



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 4

#### EMPLOYMENT INCOME: EXEMPTIONS

#### CHAPTER 1

#### EXEMPTIONS: GENERAL

#### 227 Scope of Part 4

- (1) This Part contains—
  - (a) earnings-only exemptions, and
  - (b) employment income exemptions.
- (2) In this Act “earnings-only exemption” means an exemption from income tax which—
  - (a) prevents liability to tax arising in respect of earnings, either by virtue of one or more particular provisions (such as a Chapter of the benefits code) or at all, and
  - (b) does not prevent liability to tax arising in respect of other employment income.
- (3) In this Act “employment income exemption” means an exemption from income tax which prevents liability to tax arising in respect of employment income of any kind at all.
- (4) The following provisions in Part 7 also confer exemption from liability to income tax in respect of earnings—
  - [<sup>F1</sup>(a) section 425 (restricted securities: no charge in respect of acquisition in certain circumstances),
  - (b) section 475 (no charge in respect of acquisition of securities option),]

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- (c) sections 489 to 493 and sections 496 to 499 (approved share incentive plans),
- <sup>F2</sup>(d) .....
- (e) section 519 (approved SAYE option schemes: no charge in respect of exercise of option),
- <sup>F3</sup>(f) .....
- (g) section 524 (approved CSOP schemes: no charge in respect of exercise of option),
- <sup>F4</sup>(h) .....
- (i) section 542 (priority share allocations: exemption where offer made to public and employees), and
- (j) section 544 (priority share allocations: exemption where different offers made to public and employees).

#### **Textual Amendments**

- F1** S. 227(4)(a)(b) substituted (with effect in accordance with Sch. 22 para. 25(4) of the amending Act, and otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 25\(2\)](#); S.I. 2003/1997, art. 2
- F2** S. 227(4)(d) repealed (with effect in accordance with Sch. 22 para. 25(4) of the amending Act, and otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 25\(3\)](#), [Sch. 43 Pt. 3\(4\)](#); S.I. 2003/1997, art. 2
- F3** S. 227(4)(f) repealed (with effect in accordance with Sch. 22 para. 25(4) of the amending Act, and otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 25\(3\)](#), [Sch. 43 Pt. 3\(4\)](#); S.I. 2003/1997, art. 2
- F4** S. 227(4)(h) repealed (with effect in accordance with Sch. 22 para. 25(4) of the amending Act, and otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 25\(3\)](#), [Sch. 43 Pt. 3\(4\)](#); S.I. 2003/1997, art. 2

## **228 Effect of exemptions on liability under provisions outside Part 2**

- (1) The exemptions conferred by the provisions specified in subsection (2) prevent liability to income tax arising under any enactment, but the other exemptions in this Part only affect liability to income tax under Part 2 of this Act.
- (2) The provisions referred to in subsection (1) are—
  - (a) section 245 (travelling and subsistence during public transport strikes),
  - (b) section 248 (transport home: late night working and failure of car-sharing arrangements),
  - (c) section 264 (annual parties and functions),
  - (d) Chapter 8 of this Part (exemptions for special kinds of employees) except for sections 290 and 291,
  - (e) section 323 (long service awards),
  - (f) section 324 (small gifts from third parties), and
  - (g) section 326 (expenses incidental to transfer of a kind not normally met by transferor).

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## CHAPTER 2

### EXEMPTIONS: MILEAGE ALLOWANCES AND PASSENGER PAYMENTS

#### *Mileage allowances*

#### **229 Mileage allowance payments**

- (1) No liability to income tax arises in respect of approved mileage allowance payments for a vehicle to which this Chapter applies (see section 235).
- (2) Mileage allowance payments are amounts, other than passenger payments (see section 233), paid to an employee for expenses related to the employee's use of such a vehicle for business travel (see section 236(1)).
- (3) Mileage allowance payments are approved if, or to the extent that, for a tax year, the total amount of all such payments made to the employee for the kind of vehicle in question does not exceed the approved amount for such payments applicable to that kind of vehicle (see section 230).
- (4) Subsection (1) does not apply if—
  - (a) the employee is a passenger in the vehicle, or
  - (b) the vehicle is a company vehicle (see section 236(2)).

#### **230 The approved amount for mileage allowance payments**

- (1) The approved amount for mileage allowance payments that is applicable to a kind of vehicle is—

$$M \times R$$

where—

M is the number of miles of business travel by the employee (other than as a passenger) using that kind of vehicle in the tax year in question;

R is the rate applicable to that kind of vehicle.

- (2) The rates applicable are as follows—

TABLE

<i>Kind of vehicle</i>	<i>Rate per mile</i>
Car or van	40p for the first 10,000 miles 25p after that
Motor cycle	24p
Cycle	20p

- (3) The reference in subsection (2) to “the first 10,000 miles” is to the total number of miles of business travel in relation to the employment, or any associated employment, by car or van in the tax year in question.

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- (4) One employment is associated with another if—
- (a) the employer is the same;
  - (b) the employers are partnerships or bodies and an individual or another partnership or body has control over both of them; or
  - (c) the employers are associated companies within the meaning of section 416 of ICTA.
- (5) In subsection (4)(b)—
- (a) “control”, in relation to a body corporate or partnership, has the meaning given by section 840 of ICTA (in accordance with section 719 of this Act), and
  - (b) the definition of “control” in that section of that Act applies (with the necessary modifications) in relation to an unincorporated association as it applies in relation to a body corporate.
- (6) The Treasury may by regulations amend subsection (2) so as to alter the rates or rate bands.

### **231 Mileage allowance relief**

- (1) An employee is entitled to mileage allowance relief for a tax year—
- (a) if the employee uses a vehicle to which this Chapter applies for business travel, and
  - (b) the total amount of all mileage allowance payments, if any, made to the employee for the kind of vehicle in question for the tax year is less than the approved amount for such payments applicable to that kind of vehicle.
- (2) The amount of mileage allowance relief to which an employee is entitled for a tax year is the difference between—
- (a) the total amount of all mileage allowance payments, if any, made to the employee for the kind of vehicle in question, and
  - (b) the approved amount for such payments applicable to that kind of vehicle.
- (3) Subsection (1) does not apply if—
- (a) the employee is a passenger in the vehicle, or
  - (b) the vehicle is a company vehicle.

### **232 Giving effect to mileage allowance relief**

- (1) A deduction is allowed for mileage allowance relief to which an employee is entitled for a tax year.
- (2) If any of the employee’s earnings—
- (a) are taxable earnings in the tax year in which the employee receives them, and
  - (b) are not also taxable earnings in that year that fall within subsection (3),
- the relief is allowed as a deduction from those earnings in calculating net taxable earnings in the year.
- (3) If any of the employee’s earnings are taxable earnings in the tax year in which the employee remits them to the United Kingdom, there may be deducted from those earnings the amount of any mileage allowance relief—
- (a) for that tax year, and

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- (b) for any earlier tax year in which the employee was resident in the United Kingdom,  
which, on the assumptions mentioned in subsection (4), would have been deductible under subsection (2).
- (4) The assumptions are—
- (a) that subsection (2)(b) does not apply, and
  - (b) where applicable, that the earnings constitute taxable earnings in the tax year in which the employee receives them.
- (5) Subsection (3) applies only to the extent that the mileage allowance relief cannot be deducted under subsection (2).
- (6) A deduction shall not be made twice, whether under subsection (2) or (3), in respect of the same mileage allowance relief.
- (7) In this section “taxable earnings” or “net taxable earnings” means taxable earnings or net taxable earnings from the employment for the purposes of Part 2.

#### *Passenger payments*

### **233 Passenger payments**

- (1) No liability to income tax arises in respect of approved passenger payments made to an employee for the use of a car or van (whether or not it is a company vehicle) if—
- (a) the employee receives mileage allowance payments for the use of the car or van, and
  - (b) the cash equivalent of the benefit of the car or van is treated as earnings from the employment by virtue of section 120 or 154 (cars and vans as benefits).

This is subject to subsection (2).

- (2) The condition in subsection (1)(b) needs to be met only if the car or van is made available to the employee by reason of the employment.
- (3) Passenger payments are amounts paid to an employee because, while using a car or van for business travel, the employee carries in it one or more passengers who are also employees for whom the travel is business travel.
- (4) Passenger payments are approved if, or to the extent that, for a tax year, the total amount of all such payments made to the employee does not exceed the approved amount for such payments (see section 234).
- (5) Section 117 (when cars and vans are made available by reason of employment) applies for the purposes of subsection (2).

### **234 The approved amount for passenger payments**

- (1) The approved amount for passenger payments is—

$$M \times R$$

where—

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M is the number of miles of business travel by the employee by car or van—  
 (a) for which the employee carries in the tax year in question one or more passengers who are also employees for whom the travel is business travel, and  
 (b) in respect of which passenger payments are made;

R is a rate of 5p per mile.

- (2) If the employee carries for all or part of the tax year two or more passengers who are also employees for whom the travel is business travel, the approved amount for passenger payments is the total of the amounts calculated separately under subsection (1) in respect of each of those passengers.
- (3) The Treasury may by regulations amend subsection (1) so as to alter the rate.

### *Supplementary*

#### **235 Vehicles to which this Chapter applies**

- (1) This Chapter applies to cars, vans, motor cycles and cycles.
- (2) “Car” means a mechanically propelled road vehicle which is not—  
 (a) a goods vehicle,  
 (b) a motor cycle, or  
 (c) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.
- (3) “Van” means a mechanically propelled road vehicle which—  
 (a) is a goods vehicle, and  
 (b) has a design weight not exceeding 3,500 kilograms,  
 and which is not a motor cycle.
- (4) “Motor cycle” has the meaning given by section 185(1) of the Road Traffic Act 1988 (c. 52).
- (5) “Cycle” has the meaning given by section 192(1) of that Act.
- (6) In this section—  
 “design weight” means the weight which a vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden;  
 “goods vehicle” means a vehicle of a construction primarily suited for the conveyance of goods or burden of any description.

#### **236 Interpretation of this Chapter**

- (1) In this Chapter—  
 “business travel” means travelling the expenses of which, if incurred and paid by the employee in question, would (if this Chapter did not apply) be deductible under sections 337 to 342;  
 “mileage allowance payments” has the meaning given by section 229(2);  
 “passenger payments” has the meaning given by section 233(3).

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- (2) For the purposes of this Chapter a vehicle is a “company vehicle” in a tax year if in that year—
- (a) the vehicle is made available to the employee by reason of the employment and is not available for the employee’s private use, or
  - (b) the cash equivalent of the benefit of the vehicle is to be treated as the employee’s earnings for the tax year by virtue of—
    - (i) section 120 (benefit of car treated as earnings),
    - (ii) section 154 (benefit of van treated as earnings), or
    - (iii) section 203 (residual liability to charge: benefit treated as earnings),
 or
  - (c) in the case of a car or van, the cash equivalent of the benefit of the car or van would be required to be so treated if sections 167 and 168 (exceptions for pooled cars and vans) [<sup>F5</sup>and section 248A (emergency vehicles)] did not apply, or
  - (d) in the case of a cycle, the cash equivalent of the benefit of the cycle would be required to be treated as the employee’s earnings for the tax year under Chapter 10 of Part 3 (taxable benefits: residual liability to charge) if section 244(1) (exception for cycles made available) did not apply.
- (3) Sections 117 and 118 (when cars and vans are made available by reason of employment and are made available for private use) apply for the purposes of subsection (2).

#### Textual Amendments

- F5** Words in s. 236(2)(c) inserted (with effect in accordance with s. 81(3) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 81\(2\)](#)

## CHAPTER 3

### EXEMPTIONS: OTHER TRANSPORT, TRAVEL AND SUBSISTENCE

#### 237 Parking provision and expenses

- (1) [<sup>F6</sup>No liability to income tax arises] 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 [<sup>F7</sup>parking space for a car or van],
  - (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.

