



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 4

EMPLOYMENT INCOME: EXEMPTIONS

CHAPTER 3

EXEMPTIONS: OTHER TRANSPORT, TRAVEL AND SUBSISTENCE

237 Parking provision and expenses

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of workplace parking for an employee.
- (2) No liability to income tax arises by virtue of the payment or reimbursement of expenses incurred in connection with the provision for or the use by an employee of workplace parking.
- (3) In this section “workplace parking” means—
 - (a) a car parking space,
 - (b) a motor cycle parking space, or
 - (c) facilities for parking a cycle other than a motor cycle,at or near the employee’s workplace.

238 Modest private use of heavy goods vehicles

- (1) No liability to income tax arises where a heavy goods vehicle is made available to an employee for the employee’s private use if conditions A and B are met.
- (2) Condition A is that there is no transfer of the property in the vehicle to the employee.

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- (3) Condition B is that the employee's use of the vehicle in the tax year is not wholly or mainly private use.
- (4) In this section—
- “heavy goods vehicle” means a mechanically propelled road vehicle which—
- (a) is of a construction primarily suited for the conveyance of goods or burden of any kind, and
- (b) is designed or adapted to have a maximum weight exceeding 3,500 kilograms when in normal use and travelling on a road laden, and
- “private use” means use other than for travel which the employee is necessarily obliged to do in the performance of the duties of the employment.

239 Payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles

- (1) No liability to income tax arises in respect of the discharge of any liability of an employee in connection with a taxable car or van or an exempt heavy goods vehicle.
- (2) No liability to income tax arises in respect of a payment to an employee in respect of expenses incurred by the employee in connection with a taxable car or van or an exempt heavy goods vehicle.
- (3) Subsections (1) and (2) do not apply to liability arising by virtue of section 149 (benefit of car fuel treated as earnings).
- (4) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of a benefit connected with a taxable car or van or an exempt heavy goods vehicle.
- (5) Subsection (4) does not apply to the provision of a driver.
- (6) For the purposes of this section a car or van is “taxable” if under Chapter 6 of Part 3 the cash equivalent of the benefit of it is to be treated as the employee's earnings for the tax year.
- (7) For the purposes of this section—
- (a) “heavy goods vehicle” has the same meaning as in section 238(4) (modest private use of heavy goods vehicles), and
- (b) a heavy goods vehicle is “exempt” if it is made available in the tax year to the employee in such circumstances that section 238 applies.
- (8) For the purposes of subsections (1) and (2), a heavy goods vehicle is also “exempt” if it is so made available in such circumstances that section 238 would apply if the employee were not in excluded employment.
- (9) In this Part “excluded employment” means an excluded employment within the meaning of the benefits code (see section 63(4)).

240 Incidental overnight expenses and benefits

- (1) No liability to income tax arises in respect of a sum if or to the extent that it is paid wholly and exclusively for the purpose of paying or reimbursing expenses which—

- (a) are incidental to the employee's absence from the place where the employee normally lives,
 - (b) relate to a continuous period of such absence in relation to which the overnight stay conditions are met (a "qualifying period"), and
 - (c) would not be deductible under Part 5 if the employee incurred and paid them and Chapter 2 of this Part (mileage allowances and passenger payments) did not apply.
- (2) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of a benefit provided for an employee if—
- (a) its provision is incidental to such an absence during a qualifying period, and
 - (b) no amount would be deductible in respect of it under Part 5.
- (3) Subsections (1) and (2) are subject to section 241 (incidental overnight expenses and benefits: overall exemption limit).
- (4) The overnight stay conditions are that—
- (a) the employee is obliged to stay away from the place where the employee normally lives throughout the period,
 - (b) the period includes at least one overnight stay away from that place, and
 - (c) each such overnight stay during the period is at a place the expenses of travelling to which meet condition A or B.
- (5) Condition A is that the expenses are deductible under Part 5 (otherwise than under any of the excepted foreign travel provisions) or would be if the employee incurred and paid them and Chapter 2 of this Part did not apply.
- (6) Condition B is that the expenses are within section 250 or 255 (exemption of work-related and individual learning account training provision) or would be if the employer paid or reimbursed them.
- (7) In this section "excepted foreign travel provisions" means—
- (a) section 371 (travel costs and expenses where duties performed abroad: visiting spouse's or child's travel),
 - (b) section 374 (non-domiciled employee's spouse's or child's travel costs and expenses where duties performed in UK), and
 - (c) section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)).

