA of that Act (which makes corresponding provision in relation to members of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly).

(2) In subsection (3)(b) of section 200, and in paragraph (b) of the definition of "EU travel expenses" in subsection (3) of section 200ZA, after "of another member State" insert "or of a candidate country".

(3) After subsection (3) of each section insert—

"(4) In subsection (3) above "candidate country" means Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, Slovenia or Turkey.

(5) The Treasury shall by order made by statutory instrument make such amendments to the definition in subsection (4) above as are necessary to secure that the countries listed are those that are from time to time candidates for membership of the European Union.".

(4) This section applies in relation to sums paid on or after 1st April 2002.