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### Textual Amendments

- F6** Words in s. 237(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 16\(2\)](#)
- F7** Words in s. 237(3)(a) substituted (with effect in accordance with s. 80(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 14 para. 8](#)

## 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.
- (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



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- (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)).

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## **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).
- (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).

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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) [<sup>F8</sup>No liability to income tax arises] 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.

#### **Textual Amendments**

- F8** Words in s. 244(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 16\(3\)](#)

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## **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
  - (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—

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- (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.

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

## **[<sup>F9</sup>248A Emergency vehicles**

- (1) This section applies where—
  - (a) an emergency vehicle is made available to a person employed in an emergency service for the person’s private use,
  - (b) the terms on which it is made available prohibit its private use otherwise than when the person is on call or engaged in on-call commuting, and
  - (c) the person does not make private use of it otherwise than in such circumstances.
- (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.
- (3) “Emergency vehicle” means a vehicle which is used to respond to emergencies and which either—
  - (a) has fixed to it a lamp designed to emit a flashing light for use in emergencies, or
  - (b) would have such a lamp fixed to it but for the fact that (if it did) a special threat to the personal physical security of those using it would arise by reason of it being apparent that they were employed in an emergency service.
- (4) The following are “employed in an emergency service”—
  - (a) constables and other persons employed for police purposes,
  - (b) persons employed for the purposes of a fire, or fire and rescue, service, and
  - (c) persons employed in the provision of ambulance or paramedic services.
- (5) The Treasury may by order amend subsection (4).
- (6) “Private use”, in relation to a person, means any use other than for the person’s business travel; and “business travel” has the same meaning as in Chapter 6 of Part 3 (see section 171(1)).
- (7) A person to whom an emergency vehicle is made available is on call when liable, as part of normal duties, to be called on to use the emergency vehicle to respond to emergencies.
- (8) A person to whom an emergency vehicle is made available is engaged in on-call commuting when the person—
  - (a) is using it for ordinary commuting or for travel between two places that is for practical purposes substantially ordinary commuting, and
  - (b) is required to do so in order that it is available for use by the person, as part of normal duties, for responding to emergencies.]

### **Textual Amendments**

**F9** S. 248A inserted (with effect in accordance with s. 81(3) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 81\(1\)](#)

## **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

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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,
- (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.

## CHAPTER 4

### EXEMPTIONS: EDUCATION AND TRAINING

#### *Work-related training*

#### **250 Exemption of work-related training provision**

- (1) No liability to income tax arises by virtue of—
- (a) the provision for an employee of work-related training or any benefit incidental to such training, or
  - (b) the payment or reimbursement to or in respect of an employee of—
    - (i) the cost of work-related training or of any benefit incidental to such training, or
    - (ii) any costs of a kind specified in subsection (2) in respect of such training.
- (2) The costs are—
- (a) costs which are incidental to the employee undertaking the training,
  - (b) expenses incurred in connection with an examination or other assessment of what the employee has gained from the training, and
  - (c) the cost of obtaining any qualification, registration or award to which the employee becomes or may become entitled as a result of the training or such an examination or other assessment.

#### **251 Meaning of “work-related training”**

- (1) In this Chapter “work-related training”, in relation to an employee, means a training course or other activity designed to impart, instil, improve or reinforce any knowledge, skills or personal qualities which—
- (a) are likely to prove useful to the employee when performing the duties of the employment or a related employment, or
  - (b) will qualify or better qualify the employee—
    - (i) to perform those duties, or

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(ii) to participate in any charitable or voluntary activities that are available to be performed in association with the employment or a related employment.

- (2) For this purpose “related employment”, in relation to an employee, means another employment with the same employer, or with a person connected with the employer, which the employee—
- (a) is to hold,
  - (b) has a serious opportunity of holding, or
  - (c) can realistically expect to have a serious opportunity of holding in due course.

## **252 Exception for non-deductible travel expenses**

- (1) Where travel or subsistence is provided or the costs of travel or subsistence are paid or reimbursed, section 250 does not apply except to the extent that the travel meets condition A or B or the subsistence meets condition B.
- (2) Condition A is that, on the assumptions in subsection (4), mileage allowance relief under Chapter 2 of this Part would be available for the travel if no mileage allowance payments had been made.
- (3) Condition B is that, on those assumptions, the expenses of the travel or subsistence would be deductible under Part 5.
- (4) The assumptions are—
  - (a) that the employee undertook the training as one of the duties of the employment, and
  - (b) that the employee incurred and paid the expenses.
- (5) In this section—
 

“mileage allowance payments” has the meaning given by section 229(2), and  
 “subsistence” includes food, drink and temporary living accommodation.

## **253 Exception where provision for excluded purposes**

- (1) Section 250 does not apply if or to the extent that the facilities or other benefits that are provided or the costs of which are paid or reimbursed are provided to the employee for one or more of the following purposes.
- (2) They are—
  - (a) enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes which are unconnected,
  - (b) providing the employee with an unconnected inducement to remain in or accept an employment with the employer or a person connected with the employer, and
  - (c) rewarding the employee for performing duties of the employment or performing them in a particular way.
- (3) In subsection (2)(a) the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of a leisure activity.



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- (4) In subsection (2)(a) and (b) “unconnected” means unconnected with imparting, instilling, improving or reinforcing knowledge, skills or personal qualities within section 251(1).

#### **254 Exception where unrelated assets are provided**

- (1) Section 250 does not apply if the benefit that is provided or the cost of which is paid or reimbursed is, or is the use of, an asset that is not a training-related asset.
- (2) “Training-related asset”, in relation to work-related training provided to an employee, means—
- (a) an asset provided for use only—
    - (i) in the course of the training, or
    - (ii) in the course of the training and in the performance of the duties of the employee’s employment,
  - (b) training materials provided in the course of the training, or
  - (c) something made by the employee in the course of the training or incorporated into something so made.
- (3) For this purpose, “training materials” includes stationery, books or other written material, audio or video tapes, compact disks or floppy disks.

#### *Individual learning account training*

#### **255 Exemption for contributions to individual learning account training**

- (1) No liability to income tax in respect of income from a current or former employment arises by virtue of—
- (a) the provision to a person within subsection (2) (“the employee”) of individual learning account training that is given by a person who is not the employee’s employer or former employer,
  - (b) any payment to the person giving the training in respect of the cost of that provision,
  - (c) the provision to the employee of any benefit incidental to such training, or
  - (d) the payment or reimbursement of any costs in respect of such training of a kind specified in subsection (3).
- (2) A person is within this subsection if the person either—
- (a) holds an account that qualifies under section 104 of the Learning and Skills Act 2000 (c. 21), or
  - (b) is a party to arrangements that qualify under section 105 or 106 of that Act or section 2 of the Education and Training (Scotland) Act 2000 (asp. 8).
- (3) The costs are—
- (a) costs which are incidental to the employee undertaking the training,
  - (b) expenses incurred in connection with an examination or other assessment of what the employee has gained from the training, and
  - (c) the cost of obtaining any qualification, registration or award to which the employee becomes or may become entitled as a result of the training or such an examination or other assessment.

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## **256 Meaning of “individual learning account training”**

In this Chapter “individual learning account training” means training or education of a kind that qualifies for grants authorised by—

- (a) regulations under section 108 or 109 of the Learning and Skills Act 2000 (c. 21), or
- (b) regulations under section 1 of the Education and Training (Scotland) Act 2000.

## **257 Exception for non-deductible travel expenses**

- (1) Where travel or subsistence is provided or the costs of travel or subsistence are paid or reimbursed, section 255 does not apply except to the extent that the travel meets condition A or B or the subsistence meets condition B.
- (2) Condition A is that, on the assumptions in subsection (4), mileage allowance relief under Chapter 2 of this Part would be available for the travel if no mileage allowance payments had been made.
- (3) Condition B is that, on those assumptions, the expenses of the travel or subsistence would be deductible under Part 5.
- (4) The assumptions are—
  - (a) that the employee undertook the training as one of the duties of the employment, and
  - (b) that the employee incurred and paid the expenses.
- (5) In this section—
  - “mileage allowance payments” has the meaning given by section 229(2), and
  - “subsistence” includes food, drink and temporary living accommodation.

## **258 Exception where provision for excluded purposes**

- (1) Section 255 does not apply if or to the extent that the facilities or other benefits that are provided or made available, or the costs of which are paid or reimbursed, are provided or made available for either or both of the following purposes.
- (2) They are—
  - (a) enabling the employee or former employee to enjoy the facilities or benefits for entertainment or recreational purposes, and
  - (b) rewarding the employee or former employee for performing duties of the employment or former employment or performing them in a particular way.
- (3) In subsection (2)(a) the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of a leisure activity.

## **259 Exception where unrelated assets are provided**

- (1) Section 255 does not apply if the benefit that is provided, or the use of which is provided, or the cost of which is paid or reimbursed is an asset that is not a training-related asset.

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- (2) “Training-related asset”, in relation to individual learning account training provided to an employee or former employee, means—
  - (a) an asset provided—
    - (i) for use only in the course of the training, or
    - (ii) for use in the course of the training and in the performance of the duties of the employee’s employment, but not to any significant extent for any other use, or
  - (b) training materials provided in the course of the training, or
  - (c) something made by the employee or former employee in the course of the training or incorporated into something so made.
- (3) For this purpose “training materials” includes stationery, books or other written material, audio or video tapes, compact disks or floppy disks.

## **260 Exception where training not generally available to staff**

- (1) Section 255(1) only applies if any expenditure involved in making the provision, the payment or the reimbursement is incurred in giving effect to existing arrangements providing—
  - (a) for the person incurring it to contribute to costs arising from the undertaking of individual learning account training by the employer’s employees or former employees, and
  - (b) for such contributions to be generally available, on similar terms, to the employer’s employees at that time.
- (2) In subsection (1) “existing arrangements” means arrangements in place when the agreement to incur the expenditure was made.
- (3) The Treasury may by regulations make provision specifying the persons or other entities under whom Crown servants are to be treated for the purposes of this section as holding employment.
- (4) Such regulations may—
  - (a) treat a description of Crown servants (or two or more such descriptions taken together) as an entity for the purposes of the regulations, and
  - (b) make different provision for different descriptions of Crown servants.
- (5) In this section “Crown servant” means a person holding an employment under the Crown.

## **CHAPTER 5**

### **EXEMPTIONS: RECREATIONAL BENEFITS**

#### *Recreational facilities*

## **261 Exemption of recreational benefits**

- (1) No liability to income tax arises in respect of the provision to an employee or a member of an employee’s family or household of benefits within subsection (2).

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- (2) The benefits are—
- (a) sporting or other recreational facilities which meet conditions A to C, and
  - (b) a right or opportunity to make use of such facilities.
- This is subject to section 262.
- (3) Condition A is that the facilities are available generally to the employees of the employer in question.
- (4) Condition B is that they are not available to members of the public generally.
- (5) Condition C is that they are used wholly or mainly by persons whose right or opportunity to use them is employment-related (whether or not by reference to the same employer).
- (6) A person's right or opportunity to use facilities is "employment-related" if and only if—
- (a) it derives from the person being—
    - (i) an employee or former employee, or
    - (ii) a member or former member of the family or household of an employee or former employee, of a particular employer, and
  - (b) the facilities are provided so as to be available generally to that employer's employees.