241 Incidental overnight expenses and benefits: overall exemption limit

- (1) Section 240(1) and (2) do not apply if the exemption provisions total in respect of the qualifying period in question exceeds the permitted amount.
- (2) In this section "the exemption provisions total", in respect of a period, means the aggregate of—
- (a) the amounts that would be exempted under section 240(1) and (2) in respect of the period, apart from this section, and
 - (b) the amounts that would be exempted under section 268 (exemption of vouchers and tokens for incidental overnight expenses) in respect of the period, apart from the condition in section 268(5).

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- (3) In this section “the permitted amount”, in respect of a period, means the aggregate of the following amounts—
- (a) £5 for each night during the period spent wholly in the United Kingdom, and
 - (b) £10 for each night during the period spent wholly or partly outside the United Kingdom.

242 Works transport services

- (1) No liability to income tax arises in respect of the provision for employees of a works transport service if—
- (a) the service is available generally to employees of the employer (or each employer) concerned,
 - (b) the main use of the service is for qualifying journeys by those employees, and
 - (c) the service—
 - (i) is used only by the employees for whom it is provided or their children, or
 - (ii) is substantially used only by those employees or children.
- (2) In this section—
- “children” includes stepchildren and illegitimate children but does not include children aged 18 or over, and
 - “works transport service” means a service which is provided by means of a bus or a minibus for conveying employees of one or more employers on qualifying journeys.
- (3) For the purposes of this section—
- (a) “bus” means a road passenger vehicle which has a seating capacity of 12 or more, and
 - (b) “minibus” means a vehicle constructed or adapted for the carriage of passengers which has a seating capacity of 9, 10 or 11.
- (4) But a vehicle which falls within the definition in subsection (3)(b) is not a minibus for the purposes of this section if—
- (a) it has one or more disqualified seats, and
 - (b) excluding the disqualified seats, it has a seating capacity of 8 or less.
- (5) For the purposes of subsections (3) and (4) the seating capacity of a vehicle is determined in the same way as for the purposes of Part 3 of Schedule 1 to VERA 1994 (vehicle excise duty on buses).

This applies whether or not the vehicle is a bus within the meaning of that Part of that Schedule.

- (6) For the purposes of subsection (4) a seat is disqualified if relevant construction and use requirements are not met in relation to it.

In this subsection “construction and use requirements” has the same meaning as in Part 2 of the Road Traffic Act 1988 (c. 52) or, in Northern Ireland, Part III of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)).

243 Support for public bus services

- (1) No liability to income tax arises in respect of the provision of financial or other support for a public transport road service if—
 - (a) in the case of a local bus service, conditions A and B are met, or
 - (b) in any other case, conditions A to C are met.
- (2) Condition A is that the service is used by employees of one or more employers for qualifying journeys.
- (3) Condition B is that the service is available generally to employees of the employer (or each employer) concerned.
- (4) Condition C is that the terms on which the service is available to the employees of the employer (or each employer) concerned are not more favourable than those available to other passengers.
- (5) In this section—

“local bus service” means a local service (as defined in section 2 of the Transport Act 1985 (c. 67)), and

“public transport road service” means a public passenger transport service provided by means of a road vehicle.

244 Cycles and cyclist’s safety equipment

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision for an employee of a cycle or cyclist’s safety equipment if conditions A to C are met.
- (2) Condition A is that there is no transfer of the property in the cycle or equipment in question.
- (3) Condition B is that the employee uses the cycle or equipment in question mainly for qualifying journeys.
- (4) Condition C is that cycles are available generally to employees of the employer concerned or, as the case may be, cyclist’s safety equipment is so available to them.
- (5) In this section “cycle” has the meaning given by section 192(1) of the Road Traffic Act 1988 (c. 52), and “cyclist” has a corresponding meaning.

245 Travelling and subsistence during public transport strikes

- (1) No liability to income tax arises in respect of the following benefits and payments where a strike or other industrial action disrupts a public transport service normally used by an employee.
- (2) They are—
 - (a) the provision for the employee of overnight accommodation at or near the employee’s permanent workplace,
 - (b) a payment to the employee in respect of expenses incurred by the employee in connection with such accommodation,
 - (c) the provision for the employee of transport for the purpose of ordinary commuting or travel between any two places that is for practical purposes substantially ordinary commuting, and

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- (d) a payment to the employee in respect of expenses incurred on such transport.

