



Finance Act 2017

2017 CHAPTER 10

PART 1

DIRECT AND INDIRECT TAXES

Income tax: general

8 Taxable benefits: asset made available without transfer

(1) ITEPA 2003 is amended as follows.

(2) In section 205 (cost of taxable benefit subject to the residual charge: asset made available without transfer)—

(a) in subsection (1), for paragraph (a) substitute—

“(a) the benefit consists in an asset being made available for private use, and”,

(b) after subsection (1) insert—

“(1A) In this section and section 205A, “private use” means private use by the employee or a member of the employee's family or household.

(1B) For the purposes of subsection (1) and sections 205A and 205B, an asset made available in a tax year for use by the employee or a member of the employee's family or household is to be treated as made available throughout the year for private use unless—

(a) at all times in the year when it is available for use by the employee or a member of the employee's family or household, the terms under which it is made available prohibit private use, and

(b) no private use is made of it in the year.

(1C) The cost of the taxable benefit is—

(a) the annual cost of the benefit determined in accordance with subsection (2), less

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- (b) any amount required to be deducted by section 205A (deduction for periods when asset unavailable for private use).

(1D) In certain cases, the cost of the taxable benefit is calculated under this section in accordance with section 205B (reduction of cost of taxable benefit where asset is shared).”, and

- (c) in subsection (2), in the words before paragraph (a), for “cost of the taxable” substitute “annual cost of the”.

(3) After section 205 insert—

“205A Deduction for periods when asset unavailable for private use

- (1) A deduction is to be made under section 205(1C)(b) if the asset mentioned in section 205(1) has been unavailable for private use on any day during the tax year concerned.

- (2) For the purposes of this section an asset is “unavailable” for private use on any day if—

- (a) that day falls before the day on which the asset is first available to the employee,
- (b) that day falls after the day on which the asset is last available to the employee,
- (c) for more than 12 hours during that day the asset—
 - (i) is not in a condition fit for use,
 - (ii) is undergoing repair or maintenance,
 - (iii) could not lawfully be used,
 - (iv) is in the possession of a person who has a lien over it and who is not the employer, not a person connected with the employer, not the employee, not a member of the employee's family and not a member of the employee's household, or
 - (v) is used in a way that is neither use by, nor use at the direction of, the employee or a member of the employee's family or household, or
- (d) on that day the employee—
 - (i) uses the asset in the performance of the duties of the employment, and
 - (ii) does not use the asset otherwise than in the performance of the duties of the employment.

- (3) The amount of the deduction is given by—

$$\frac{U}{Y} \times A$$

where—

U is the number of days, in the tax year concerned, on which the asset is unavailable for private use,

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Y is the number of days in that year, and

A is the annual cost of the benefit of the asset determined under section 205(2).

- (4) The reference in subsection (2)(a) to the time when the asset is first available to the employee is to the earliest time when the asset is made available, by reason of the employment and without any transfer of the property in it, for private use.
- (5) The reference in subsection (2)(b) to the time when the asset is last available to the employee is to the last time when the asset is made available, by reason of the employment and without any transfer of the property in it, for private use.

205B Reduction of cost of taxable benefit where asset is shared

- (1) This section applies where the cost of an employment-related benefit (“the taxable benefit”) is to be determined under section 205.
 - (2) If, for the whole or part of the tax year concerned, the same asset is available for more than one employee's private use at the same time, the total of the amounts which are the cost of the taxable benefit for each of those employees is to be limited to the annual cost of the benefit of the asset determined in accordance with section 205(2).
 - (3) The cost of the taxable benefit for each employee is determined by taking the amount given by section 205(1C) and then reducing that amount on a just and reasonable basis.
 - (4) For the purposes of this section, an asset is available for an employee's private use if it is available for private use by the employee or a member of the employee's family or household.”
- (4) In section 365 (deductions where employment-related benefit provided)—
- (a) in subsection (1)—
 - (i) omit the “and” at the end of paragraph (a), and
 - (ii) after that paragraph insert—
 - “(aa) the cost of the benefit was determined under section 204 or 206, and”,
 - (b) in subsection (3), for “sections 204 to 206” substitute “ section 204 or 206 ”, and
 - (c) in the heading, for “employment-related benefit” substitute “ certain employment-related benefits ”.
- (5) The amendments made by this section have effect for the tax year 2017-18 and subsequent tax years.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2017, Section 8.