## **262 Benefits not exempted by section 261**

- (1) Section 261 (exemption of recreational benefits) does not apply to the following benefits—
- (a) an interest in or the use of any of the following—
    - (i) a mechanically propelled vehicle,
    - (ii) holiday or other overnight accommodation, or
    - (iii) facilities which include, or are provided in association with, a right or opportunity to make use of holiday or overnight accommodation,
  - (b) facilities provided on domestic premises, or
  - (c) a right or opportunity to make use of facilities within paragraph (a) or (b).
- (2) In this section—
- “domestic premises” means—
- (a) premises used wholly or mainly as a private dwelling, or
  - (b) land or other premises belonging to, or enjoyed with, premises so used, and
- “vehicle” includes a ship, boat or other vessel, an aircraft and a hovercraft.

## **263 Power to alter benefits to which section 261 applies**

The Treasury may by regulations provide that section 261—

- (a) does not apply to a benefit specified in the regulations,
- (b) applies to a benefit so specified only where such conditions as the regulations specify are met in relation to the terms on which, and the persons to whom, it is provided, or

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- (c) applies in such cases as are so specified to—
- (i) facilities that do not meet the conditions in section 261(3) to (5), or
  - (ii) a benefit within section 262.

### *Annual parties and functions*

## **264 Annual parties and functions**

- (1) This section applies to an annual party or similar annual function provided for an employer's employees and available to them generally or available generally to those at a particular location.
- (2) Where in the tax year only one annual party or similar annual function to which this section applies is provided for the employer's employees, or the employees in question, no liability to income tax arises in respect of its provision if the cost per head of the party or function does not exceed [<sup>F10</sup>£150].
- (3) Where in the tax year two or more such parties or functions are so provided, no liability to income tax arises in respect of the provision of one or more of them ("the exempt party or parties") if the cost per head of the exempt party or parties does not exceed [<sup>F11</sup>£150] or [<sup>F11</sup>£150] in aggregate.
- (4) For the purposes of this section, the cost per head of a party or function is the total cost of providing—
  - (a) the party or function, and
  - (b) any transport or accommodation incidentally provided for persons attending it (whether or not they are the employer's employees),divided by the number of those persons.
- (5) That total cost includes any value added tax on the expenses incurred in providing the party, function, transport or accommodation.

#### **Textual Amendments**

**F10** Word in s. 264(2) substituted (13.6.2003) by [The Income Tax \(Exemption of Minor Benefits\) \(Increase in Sums of Money\) Order 2003 \(S.I. 2003/1361\)](#), arts. 1(1), 2

**F11** Word in s. 264(3) substituted (13.6.2003) by [The Income Tax \(Exemption of Minor Benefits\) \(Increase in Sums of Money\) Order 2003 \(S.I. 2003/1361\)](#), arts. 1(1), 2

### *Entertainment*

## **265 Third party entertainment**

- (1) No liability to income tax arises in respect of the provision of entertainment for an employee or a member of the employee's family or household if conditions A to C are met.
- (2) Condition A is that the person providing the entertainment is not the employer or a person connected with the employer.
- (3) Condition B is that neither the employer nor a person connected with the employer has directly or indirectly procured its provision.

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- (4) Condition C is that it is not provided—
- (a) in recognition of particular services performed by the employee in the course of the employment, or
  - (b) in anticipation of particular services to be so performed.
- (5) In this section “entertainment” includes hospitality of any kind.

## CHAPTER 6

### EXEMPTIONS: NON-CASH VOUCHERS AND CREDIT-TOKENS

*General exemptions: use for exempt benefits*

#### **266 Exemption of non-cash vouchers for exempt benefits**

- (1) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher if or to the extent that the voucher is used to obtain anything the direct provision of which would fall within—
- (a) section 237(1) (parking provision),
  - (b) section 246 (transport between home and work for disabled employees: general),
  - (c) section 247 (provision of cars for disabled employees),
  - (d) section 248 (transport home: late night working and failure of car-sharing arrangements), or
  - (e) section 265 (third party entertainment).
- (2) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher if the voucher evidences the employee’s entitlement to use anything the direct provision of which would fall within—
- (a) section 242 (works transport services),
  - (b) section 243 (support for public bus services), or
  - (c) section 244 (cycles and cyclist’s safety equipment).
- (3) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher if the voucher can only be used to obtain anything the direct provision of which would fall within—
- (a) section 245 (travelling and subsistence during public transport strikes),
  - (b) section 261 (exemption of recreational benefits),
  - (c) section 264 (annual parties and functions),
  - (d) section 296 (armed forces' leave travel facilities), or
  - (e) section 317 (subsidised meals).
- (4) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher if the voucher evidences the employee’s entitlement to a benefit in respect of which no charge arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) because of regulations under section 210 (power to exempt minor benefits).

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- (5) For the purposes of this section direct provision is taken to fall within a section if it would do so if the employee were not in excluded employment.

## **267 Exemption of credit-tokens used for exempt benefits**

- (1) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a credit-token if or to the extent that the token is used to obtain anything the direct provision of which—
- (a) would fall within one of the provisions specified in subsection (2), or
  - (b) would do so if the employee were not in excluded employment.
- (2) Those provisions are—
- (a) section 237(1) (parking provision),
  - (b) section 245 (travelling and subsistence during public transport strikes),
  - (c) section 246 (transport between home and work for disabled employees: general),
  - (d) section 247 (provision of cars for disabled employees),
  - (e) section 248 (transport home: late night working and failure of car-sharing arrangements), and
  - (f) section 265 (third party entertainment).

*Exemptions for particular non-cash vouchers and credit-tokens*

## **268 Exemption of vouchers and tokens for incidental overnight expenses**

- (1) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher or a credit-token if or to the extent that the voucher or token is used by an employee to obtain goods, services or money if conditions A to C are met.
- (2) In the case of goods or services, condition A is that—
- (a) obtaining them is incidental to the employee's absence from the place where the employee normally lives, and
  - (b) that absence is for a continuous period in relation to which the overnight stay conditions are met ("the qualifying period").
- (3) In the case of money, condition A is that—
- (a) it is obtained for the purpose of obtaining goods or services, and
  - (b) obtaining them is incidental to such an absence during such a period.
- (4) Condition B is that an amount would not be deductible under section 362 or 363 (deductions where non-cash voucher or credit-token provided) in respect of the cost of obtaining the goods or services.
- (5) Condition C is that the exemption provisions total in respect of the qualifying period does not exceed the permitted amount.
- (6) In this section—
- “the overnight stay conditions” has the same meaning as in section 240 (exemption of incidental overnight expenses and benefits) (see section 240(4)), and

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“the exemption provisions total” and “the permitted amount” have the same meaning as in section 241 (incidental overnight expenses and benefits: overall exemption limit) (see section 241(2) and (3)).

**269 Exemption where benefits or money obtained in connection with taxable car or van or exempt heavy goods vehicle**

- (1) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher or a credit-token if or to the extent that the voucher or token is used by the employee or a member of the employee’s family for obtaining—
  - (a) goods or services in connection with a taxable car or van or an exempt heavy goods vehicle, or
  - (b) money which is spent on such goods or services.
- (2) Subsection (1) applies where the goods in question are fuel for a car, but see section 149(3) (by virtue of which such use of a voucher or token is treated as the provision of the fuel for the purposes of section 149 (benefit of car fuel treated as earnings)).
- (3) For the purposes of this section—
  - (a) “car” and “van” have the meaning given by section 115, and
  - (b) a car or van is “taxable” if the cash equivalent of the benefit of it is treated as the employee’s earnings for the tax year in which the voucher or token is used under Chapter 6 of Part 3 (taxable benefits: cars, vans and related benefits).
- (4) For the purposes of this section—
  - (a) “heavy goods vehicle” has the same meaning as in section 238 (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 or would apply if the employee were not in excluded employment.

**270 Exemption for small gifts of vouchers and tokens from third parties**

- (1) No liability to income tax arises by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit-tokens) in respect of a non-cash voucher or a credit-token if conditions A to C are met.
- (2) Condition A is that the voucher or token is provided as a gift.
- (3) Condition B is that it is only capable of being used to obtain goods.
- (4) Condition C is that it meets conditions A to C and E in section 324 (general exemption of small gifts from third parties).

**[<sup>F12</sup>270A] Limited exemption for qualifying childcare vouchers**

- (1) If qualifying childcare vouchers are provided for an [<sup>F13</sup>employee—
  - (a) no liability to income tax arises by virtue of section 62 (general definition of earnings), and



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- (b) liability to income tax by virtue of Chapter 4 of Part 3 (taxable benefits: vouchers and credit tokens) arises only in respect of so much of the cash equivalent of the benefit as exceeds the exempt amount.]
- (2) A “qualifying childcare voucher” means a non-cash voucher in relation to which Conditions A to C are met.
- (3) Condition A is that the voucher is provided to enable an employee to obtain care for a child who—
- (a) is a child or stepchild of the employee and is maintained (wholly or partly) at the employee’s expense, or
  - (b) is resident with the employee and is a person in respect of whom the employee has parental responsibility.
- (4) Condition B is that the voucher can only be used to obtain qualifying child care.
- (5) Condition C is that the vouchers are provided under a scheme that is open—
- (a) to the employer’s employees generally, or
  - (b) generally to those at a particular location.
- (6) For the purposes of this section the “exempt amount”, in any tax year, is [<sup>F14</sup>the sum of—
- (a) £50 for each qualifying week in that year, and
  - (b) the voucher administration costs for that year.]
- [ The “voucher administration costs” for any tax year in respect of which qualifying
- <sup>F15</sup>(6A) childcare vouchers are provided for an employee means the difference between the cost of provision of the vouchers and their face value.
- The face value of a voucher is the amount stated on or recorded in the voucher as the value of the provision of care for a child that may be obtained by using it.]
- (7) A “qualifying week” means a tax week in respect of which a qualifying childcare voucher is received.
- A “tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day after that (so that the last day of a tax year or, in the case of a tax year ending in a leap year, the last two days is treated as a separate week).
- (8) An employee is only entitled to one exempt amount even if care is provided for more than one child.
- But it does not matter that another person may also be entitled to an exempt amount in respect of the same child.
- (9) An employee is not entitled to an exempt amount under this section and under section 318A (limited exemption for employer-contracted childcare) in respect of the same tax week.
- (10) In this section “care”, “child”, “parental responsibility” and “qualifying child care” have the same meaning as in section 318A (see sections 318B and 318C).
- [ In this section “cost of provision”, in relation to a childcare voucher, has the meaning
- <sup>F16</sup>(10A) given in section 87(3) and (3A).]

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- (11) The powers conferred by section 318D (childcare: power to vary exempt amount and qualifying conditions) are exercisable—
- (a) in relation to the exempt amount specified in subsection (6) above as in relation to the exempt amount specified in section 318A(6), and
  - (b) in relation to the qualifying conditions for the exemption conferred by this section as in relation to the qualifying conditions for the exemption conferred by section 318A.]

#### **Textual Amendments**

- F12** S. 270A inserted (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 3](#)
- F13** Words in s. 270A(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 16\(4\)](#)
- F14** Words in s. 270A(6) substituted (with effect in accordance with s. 15(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 15\(2\)](#)
- F15** S. 270A(6A) inserted (with effect in accordance with s. 15(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 15\(3\)](#)
- F16** S. 270A(10A) inserted (with effect in accordance with s. 15(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 15\(4\)](#)

## **CHAPTER 7**

### EXEMPTIONS: REMOVAL BENEFITS AND EXPENSES

#### *Exemption of removal benefits and expenses: general*

#### **271 Limited exemption of removal benefits and expenses: general**

- (1) No liability to income tax in respect of earnings arises by virtue of—
- (a) the provision of removal benefits to which this section applies, or
  - (b) the payment or reimbursement of removal expenses to which this section applies.
- (2) Subsection (1) does not apply if (disregarding this section) the earnings are general earnings to which either of the following sections applies—
- (a) section 22 (chargeable overseas earnings for year when employee resident and ordinarily resident, but not domiciled, in UK), or
  - (b) section 26 (foreign earnings for year when employee resident, but not ordinarily resident, in UK).
- (3) Subsection (1) is subject to section 287 (limit on exemption).