246 Transport between work and home for disabled employees: general

- (1) No liability to income tax arises in respect of—
- (a) the provision of transport for a disabled employee, or
 - (b) the payment or reimbursement of expenses incurred on such transport,
- if the condition in subsection (2) is met.
- (2) The condition is that the transport is provided or the expenses are incurred for the purpose of ordinary commuting or travel between any two places that is for practical purposes substantially ordinary commuting.
- (3) Subsection (1) does not apply in a case where a car is made available to a disabled employee (but see section 247).
- (4) In this section “disabled employee” means an employee who has a physical or mental impairment with a substantial and long-term adverse effect on the employee’s ability to carry out normal day to day activities.

247 Provision of cars for disabled employees

- (1) This section applies where a car is made available to a disabled employee without any transfer of the property in it.
- (2) No liability to income tax arises by virtue of Chapter 6 or 10 of Part 3 (taxable benefits: cars, vans etc. and residual liability to charge) in respect of the benefit if conditions A to C are met.
- (3) No liability to income tax arises in respect of—
- (a) the provision of fuel for the car, or
 - (b) the payment or reimbursement of expenses incurred in connection with it,
- if conditions A to C are met.
- (4) Condition A is that the car has been adapted for the employee’s special needs or, in the case of an employee who because of disability can only drive a car that has automatic transmission, it is such a car.
- (5) Condition B is that the car is made available on terms prohibiting its use otherwise than for—
- (a) the employee’s business travel, or
 - (b) transport for the employee for the purpose of—
 - (i) ordinary commuting or travel between any two places that is for practical purposes substantially ordinary commuting, or
 - (ii) travel to a place the expenses of travelling to which would be within one of the training exemption provisions if the employer paid them.
- (6) Condition C is that in the tax year the car is only used in accordance with those terms.
- (7) In this section—
- “business travel” has the same meaning as in Chapter 6 of Part 3 (taxable benefits: cars, vans and related benefits) (see section 171(1)),

“disabled employee” has the same meaning as in section 246 (see subsection (4)), and

“the training exemption provisions” means—

section 250 (exemption of work-related training provision),

section 255 (exemption for contributions to individual learning account training), and

section 311 (retraining courses).

- (8) Section 138(4) (when a car has automatic transmission) applies for the purposes of this section as it applies for the purposes of section 138.

248 Transport home: late night working and failure of car-sharing arrangements

- (1) No liability to income tax arises in respect of the provision of transport or the payment or reimbursement of expenses incurred on transport if—

- (a) the transport is for a journey from the employee’s workplace to the employee’s home,
- (b) the late working conditions or the car-sharing failure conditions are met, and
- (c) the number of previous occasions in the tax year on which the provision of transport within this section or the payment or reimbursement of expenses within this section has occurred is lower than 60.

- (2) The late working conditions are that—

- (a) the journey is made on an occasion when the employee is required to work later than usual and until at least 9 p.m.,
- (b) such occasions occur irregularly,
- (c) by the time when the employee ceases work—
 - (i) public transport has ceased to be available for the journey, or
 - (ii) it would not be reasonable to expect the employee to use it, and
- (d) the transport is by taxi or similar private road transport.

- (3) The car-sharing failure conditions are that—

- (a) the employee regularly travels to work in a car with one or more other employees of the employee’s employer under arrangements for the sharing of the car with them, and
- (b) the journey is made on an occasion when the employee is unable to use the car because of unforeseen and exceptional circumstances.

249 Interpretation of this Chapter

In this Chapter—

“car” and “van” have the same meaning as in Chapter 6 of Part 3 (taxable benefits: cars, vans and related benefits) (see section 115), except that for the purposes of sections 246 and 247 (transport for the disabled) any adaptation of a car for the employee’s special needs is to be disregarded,

“ordinary commuting” has the same meaning as in section 338 (travel for necessary attendance) (see subsection (3)),

“qualifying journey”, in relation to an employee, means the whole or part of a journey—

- (a) between the employee’s home and workplace,

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(b) between one workplace and another,
in connection with the performance of the duties of the employment, and
“workplace” and “permanent workplace” have the meaning given by
section 339.