#### **272 Removal benefits and expenses to which section 271 applies**

- (1) Benefits are removal benefits to which section 271 applies if—
- (a) they are reasonably provided in connection with a change of the employee's residence which meets the conditions in section 273,
  - (b) they are provided on or before the limitation day (see section 274), and

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- (c) they are within subsection (2) or one of the following provisions—
  - (i) section 277 (acquisition benefits and expenses),
  - (ii) section 278 (abortive acquisition benefits and expenses),
  - (iii) section 279 (disposal benefits and expenses),
  - (iv) section 280 (transporting belongings),
  - (v) section 281 (travelling and subsistence),
  - (vi) section 285 (replacement of domestic goods).
- (2) A benefit is within this subsection if it is a non-cash voucher, cash voucher or credit-token used—
  - (a) to obtain goods or services the direct provision of which would be a benefit within one of the provisions specified in subsection (1)(c)(i) to (vi), or
  - (b) to obtain money for the purpose of obtaining such goods or services or meeting expenses within one of those provisions or section 284 (bridging loan expenses).
- (3) Expenses are removal expenses to which section 271 applies if—
  - (a) they are reasonably incurred by the employee in connection with a change of the employee's residence which meets the conditions in section 273,
  - (b) they are incurred on or before the limitation day, and
  - (c) they are within one of the provisions referred to in subsection (1)(c)(i) to (vi) or within section 284 (bridging loan expenses).

### **273 Conditions applicable to change of residence**

- (1) The conditions referred to in section 272(1)(a) and (3)(a) which apply to the change of the employee's residence are conditions A to C.
- (2) Condition A is that the change of residence results from one of the following changes—
  - (a) the employee becoming employed,
  - (b) an alteration of the duties of the employment, or
  - (c) an alteration of the place where the employee is normally to perform those duties.
- (3) Condition B is that the change of residence is made wholly or mainly to allow the employee to reside within a reasonable daily travelling distance of the place where the employee normally performs or is normally to perform the duties of the employment after the employment change (see section 275).
- (4) Condition C is that the employee's former residence is not within a reasonable daily travelling distance of that place.

### **274 Meaning of “the limitation day”**

- (1) In this Chapter “the limitation day”, in relation to an employee's change of residence, means the last day of the tax year after that in which the employee begins to perform the duties of the employment after the employment change, but this is subject to any direction under subsection (2).

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- (2) [<sup>F17</sup>An officer of Revenue and Customs] may direct that the last day of a later tax year is the limitation day in relation to any particular change of residence if it appears to them reasonable to do so having regard to all the circumstances of that change.

#### **Textual Amendments**

**F17** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

#### **275 Meaning of “the employment change”**

In this Chapter “the employment change”, in relation to an employee’s change of residence, means whichever of the changes specified in section 273(2) results in the change of residence.

#### **276 Meaning of “residence”, “former residence” and “new residence” etc.**

- (1) If an employee has more than one residence, references in this Chapter to the employee’s residence are references to the employee’s main residence.
- (2) In this Chapter, in relation to a change of the employee’s residence—
  - (a) references to the former residence are references to the employee’s residence before the change, and
  - (b) references to the new residence are references to the employee’s residence after the change.
- (3) In this Chapter references to an interest in a residence are, in the case of a building, references to an estate or interest in the land concerned.

#### *Benefits and expenses within this Chapter*

#### **277 Acquisition benefits and expenses**

- (1) This section applies if an interest in the employee’s new residence is acquired by—
  - (a) the employee,
  - (b) one or more members of the employee’s family or household, or
  - (c) the employee and one or more members of the employee’s family or household.
- (2) The following benefits are within this section—
  - (a) legal services connected with the acquisition of the interest, including legal services connected with any loan raised by the employee to acquire it,
  - (b) the waiving of any procurement fees connected with any such loan,
  - (c) the waiving of any amount payable in respect of insurance effected to cover risks incurred by the maker of any such loan because the loan equals the whole, or a substantial part, of the value of the interest,
  - (d) any survey or inspection of the residence undertaken in connection with the acquisition, and

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- (e) the connection of any utility serving the new residence for use by the employee or by the employee and one or more members of the employee’s family or household.
- (3) The following expenses are within this section—
- (a) sums paid for any services within subsection (2)(a), (d) or (e),
  - (b) any procurement fees connected with any loan raised by the employee to acquire the interest,
  - (c) the costs of any insurance within subsection (2)(c),
  - (d) fees payable to an appropriate registry or appropriate register in connection with the acquisition, and
  - (e) stamp duty [<sup>F18</sup>or stamp duty land tax] charged on the acquisition.
- (4) In this section references to a loan raised by the employee include a loan raised by—
- (a) one or more members of the employee’s family or household, or
  - (b) the employee and one or more members of the employee’s family or household.
- (5) In this section—
- “appropriate registry” means—
    - (a) Her Majesty’s Land Registry,
    - (b) the Land Registry in Northern Ireland, or
    - (c) the Registry of Deeds for Northern Ireland, and
  - “appropriate register” means any register under the management and control of the Keeper of the Registers of Scotland.

#### Textual Amendments

**F18** Words in s. 277(3)(e) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 18 para. 6](#)

### 278 Abortive acquisition benefits and expenses

Benefits or expenses are within this section if—

- (a) they are benefits provided or expenses incurred with a view to the acquisition of an interest in a residence,
- (b) the interest is not acquired—
  - (i) because of circumstances outside the control of the person seeking to acquire it, or
  - (ii) because that person reasonably declines to proceed, and
- (c) the benefits or expenses would have fallen within section 277 if the interest had been acquired.

### 279 Disposal benefits and expenses

- (1) This section applies if the employee has an interest in the former residence and because of the change of residence it is disposed of or is intended to be disposed of.
- (2) The following benefits are within this section—
  - (a) legal services connected with the disposal or intended disposal, including legal services connected with the redemption of a related loan,

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- (b) the waiving of any penalty for redeeming a related loan for the purpose of the disposal or intended disposal,
  - (c) the services of an estate agent or auctioneer engaged in the disposal or intended disposal,
  - (d) services connected with the advertisement of the disposal or intended disposal,
  - (e) the disconnection, for the purpose of the disposal or intended disposal, of any utility serving the former residence, and
  - (f) services connected with maintaining, insuring, or preserving the security of, the former residence at any time when it is unoccupied pending the disposal or intended disposal.
- (3) The following expenses are within this section—
- (a) sums paid for any services within subsection (2)(a), (c), (d) or (e),
  - (b) any penalty for redeeming a related loan for the purpose of the disposal or intended disposal,
  - (c) rent paid in respect of the former residence at any time when it is unoccupied pending the disposal or intended disposal, and
  - (d) expenses of maintaining, insuring, or preserving the security of the former residence at any time when it is unoccupied pending the disposal or intended disposal.
- (4) In this section references to the employee having an interest in a residence include—
- (a) one or more members of the employee’s family or household having such an interest, or
  - (b) the employee and one or more members of the employee’s family or household having such an interest.
- (5) A loan is a “related loan” for this purpose if—
- (a) it was raised to obtain an interest in the former residence, or
  - (b) it is secured on such an interest, or
  - (c) part of it was so raised and the rest of it is so secured.

## **280 Transporting belongings**

- (1) The following benefits are within this section—
- (a) the transportation of domestic belongings from the employee’s former residence to the employee’s new residence, and
  - (b) the effecting of insurance to cover such transportation.
- (2) The following expenses are within this section—
- (a) expenses connected with such transportation, and
  - (b) the costs of any such insurance.
- (3) In this section—
- “domestic belongings” means belongings of the employee or of members of the employee’s family or household, and
- “transportation” includes—
- (a) packing and unpacking belongings,
  - (b) temporarily storing them, where there is not a direct move from the former to the new residence,

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- (c) detaching domestic fittings from the former residence, where they are to be taken to the new residence, and
- (d) attaching domestic fittings to the new residence and adapting them, where they are brought from the former residence.

## 281 Travelling and subsistence

- (1) The following benefits are within this section—
- (a) subsistence and facilities for travel provided for the employee and members of the employee’s family or household for temporary visits to the new area for purposes connected with the change of residence,
  - (b) any other subsistence provided for the employee,
  - (c) facilities provided for the employee for travel between the employee’s former residence and—
    - (i) the place where the employee’s new duties are normally performed, or
    - (ii) the new place where the duties of the employee’s employment are normally performed, or
    - (iii) temporary living accommodation of the employee,
  - (d) where the employment change is within section 273(2)(b) or (c) (change of duties or place of performance), facilities provided for the employee for travel before the change between the employee’s new residence and—
    - (i) the place where the employee normally performs the duties of the employment before the change, or
    - (ii) temporary living accommodation of the employee,
  - (e) facilities provided for the employee and members of the employee’s family or household for travel from the employee’s former residence to the employee’s new residence in connection with the change of residence,
  - (f) subsistence provided for a relevant child while the child stays in education-linked living accommodation,
  - (g) facilities provided for a relevant child for travel between education-linked living accommodation and the employee’s accommodation.
- (2) For the purposes of this section, “education-linked living accommodation”, in relation to a relevant child, means living accommodation where the child stays for the purpose of securing continuity in education, being—
- (a) accommodation in the new area where the child stays before the employee’s change of residence,
  - (b) accommodation in the former area where the child stays after that change,
  - (c) accommodation in the new area where the child stays while the employee is living in temporary living accommodation in the former area, or
  - (d) accommodation in the former area where the child stays while the employee is living in temporary living accommodation in the new area.
- (3) For the purposes of subsection (1)(g) “the employee’s accommodation”, in relation to travel to or from education-linked accommodation, means—
- (a) if that accommodation is within subsection (2)(a), the employee’s former residence,
  - (b) if that accommodation is within subsection (2)(b), the employee’s new residence, and

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- (c) if that accommodation is within subsection (2)(c) or (d), the employee's temporary accommodation.
- (4) The cost of providing subsistence or travel of a kind described in subsection (1) is an expense within this section.
- (5) Subsections (1) and (4) are subject to section 282 (exclusion from this section of benefits and expenses where deduction allowed), and subsection (1) is also subject to section 283 (exclusion from this section of taxable car and van facilities).
- (6) In this section—
  - “new duties” means—
    - (a) if the employment change is within section 273(2)(a) (change of employer), the duties of the employee's new employment, and
    - (b) if the employment change is within section 273(2)(b) (change of duties), the new duties of the employment,
  - “former area” means the area round or near the former residence of the employee,
  - “new area” means—
    - (a) if the employment change is within section 273(2)(a) or (b) (change of employer or duties), the area round or near the place where the employee's new duties normally are or are to be performed, and
    - (b) if the employment change is within section 273(2)(c) (change of place of performance), the area round or near the new place where the duties of the employee's employment normally are or are to be performed,
  - “relevant child” means a person who is a member of the employee's family or household and is aged under 19 at the beginning of the tax year in which the employment change occurs, and
  - “subsistence” means food, drink and temporary living accommodation.

## **282 Exclusion from section 281 of benefits and expenses where deduction allowed**

- (1) Benefits and expenses are excluded from section 281 (travelling and subsistence) if or to the extent that an amount is deductible in respect of the cost of the benefits or of the expenses under any of the following provisions.
- (2) They are—
  - (a) section 341 (travel at start or finish of overseas employment),
  - (b) section 342 (travel between employments where duties performed abroad), and
  - (c) Chapter 5 of Part 5 except section 376 (deductions for earnings representing benefits or reimbursed expenses in respect of certain foreign travel).
- (3) If an amount is so deductible in respect of part only of the cost of a benefit, the part of the benefit excluded by this section is to be determined on a just and reasonable basis.

## **283 Exclusion from section 281 of taxable car and van facilities**

- (1) A car or van is not treated as a facility for the purposes of section 281(1) if in the tax year in which it is provided it is also made available—
  - (a) to the employee or members of the employee's family or household for private use not falling within section 281(1),



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- (b) by reason of the employee’s employment, and
  - (c) without any transfer of the property in it.
- (2) The following sections apply for the purposes of this section as they apply for the purposes of Chapter 6 of Part 3 (taxable benefits: cars, vans and related benefits)—
- (a) section 115 (meaning of “car” and “van”),
  - (b) section 117 (meaning of car or van made available by reason of employment), and
  - (c) section 118 (availability for private use).

## 284 Bridging loan expenses

- (1) Expenses are within this section if—
- (a) the employee has an interest in the former residence and disposes of it because of the change of residence,
  - (b) the employee acquires an interest in the new residence, and
  - (c) the expenses are interest payable by the employee in respect of a loan raised by the employee wholly or partly because expenditure is incurred in connection with that acquisition before the proceeds of that disposal become available.

This is subject to subsections (2) and (3).

- (2) Interest is only within this section if or to the extent that the loan is used—
- (a) for acquiring the employee’s interest in the new residence, or
  - (b) for redeeming a loan—
    - (i) which was raised by the employee to obtain an interest in the former residence,
    - (ii) which is secured on such an interest, or
    - (iii) which was partly so raised and the rest of which is so secured.
- (3) If the loan exceeds the market value of the employee’s interest in the former residence at the time of acquisition of the new residence, the interest on the excess is not within this section.
- (4) If subsection (3) applies in a case where the loan is used partly for purposes within subsection (2) and partly for other purposes, the amount of the interest within this section is the appropriate fraction of the total interest.
- (5) The appropriate fraction is—

$$\frac{MV}{L}$$

or, if it is smaller—

$$\frac{PL}{L}$$

where—

MV is the market value of the employee’s interest in the former residence at the time of acquisition of the new residence,

PL is the part of the loan used for purposes within subsection (2), and

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L is the amount of the loan.

(6) In this section—

- (a) references to a loan raised by the employee include a loan raised by—
  - (i) one or more members of the employee’s family or household, or
  - (ii) the employee and one or more members of the employee’s family or household, and
- (b) references to the employee having, disposing of or acquiring an interest in a residence include—
  - (i) one or more members of the employee’s family or household having, disposing of or acquiring such an interest, or
  - (ii) the employee and one or more members of the employee’s family or household having, disposing of or acquiring such an interest.

## **285 Replacement of domestic goods**

(1) Benefits and expenses are within this section if—

- (a) the employee has an interest in the former residence and disposes of it because of the change of residence,
- (b) the employee acquires an interest in the new residence,
- (c) in the case of benefits, they are domestic goods provided to replace goods used at the former residence which are unsuitable for use at the new residence, and
- (d) in the case of expenses, they are incurred on the purchase of domestic goods intended for such replacement.

(2) In this section references to the employee having, disposing of or acquiring an interest in a residence include—

- (a) one or more members of the employee’s family or household having, disposing of or acquiring such an interest, or
- (b) the employee and one or more members of the employee’s family or household having, disposing of or acquiring such an interest.

## **286 Power to amend sections [F19277] to 285**

- (1) The Treasury may by regulations amend sections [F19277] to 285 so as to secure that benefits or expenses which would not otherwise fall within any of those sections do so.
- (2) The regulations may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient.
- (3) Those provisions may be made by amending this Chapter or otherwise.
- (4) The regulations apply to a change of an employee’s residence resulting from an employment change occurring on or after the day specified in the regulations for this purpose.

### **Textual Amendments**

**F19** Words in s. 286 substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 17 para. 9\(2\)](#)

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### *Limit on exemption*

#### **287 Limit on exemption**

- (1) If in the case of any change of residence the value of the exemption exceeds £8,000, section 271 (exemption of removal benefits and expenses) does not apply to the excess.
- (2) The value of the exemption is an amount equal to the sum of—
  - (a) the section 62 earnings, and
  - (b) the benefits code earnings (after taking account of section 64(2)(b) where otherwise an amount that falls within paragraph (a) would be included).
- (3) In this section “the section 62 earnings” means all earnings within section 62 (earnings) in respect of which section 271 would prevent liability to income tax from arising if this section were disregarded.
- (4) In this section “the benefits code earnings” means all earnings—
  - (a) which are treated as such under the benefits code (except earnings so treated under Chapter 7 of Part 3 (taxable benefits: loans)), and
  - (b) in respect of which section 271 would prevent liability to income tax from arising if this section were disregarded.
- (5) In the case of living accommodation, the amount that would be so treated is to be taken to be equal to—

### **CE- D**

where—

CE is the cash equivalent of the accommodation under Chapter 5 of Part 3 (taxable benefits: living accommodation) for the period in which the accommodation is provided (calculated as mentioned in section 103), and

D is any amount deductible under section 364 (deductions where living accommodation provided).

### *Special exemption and relief for bridging loans*

#### **288 Limited exemption of certain bridging loans connected with employment moves**

- (1) No liability to income tax arises by virtue of Chapter 7 of Part 3 (taxable benefits: loans) in respect of a loan if—
  - (a) it is a removal benefit (see subsection (2)),
  - (b) the unused removal benefit exemption condition is met (see subsection (3)), and
  - (c) the loan is discharged before the end of the exempted loan discharge period (see subsection (4)).
- (2) For the purposes of this section and section 289, a loan is a removal benefit if—
  - (a) it is raised by the employee in connection with a change of residence meeting the conditions in section 273 (conditions applicable to change of residence),
  - (b) the employee has an interest in the former residence and disposes of it in consequence of the change of residence,

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- (c) the employee acquires an interest in the new residence,
  - (d) the loan is raised wholly or partly because expenditure is incurred in connection with that acquisition before the proceeds of that disposal become available, and
  - (e) the loan is made before the limitation day.
- (3) For the purposes of this section and section 289 the unused removal benefit exemption condition is that, in the case of the particular change of residence—
- (a) the sum specified in section 287(1) (limit on exemption), exceeds
  - (b) the amount referred to in section 287(2) (the value of the exemption);
- and for those purposes that excess is “the unused exemption”.
- (4) In this section and section 289 “the exempted loan discharge period”, in relation to a loan, means the period of N days beginning with the day on which it is made, taking N as the number obtained by applying the following formula and, if that does not give a whole number, rounding up the result to the nearest whole number—

$$\frac{A}{B \times C} \times 365$$

where—

A is the unused exemption,

B is the maximum amount of the loan outstanding in the period beginning with the time when the loan is made and ending with the limitation day, and

C is the official rate of interest in force when the loan is made (expressed as a percentage).

- (5) In this section—
- (a) references to a loan raised by the employee include a loan raised by—
    - (i) one or more members of the employee’s family or household, or
    - (ii) the employee and one or more members of the employee’s family or household, and
  - (b) references to the employee having, disposing of or acquiring an interest in a residence include—
    - (i) one or more members of the employee’s family or household having, disposing of or acquiring such an interest, or
    - (ii) the employee and one or more members of the employee’s family or household having, disposing of or acquiring such an interest.
- (6) The tax payable in respect of a loan for a tax year ending before the limitation day may be decided on the basis that the unused removal benefit exemption condition will not be met.

## **289 Relief for certain bridging loans not qualifying for exemption under section 288**

- (1) This subsection applies to a loan if—
- (a) it is a removal benefit (see section 288(2)),
  - (b) the unused removal benefit exemption condition is met (see section 288(3)), and

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- (c) the loan is not discharged before the end of the exempted loan discharge period (see section 288(4)).
- (2) A loan to which subsection (1) applies is to be treated for the purposes of Chapter 7 of Part 3 (taxable benefits: loans) as if it was made on the day after the last day of the exempted loan discharge period.
- (3) Subsection (2) does not apply for the purposes of sections 176, 177, 180, 189 and 190.
- (4) The tax payable in respect of a loan for a tax year ending before the limitation day may be decided on the basis that subsections (1) and (2) will not apply because the unused removal benefit exemption condition will not be met.

## CHAPTER 8

### EXEMPTIONS: SPECIAL KINDS OF EMPLOYEES

#### *Ministers of religion*

#### **290 Accommodation benefits of ministers of religion**

- (1) No liability to income tax in respect of a person employed as a full-time minister arises by virtue of—
  - (a) the payment or reimbursement of a statutory amount payable in connection with qualifying premises, or
  - (b) the reimbursement of a statutory deduction made in connection with qualifying premises.
- (2) No liability to income tax in respect of a person employed as a full-time minister arises by virtue of the payment or reimbursement of expenses incurred in connection with providing living accommodation in qualifying premises if the employment is excluded employment.
- (3) Subsection (1) does not apply if or to the extent that the amount or deduction is properly attributable to a part of the premises for which the minister receives rent.
- (4) Premises are qualifying premises in relation to a person employed as a minister if—
  - (a) an interest in them belongs to a charity or an ecclesiastical corporation, and
  - (b) because of that interest and by reason of holding the employment, the minister has a residence in them from which to perform the duties of the employment.
- (5) In this section—
  - “charity” means a body of persons or trust established for charitable purposes only,
  - “full-time minister” means a person in full-time employment as a minister of a religious denomination,
  - “statutory amount” means an amount paid in pursuance of a provision in, or having the force of, an Act, and
  - “statutory deduction” means a deduction made in pursuance of such a provision.

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

*MPs, government ministers etc.*

## **291 Termination payments to MPs and others ceasing to hold office**

- (1) No liability to income tax in respect of earnings arises by virtue of any grant or payment to which this section applies (but see Chapter 3 of Part 6: payments and benefits on termination of employment etc.).
- (2) This section applies to grants and payments—
  - (a) made in accordance with a resolution of the House of Commons to a person ceasing to be a Member of that House on a dissolution of Parliament,
  - (b) made under section 4 of the Ministerial and other Pensions and Salaries Act 1991 (c. 5) (grants to persons ceasing to hold certain ministerial and other offices),
  - (c) made under section 3 of the European Parliament (Pay and Pensions) Act 1979 (c. 50) (resettlement grants for persons ceasing to be Representatives),
  - (d) made under section 81(3) of the Scotland Act 1998 (c. 46) to a person—
    - (i) ceasing to be a member of the Scottish Parliament on its dissolution, or
    - (ii) ceasing to hold an office corresponding to a relevant office,
  - (e) made under section 18(1) of the Government of Wales Act 1998 (c. 38) to a person ceasing to be a member of the National Assembly for Wales on the expiry of the member's term of office, or
  - (f) made under section 48(1) of the Northern Ireland Act 1998 (c. 47) to a person—
    - (i) ceasing to be a member of the Northern Ireland Assembly on its dissolution, or
    - (ii) ceasing to hold an office corresponding to a relevant office.
- (3) In this section “a relevant office” has the same meaning as in section 4 of the Ministerial and other Pensions and Salaries Act 1991.

## **292 Overnight expenses allowances of MPs**

- (1) No liability to income tax arises in respect of an overnight expenses allowance paid to a Member of the House of Commons in accordance with a resolution of that House.
- (2) “Overnight expenses allowance” means an allowance expressed to be in respect of additional expenses necessarily incurred by the Member in staying overnight away from the Member's only or main residence, for the purpose of performing parliamentary duties—
  - (a) in the London area, as defined in such a resolution, or
  - (b) in the Member's constituency.

## **293 Overnight expenses of other elected representatives**

- (1) No liability to income tax arises in respect of a payment to which this section applies if it is expressed to be made in respect of a member's necessary overnight expenses.
- (2) This section applies to payments—

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (a) made to members of the Scottish Parliament under section 81(2) of the Scotland Act 1998 (c. 46),
  - (b) made to members of the National Assembly for Wales under section 16(2) of the Government of Wales Act 1998 (c. 38), or
  - (c) made to members of the Northern Ireland Assembly under section 47(2) of the Northern Ireland Act 1998 (c. 47).
- (3) In this section “a member’s necessary overnight expenses” means additional expenses necessarily incurred by a member for the purpose of performing duties as a member in staying overnight away from the member’s only or main residence—
- (a) in the area in which the Parliament or Assembly to which the member belongs sits, or
  - (b) in the constituency or region which the member represents.

## 294 [F20European] travel expenses of MPs and other representatives

- (1) No liability to income tax arises in respect of a sum that is—
- (a) paid to a Member of the House of Commons in accordance with a resolution of that House providing for Members of that House to be reimbursed [F21European] travel expenses, or
  - (b) paid to a member of—
    - (i) the Scottish Parliament under section 81(2) of the Scotland Act 1998,
    - (ii) the National Assembly for Wales under section 16(2) of the Government of Wales Act 1998, or
    - (iii) the Northern Ireland Assembly under section 47(2) of the Northern Ireland Act 1998,and expressed to be made in respect of [F21European] travel expenses.

[F22(2) “European travel expenses” means the cost of, and any additional expenses incurred in, travelling between the United Kingdom and a relevant European location.

- (3) “Relevant European location” means—
- (a) a European Union institution or agency, or
  - (b) the national parliament of—
    - (i) another member State,
    - (ii) a candidate or applicant country, or
    - (iii) a member State of the European Free Trade Association.
- (4) The Treasury may by order amend subsection (3) by—
- (a) adding a European location,
  - (b) removing a European location, or
  - (c) varying the description of a European location.]

### Textual Amendments

**F20** Word in s. 294 heading substituted (with effect in accordance with s. 82(5) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 82\(4\)](#)

**F21** Words in s. 294(1) substituted (with effect in accordance with s. 82(5) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 82\(2\)](#)

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

**F22** S. 294(2)-(4) substituted (with effect in accordance with s. 82(5) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 82\(3\)](#)

## **295 Transport and subsistence for Government ministers etc.**

- (1) No liability to income tax arises in respect of the provision of transport or subsistence provided or made available by or on behalf of the Crown to—
  - (a) the holder of a ministerial office, or
  - (b) a member of the family or household of the holder of a ministerial office.
- (2) No liability to income tax arises in respect of payments and reimbursements by or on behalf of the Crown of expenses incurred in connection with the provision of transport or subsistence to a person within subsection (1).
- (3) “Ministerial office” means—
  - (a) an office in Her Majesty’s Government in the United Kingdom,
  - (b) any other office which is one of the offices and positions in respect of which salaries are payable under section 1 of the Ministerial and other Salaries Act 1975 (c. 27), and
  - (c) an office under one of the following Acts which corresponds to an office within paragraph (a) or (b)—
    - (i) the Scotland Act 1998 (c. 46),
    - (ii) the Government of Wales Act 1998 (c. 38), or
    - (iii) the Northern Ireland Act 1998 (c. 47).
- (4) In determining whether a particular person holds an office within subsection (3)(b), it is irrelevant whether or not a salary is paid or payable to that person under the Ministerial and other Salaries Act 1975.
- (5) In this section references to the provision of transport to a person include references to—
  - (a) the provision or making available to that person of a vehicle with or without a driver,
  - (b) the provision of fuel for a vehicle provided or made available to that person, and
  - (c) the provision of any other benefit in connection with such a vehicle.
- (6) In this section—
  - (a) “subsistence” includes food and drink and temporary living accommodation, and
  - (b) “vehicle” means a mechanically propelled road vehicle.

### *Armed forces*

## **296 Armed forces' leave travel facilities**

- (1) No liability to income tax arises in respect of—
  - (a) the provision of travel facilities for a member of the armed forces of the Crown going on or returning from leave, or
  - (b) a payment made in respect of such travel.



*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

(2) In subsection (1) “travel facilities” does not include a vehicle.

### **297 Armed forces' food, drink and mess allowances**

- (1) No liability to income tax arises in respect of allowances if—
- (a) they are payable out of the public revenue to any description of members of the armed forces of the Crown, and
  - (b) the Treasury certifies that they are payable to them instead of food or drink normally supplied to members of the armed forces.
- (2) No liability to income tax arises in respect of allowances if—
- (a) they are payable out of the public revenue in respect of any description of members of the armed forces of the Crown, and
  - (b) the Treasury certifies that they are so payable as a contribution to the expenses of a mess.

### **298 Reserve and auxiliary forces' training allowances**

No liability to income tax arises in respect of the following sums if they are payable out of the public revenue to members of the reserve and auxiliary forces of the Crown—

- (a) training expenses allowances, and
- (b) bounties payable in consideration of the members undertaking certain training and attaining a particular standard of efficiency.

*Crown employees*

### **299 Crown employees' foreign service allowances**

- (1) No liability to income tax arises in respect of an allowance paid to a person in employment under the Crown if it is certified to represent compensation for the extra cost of being obliged to live outside the United Kingdom in order to perform the duties of the employment.
- (2) A certificate under subsection (1) may only be given by—
- (a) the Treasury,
  - (b) the Secretary of State,
  - (c) the Lord Chancellor,
  - (d) the Chancellor of the Exchequer,
  - (e) the Minister for the Civil Service,
  - (f) the Lord President of the Council,
  - (g) the Lord Privy Seal, or
  - (h) the Attorney General.

*Consuls, foreign agents etc.*

### **300 Consuls**

- (1) No liability to income tax arises in respect of income arising from the office of a consul in the United Kingdom in the service of a foreign state.

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (2) Such income is also to be disregarded in estimating the amount of income for any income tax purposes.
- (3) In this section “consul” means a person recognised by Her Majesty as being a consul-general, consul, vice-consul or consular agent.

### **301 Official agents**

- (1) No liability to income tax arises in respect of income arising from employment as an official agent in the United Kingdom for a foreign state if conditions A and B are met.
- (2) Condition A is that the employee is neither—
  - (a) a Commonwealth citizen, nor
  - (b) a citizen of the Republic of Ireland.
- (3) Condition B is that the functions of the employment are not exercised in connection with a trade, business or other undertaking carried on for the purposes of profit.
- (4) Such income is also to be disregarded in estimating the amount of income for any income tax purposes.
- (5) In this section “official agent” means a person who is not a consul (as defined in section 300) but is employed on the staff of—
  - (a) a consulate, or
  - (b) an official department or agency of a foreign state.
- (6) Subsection (5)(b) does not apply to a department or agency which carries on a trade, business or other undertaking for the purposes of profit.

### **302 Consular employees**

- (1) No liability to income tax arises in respect of income arising from employment in the United Kingdom as a consular employee for a foreign state if—
  - (a) Her Majesty by Order in Council directs that this section applies to the foreign state for the purpose of giving effect to a reciprocal arrangement with that state, and
  - (b) condition A or B is met.
- (2) Condition A is that the employee is a national of the foreign state.
- (3) Condition B is that the employee is not a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen.
- (4) In this section—
 

“consular employee” includes any person employed for the purposes of the official business of a consular officer at—

  - (a) any consulate,
  - (b) any consular establishment, or
  - (c) any other premises used for those purposes, and

“reciprocal arrangement” means a consular convention or other arrangement with a foreign state, making similar provision to that made by this section [F23, sections 646A and 681A of this Act and section 771 of ITTOIA 2005

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (relevant foreign income of consular officers and employees)] in the case of Her Majesty's consular officers or employees in that state.
- (5) An Order in Council under subsection (1) may limit the operation of this section in relation to a state in any way appearing to Her Majesty necessary or expedient having regard to the arrangement with the state.
- (6) Such an Order—
- (a) may be made so as to have effect from a date earlier than that on which it is made, but not earlier than the arrangement in question comes into force, and
  - (b) may contain such transitional provisions as appear to Her Majesty necessary or expedient.
- (7) A statutory instrument containing such an Order is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) This section does not affect section 301 (official agents).

#### Textual Amendments

**F23** Words in s. 302(4) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 591](#) (with [Sch. 2](#))

### *Visiting forces and staff of designated allied headquarters*

#### **303 Visiting forces and staff of designated allied headquarters**

- (1) No liability to income tax arises in respect of earnings if—
- (a) they are paid by the government of a designated country to a member of a visiting force of that country or of a civilian component of such a force, and
  - (b) that person is not a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen.
- (2) For the purposes of subsection (1)—
- (a) members of the armed forces of a designated country who are attached to a designated allied headquarters are treated as a visiting force of that country, and
  - (b) whether a person is a member of a civilian component of such a force is to be determined accordingly.
- (3) No liability to income tax arises in respect of earnings if they are paid by a designated allied headquarters to an employee of a category for the time being agreed between Her Majesty's government in the United Kingdom and the other members of the North Atlantic Council.
- (4) But where the employee is a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, subsection (3) only applies if it is necessary for it to do so to give effect to an agreement between parties to the North Atlantic Treaty.
- (5) Subsections (1) and (2) are to be interpreted as if—
- (a) they were in Part 1 of the Visiting Forces Act 1952 (c. 67), and

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (b) references in that Act to a country to which a provision of that Act applies were references to a designated country.
- (6) In this section—
- “allied headquarters” means an international military headquarters established under the North Atlantic Treaty, and
- “designated” means designated for the purpose in question by or under an Order in Council made for giving effect to an international agreement.

*Detached national experts*

**304 Experts seconded to European Commission**

- (1) No liability to income tax arises in respect of daily subsistence allowances paid by the European Commission to persons whose services are made available to the Commission by their employers under the detached national experts scheme.
- (2) “The detached national experts scheme” means—
- (a) the scheme relating to national experts seconded to the European Commission which was established by the Commission on 26th July 1988, as it has effect for the time being, or
- (b) any scheme having effect for the time being which replaces that scheme.

*Offshore oil and gas workers*

**305 Offshore oil and gas workers: mainland transfers**

- (1) No liability to income tax arises in respect of—
- (a) the provision for an employee who has a permanent workplace at an offshore installation of—
- (i) transfer transport,
- (ii) related accommodation and subsistence, or
- (iii) local transport, or
- (b) the payment or reimbursement of reasonable expenses incurred by such an employee on such transport or accommodation and subsistence.
- (2) Subsection (1)(a)(ii) only applies if the related accommodation and subsistence is provided at reasonable cost.
- (3) In this section “transfer transport” means transport by sea or air between the mainland of Great Britain or Northern Ireland and the offshore installation, which meets conditions A and B.
- (4) Condition A is that the place of arrival or departure on the mainland is one to or from which transport between the mainland and the offshore installation is provided for employees generally.
- (5) Condition B is that the cost of the transport would not be deductible under Part 5 if the employee incurred and paid it.
- (6) In this section—

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

“related accommodation and subsistence” means overnight accommodation and subsistence in the vicinity of the place of departure or arrival on the mainland, which is necessary because of the time at which transfer transport is to be taken,

“local transport” means transport between a place where the employee is provided with related accommodation and subsistence and the place of departure or arrival on the mainland,

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“workplace” and “permanent workplace” have the meaning given by section 339.

#### Textual Amendments

- F24** Words in s. 305(6) repealed (with effect in accordance with Sch. 27 para. 16 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 27 para. 13](#), [Sch. 42 Pt. 2\(19\)](#)

*Miners etc.*

### 306 Miners etc: coal and allowances in lieu of coal

- (1) No liability to income tax arises in respect of the provision of coal or smokeless fuel or an allowance paid in lieu of such provision if the employee is a colliery worker and the condition in subsection (2) is met.
- (2) That condition is that the amount of coal or fuel provided or in respect of which the allowance is paid does not substantially exceed the amount reasonably required for personal use.
- (3) That condition is assumed to be met unless the contrary is shown.
- (4) In this section “colliery worker” means a coal miner or any other person employed at or about a colliery otherwise than in clerical, administrative or technical work.

## CHAPTER 9

### EXEMPTIONS: PENSION PROVISION

### 307 Death or retirement benefit provision

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of provision made by an employee’s employer for a retirement or death benefit.
- (2) In subsection (1) “retirement or death benefit” means a pension, annuity, lump sum, gratuity or other similar benefit which will be paid or given to the employee or a member of the employee’s family or household in the event of the employee’s retirement or death.

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

### **308 Exemption of contributions to approved personal pension arrangements**

- (1) No liability to income tax arises in respect of earnings where an employer makes contributions under approved personal pension arrangements made by an employee.
- (2) In this section “approved” and “personal pension arrangements” have the meaning given by section 630(1) of ICTA.

## **CHAPTER 10**

### EXEMPTIONS: TERMINATION OF EMPLOYMENT

#### *Redundancy payments*

### **309 Limited exemptions for statutory redundancy payments**

- (1) No liability to income tax in respect of earnings arises by virtue of a redundancy payment or an approved contractual payment, except where subsection (2) applies.
- (2) Where an approved contractual payment exceeds the amount which would have been due if a redundancy payment had been payable, the excess is liable to income tax.
- (3) No liability to income tax in respect of employment income other than earnings arises by virtue of a redundancy payment or an approved contractual payment, except where it does so by virtue of Chapter 3 of Part 6 (payments and benefits on termination of employment etc.).
- (4) For the purposes of this section—
  - (a) a statutory payment in respect of a redundancy payment is to be treated as paid on account of the redundancy payment, and
  - (b) a statutory payment in respect of an approved contractual payment is to be treated as paid on account of the approved contractual payment.
- (5) In this section—
 

“approved contractual payment” means a payment to a person on the termination of the person’s employment under an agreement in respect of which an order is in force under section 157 of ERA 1996 or Article 192 of ER(NI)O 1996,

“redundancy payment” means a redundancy payment under Part 11 of ERA 1996 or Part 12 of ER(NI)O 1996, and

“statutory payment” means a payment under section 167(1) of ERA 1996 or Article 202(1) of ER(NI)O 1996.
- (6) In subsection (5) “employment”, in relation to a person, has the meaning given in section 230(5) of ERA 1996 or Article 3(5) of ER(NI)O 1996.

#### *Outplacement benefits*

### **310 Counselling and other outplacement services**

- (1) No liability to income tax arises in respect of—

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (a) the provision of services to a person in connection with the cessation of the person's employment, or
  - (b) the payment or reimbursement of—
    - (i) fees for such provision, or
    - (ii) travelling expenses incurred in connection with such provision,if conditions A to D and, in the case of travel expenses, condition E are met.
- (2) Condition A is that the only or main purpose of the provision of the services is to enable the person to do either or both of the following—
- (a) to adjust to the cessation of the employment, or
  - (b) to find other gainful employment (including self-employment).
- (3) Condition B is that the services consist wholly of any or all of the following—
- (a) giving advice and guidance,
  - (b) imparting or improving skills,
  - (c) providing or making available the use of office equipment or similar facilities.
- (4) Condition C is that the person has been employed <sup>F25</sup>... in the employment which is ceasing throughout the period of 2 years ending—
- (a) at the time when the services begin to be provided, or
  - (b) if earlier, at the time when the employment ceases.
- (5) Condition D is that the opportunity to receive the services, on similar terms as to payment or reimbursement of any expenses incurred in connection with their provision, is available—
- (a) generally to employees or former employees of the person's employer in that employment, or
  - (b) to a particular class or classes of them.
- (6) Condition E is that the travel expenses are expenses—
- (a) in respect of which, on the assumptions in subsection (7), mileage allowance relief under Chapter 2 of this Part would be available if no mileage allowance payments had been made, or
  - (b) which, on those assumptions, would be deductible under Part 5.
- (7) The assumptions are—
- (a) that receiving the services is one of the duties of the employee's employment,
  - (b) that the employee incurs and pays the expenses, and
  - (c) if the employment has in fact ceased, that it continues.
- (8) In this section "mileage allowance payments" has the meaning given by section 229(2).

#### Textual Amendments

**F25** Word in s. 310(4) repealed (with effect in accordance with s. 18(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 18\(2\), Sch. 11 Pt. 2\(1\)](#)

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

### 311 Retraining courses

- (1) No liability to income tax arises in respect of the payment or reimbursement of retraining course expenses by a person (“the employer”) if the course conditions, the employment conditions and, in the case of travel expenses, the conditions in subsection (5) are met.
- (2) In subsection (1) “retraining course expenses” means—
  - (a) fees for the attendance of another person (“the employee”) at a training course,
  - (b) travelling expenses incurred in connection with it,
  - (c) fees for an examination taken during or at the end of it, or
  - (d) the cost of any books which are essential for a person attending it.
- (3) The course conditions are that—
  - (a) the course provides training designed to impart or improve skills or knowledge relevant to, and intended to be used in the course of, gainful employment (including self-employment) of any description,
  - (b) it is entirely devoted to the teaching or practical application (or both) of the skills or knowledge, <sup>F26</sup>and]
  - (c) it lasts no more than <sup>F27</sup>two years]. <sup>F28</sup>...
  - (d) .....
- (4) The employment conditions are that—
  - (a) the employee begins the course while employed by the employer or within the period of one year after the employment ceases,
  - (b) the employee ceases to be employed by the employer before the end of the period of 2 years beginning at the end of the course and is not re-employed by the employer within the period of 2 years after so ceasing,
  - (c) the employee is employed <sup>F29</sup>... in the employment which is ceasing throughout the period of 2 years ending—
    - (i) when the employee begins the course, or
    - (ii) if earlier, when the employment ceases, and
  - (d) the opportunity to undertake the course, on similar terms as to payment or reimbursement of amounts within subsection (1), is available—
    - (i) generally to the employee’s fellow employees or former fellow employees in that employment, or
    - (ii) to a particular class or classes of them.
- (5) The travel expenses must be—
  - (a) expenses in respect of which, on the assumptions in subsection (6), mileage allowance relief under Chapter 2 of this Part would be available if no mileage allowance payments had been made, or
  - (b) expenses which, on those assumptions, would be deductible under Part 5.
- (6) The assumptions are—
  - (a) that attendance at the course is one of the duties of the employee’s employment,
  - (b) that the employee incurs and pays the expenses, and
  - (c) if the employee has in fact ceased to be employed by the employer, that the employee continues to be employed by the employer.



*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (7) In this section “mileage allowance payments” has the meaning given by section 229(2).

#### Textual Amendments

- F26** Word in s. 311(3)(b) inserted (with effect in accordance with s. 18(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 18\(3\)\(a\)](#)
- F27** Words in s. 311(3)(c) substituted (with effect in accordance with s. 18(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 18\(3\)\(b\)](#)
- F28** S. 311(3)(d) repealed (with effect in accordance with s. 18(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 18\(3\)\(c\), Sch. 11 Pt. 2\(1\)](#)
- F29** Word in s. 311(4)(c) repealed (with effect in accordance with s. 18(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 18\(4\), Sch. 11 Pt. 2\(1\)](#)

## 312 Recovery of tax

- (1) This section applies if—
- a person’s liability to tax for a tax year has been determined on the assumption that section 311(1) applies, and
  - subsequently—
    - the condition in section 311(4)(a) is not met because of the person’s failure to begin the course within the period of one year after ceasing to be employed, or
    - the condition in section 311(4)(b) is not met because of the person’s continued employment or re-employment.
- (2) An assessment of an amount or further amount of tax due as a result of the condition not being met may be made under section 29(1) of TMA 1970.
- (3) Such an assessment must be made before the end of the period of 6 years immediately following the end of the tax year in which subsection (1) first applies.
- (4) If subsection (1)(b)(i) or (ii) applies, the person’s employer or former employer must give [<sup>F17</sup>an officer of Revenue and Customs] a notice containing particulars of the person’s failure to begin the course or continued employment or re-employment within 60 days of coming to know of it.
- (5) If [<sup>F17</sup>an officer of Revenue and Customs][<sup>F30</sup>has] reason to believe that a person has failed to give such a notice, [<sup>F31</sup>the officer] may by notice require the person to provide such information as [<sup>F31</sup>the officer] may reasonably require for the purposes of this section about—
- the failure to begin the course,
  - the continued employment, or
  - the re-employment.
- (6) A notice under subsection (5) may specify a time (not less than 60 days) within which the required information must be provided.

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

### Textual Amendments

- F17** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F30** Word in s. 312(5) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 111](#); S.I. 2005/1126, art. 2(2)(h)
- F31** Words in s. 312(5) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 103\(1\)\(f\)](#); S.I. 2005/1126, art. 2(2)(h)

## CHAPTER 11

### MISCELLANEOUS EXEMPTIONS

#### *Living accommodation*

#### **313 Repairs and alterations to living accommodation**

- (1) This section applies where living accommodation is provided by reason of a person's employment.
- (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) alterations and additions to the premises which are of a structural nature, or
  - (b) landlord's repairs to the premises.
- (3) In this section "landlord's repairs" means repairs of a kind which are the obligation of the lessor under the covenants implied by section 11(1) of the Landlord and Tenant Act 1985 (c. 70) (lessor's repairing obligations in short leases) where premises are let under a lease to which that section applies.

#### **314 Council tax etc. paid for certain living accommodation**

- (1) This section applies if living accommodation provided for an employee falls within the exception in one of the following provisions—
  - section 99(1) (accommodation necessary for proper performance of duties),
  - section 99(2) (accommodation provided for better performance of duties), or
  - section 100 (accommodation provided as a result of security threat).
- (2) No liability to income tax arises by virtue of—
  - (a) any payment to, for or on behalf of the employee, or
  - (b) any reimbursement of any payment by the employee,
 in respect of council tax or rates, or water or sewerage charges, in respect of the accommodation.

#### **315 Limited exemption for expenses connected with certain living accommodation**

- (1) This section applies if—
  - (a) living accommodation is provided for an employee in a tax year, and
  - (b) conditions A and B are met.

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*Status: Point in time view as at 18/04/2005.*

**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)

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- (2) Condition A is that the accommodation falls within the exception in one of the following provisions—
- section 99(1) (accommodation necessary for proper performance of duties),
  - section 99(2) (accommodation provided for better performance of duties), or
  - section 100 (accommodation provided as a result of security threat).
- (3) Condition B is that there is an amount of earnings from the employment in the tax year by virtue of expenditure, or the reimbursement to the employee of expenditure, on—
- (a) heating, lighting or cleaning the premises,
  - (b) repairs to the premises, their maintenance or decoration, or
  - (c) the provision in the premises of furniture, equipment or other items which are normal for domestic occupation.
- (4) If this section applies, no liability to income tax arises in respect of the earnings mentioned in subsection (3) to the extent that they exceed—

$$\left(10\% \times NE \times \frac{DA}{DE}\right) - SMG$$

where—

DA is the number of reckonable days in the tax year (a “reckonable day” being a day on which—

- (a) the accommodation is provided, and
- (b) the employment is held by the employee),

DE is—

- (a) the number of days in that year, or
- (b) if the employment is held for only part of that year, the number of days in that part,

NE is the net amount of the earnings from the employment in the tax year (see subsection (5)),

SMG is, where the expenses are incurred by a person other than the employee, so much of any sum made good by the employee to that other person as is properly attributable to the expenses.

- (5) To calculate the net amount of the earnings from the employment—

*Step 1*

Take the earnings from the employment, leaving out of account the expenses in question.

*Step 2*

Add, in the case of employment by a company, the earnings from any employment by an associated company.

A company is “associated” with another for this purpose if one has control of the other or both are under the control of the same person.

*Step 3*

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

Deduct any deductions allowable under—

- (a) section 232 (giving effect to mileage allowance relief) or Part 5 of this Act,
- (b) section 592(7), 594 or 619(1)(a) of ICTA, or
- (c) section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions from earnings).

*Work accommodation, supplies etc.*

### **316 Accommodation, supplies and services used in employment duties**

- (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 accommodation, supplies or services used by the employee in performing duties of the employment if conditions A and B are met.
- (2) Condition A is that any use of the accommodation, supplies or services for private purposes by the employee or members of the employee's family or household is not significant.
- (3) For this purpose, use "for private purposes" means—
  - (a) use that is not use in performing the duties of the employee's employment, and
  - (b) use that is at the same time both use in performing the duties of an employee's employment and other use.
- (4) Condition B is that where the provision is otherwise than on premises occupied by the person making it—
  - (a) its sole purpose is to enable the employee to perform the duties of the employee's employment, and
  - (b) what is provided is not an excluded benefit.
- (5) The following are excluded benefits unless regulations under subsection (6) provide otherwise—
  - (a) a motor vehicle, boat or aircraft, and
  - (b) a benefit that involves—
    - (i) the extension, conversion or alteration of living accommodation, or
    - (ii) the construction, extension, conversion or alteration of a building or other structure on land adjacent to and enjoyed with such accommodation.
- (6) The Treasury may make provision by regulations as to what is an excluded benefit for the purposes of subsection (4)(b).
- (7) The regulations may provide that a benefit is an excluded benefit only if such conditions as may be prescribed are met as to the terms on which, and persons to whom, it is provided.

### **[<sup>F32</sup>316A] Homeworker's additional household expenses**

- (1) This section applies where an employer makes a payment to an employee in respect of reasonable additional household expenses which the employee incurs in carrying out duties of the employment at home under homeworking arrangements.

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (2) No liability to income tax arises in respect of the payment.
- (3) In this section, in relation to an employee—
- “homeworking arrangements” means arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home; and
- “household expenses” means expenses connected with the day to day running of the employee’s home.]

#### Textual Amendments

- F32** S. 316A inserted (with effect in accordance with s. 137(2) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 137\(1\)](#)

### *Workplace meals*

#### **317 Subsidised meals**

- [<sup>F33</sup>(1) No liability to income tax arises in respect of the provision for an employee by the employer of free or subsidised meals if they are provided—
- (a) in a canteen, or
- (b) on the employer’s business premises,
- and conditions A to C are met.]
- (2) Condition A is that the meals are provided on a reasonable scale.
- (3) Condition B is that all the employer’s employees or all of them at a particular location may obtain one or both of the following—
- (a) a free or subsidised meal, or
- (b) a free or subsidised meal voucher or token.
- (4) Condition C is that if the meals are provided in the restaurant or dining room of a hotel or a catering or similar business at a time when meals are being served to the public—
- (a) part of the restaurant or dining room is designated for the use of employees only, and
- (b) the meals are taken in that part.
- (5) In this section “free or subsidised meal voucher or token” means a voucher, ticket, pass or other document or token which—
- (a) is intended to enable a person to obtain a meal, and
- (b) is provided to the employee free of charge or for less than the cost of the meals to be obtained by it.
- (6) In this section “meals” includes light refreshments.

#### Textual Amendments

- F33** S. 317(1) substituted (with effect in accordance with Sch. 17 para. 1(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 17 para. 1\(1\)](#)

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

## *Childcare*

### **[<sup>F34</sup>318 Childcare: exemption for employer-provided care**

- (1) [<sup>F35</sup>No liability to income tax arises] in respect of the provision for an employee of care for a child if conditions A to D are met.

For the meaning of “care” and “child”, see section 318B.

- (2) If those conditions are met only as respects part of the provision, no such liability arises in respect of that part.
- (3) Condition A is that the child—
- (a) is a child or stepchild of the employee and is maintained (wholly or partly) at the employee’s expense,
  - (b) is resident with the employee, or
  - (c) is a person in respect of whom the employee has parental responsibility.

For the meaning of “parental responsibility”, see section 318B.

- (4) Condition B is that—
- (a) the premises on which the care is provided are not used wholly or mainly as a private dwelling, and
  - (b) any applicable registration requirement is met.
- (5) The registration requirements are—
- (a) in England and Wales, that under Part 10A of the Children Act 1989;
  - (b) in Scotland, that under Part 1 or 2 of the Regulation of Care (Scotland) Act 2001;
  - (c) in Northern Ireland, that under Part XI of the Children (Northern Ireland) Order 1995.

- (6) Condition C is that—
- (a) the premises on which the care is provided are made available by the scheme employer alone, or
  - (b) the partnership requirements are met.

In this section “scheme employer” means the employer operating the scheme under which the care is provided (who need not be the employer of the employee).

- (7) The partnership requirements are—
- (a) that the care is provided under arrangements made by persons who include the scheme employer,
  - (b) that the premises on which it is provided are made available by one or more of those persons, and
  - (c) that under the arrangements the scheme employer is wholly or partly responsible for financing and managing the provision of the care.
- (8) Condition D is that the care is provided under a scheme that is open—
- (a) to the scheme employer’s employees generally, or
  - (b) generally to those of the scheme employer’s employees at a particular location,

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and that the employee to whom it is provided is either an employee of the scheme employer or is an employee working at the same location as employees of the scheme employer to whom the scheme is open.]

#### Textual Amendments

- F34** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F35** Words in s. 318(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 16\(5\)](#)

### [<sup>F34</sup>318A Childcare: limited exemption for other care

- (1) If conditions A to C are met in relation to the provision for an employee of care for a [<sup>F36</sup>child—
- no liability to income tax arises by virtue of section 62 (general definition of earnings), and
  - liability to income tax by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) arises only in respect of so much of the cash equivalent of the benefit as exceeds the exempt amount.]

For the meaning of “care” and “child”, see section 318B.

- (2) If those conditions are met only as respects part of the provision, subsection (1) applies in respect of that part.
- (3) Condition A is that the child—
- is a child or stepchild of the employee and is maintained (wholly or partly) at the employee’s expense, or
  - is resident with the employee and is a person in respect of whom the employee has parental responsibility.

For the meaning of “parental responsibility”, see section 318B.

- (4) Condition B is that the care is qualifying child care.

For the meaning of “qualifying child care”, see section 318C.

- (5) Condition C is that the care is provided under a scheme that is open—
- to the employer’s employees generally, or
  - generally to those at a particular location.
- (6) For the purposes of this section the “exempt amount”, in any tax year, is £50 for each qualifying week in that year.
- (7) A “qualifying week” means a tax week in which care is provided for a child in circumstances in which conditions A to C are met.

A “tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day after that (so that the last day of a tax year or, in the case of a tax year ending in a leap year, the last two days is treated as a separate week).

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (8) An employee is only entitled to one exempt amount even if care is provided for more than one child.

But it does not matter that another person may also be entitled to an exempt amount in respect of the same child.

- (9) An employee is not entitled to an exempt amount under this section and under section 270A (limited exemption for childcare vouchers) in respect of the same tax week.]

#### Textual Amendments

**F34** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)

**F36** Words in s. 318A(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 16\(6\)](#)

#### [<sup>F34</sup> **318B** Childcare: meaning of “care”, “child” and “parental responsibility”

- (1) For the purposes of sections 318 and 318A (exemptions for employer-provided or employer-contracted childcare) “care” means any form of care or supervised activity that is not provided in the course of the child’s compulsory education.
- (2) For the purposes of those sections a person is a “child” until the last day of the week in which falls the 1st September following the child’s fifteenth birthday (or sixteenth birthday if the child is disabled).
- (3) For the purposes of subsection (2) a child is disabled if—
- (a) a disability living allowance is payable in respect of him, or has ceased to be payable solely because he is a patient,
  - (b) he—
    - (i) is registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services),
    - (ii) has been certified as blind in Scotland and in consequence is registered as blind in a register maintained by or on behalf of a local authority in Scotland, or
    - (iii) has been certified as blind in Northern Ireland and in consequence is registered as blind in a register maintained by or on behalf of a Health and Social Services Board, or
  - (c) he ceased to be so registered as blind within the previous 28 weeks.
- (4) In subsection (3)(a) “patient” means a person (other than a person who is serving a sentence imposed by a court in a prison or youth custody institution or, in Scotland, a young offenders' institution) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975 or the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975.
- (5) For the purposes of sections 318 and 318A “parental responsibility” means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child’s property.
- (6) In this section and section 318C “local authority” means—



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- (a) in relation to England, the council of a county or district, a metropolitan district, a London Borough, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, the council of a county or county borough;
- (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.]

#### Textual Amendments

**F34** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 13 para. 1**

#### [<sup>F34</sup>318C Childcare: meaning of “qualifying child care”

- (1) For the purposes of section 318A “qualifying child care” means registered or approved care within any of subsections (2) to (6) below that is not excluded by subsection (7) below.
- (2) Care provided for a child in England is registered or approved care if it is provided—
  - (a) by a person registered under Part 10A of the Children Act 1989,
  - (b) by a school or establishment that does not need to be registered under that Part to provide the care because of an exemption under paragraph 1 or 2 of Schedule 9A to that Act,
  - (c) in the case of care provided for a child out of school hours between the child’s 8th birthday and the last day on which he is treated as being a child, by a school on school premises or by a local authority, or
  - (d) by a child care provider approved by an organisation accredited under the Tax Credit (New Category of Child Care Provider) Regulations 1999,
  - <sup>F37</sup>(e) . . . . .
    - [ by a child care provider approved in accordance with the Tax Credits <sup>F38</sup>(ea) (Approval of Child Care Providers) Scheme 2005, or]
    - (f) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002.
- (3) Care provided for a child in Wales is registered or approved care if it is provided—
  - (a) by a person registered under Part 10A of the Children Act 1989,
  - (b) by a school or establishment that does not need to be registered under that Part to provide the care because of an exemption under paragraph 1 or 2 of Schedule 9A to that Act,
  - (c) in the case of care provided for a child out of school hours between the child’s 8th birthday and the last day on which he is treated as being a child, by a school on school premises or by a local authority, or
  - (d) by a child care provider approved by an organisation accredited under the Tax Credit (New Category of Child Care Provider) Regulations 1999 [<sup>F39</sup> or
  - (e) by a domiciliary care worker under the Domiciliary Care Agencies (Wales) Regulations 2004,]
- (4) Care provided for a child in Scotland is registered or approved care if it is provided—
  - (a) by a person in circumstances where the care service provided by him—

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (i) consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001, and
- (ii) is registered under Part 1 of that Act, or
- (b) by a local authority in circumstances where the care service provided by the local authority—
  - (i) consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001, and
  - (ii) is registered under Part 2 of that Act.
- (5) Care provided for a child in Northern Ireland is registered or approved care if it is provided—
  - (a) by a person registered under Part XI of the Children (Northern Ireland) Order 1995, or
  - (b) by an institution or establishment that does not need to be registered under that Part to provide the care because of an exemption under Article 121 of that Order, or
  - (c) in the case of care provided for a child out of school hours between the child’s 12th birthday and the last day on which he is treated as being a child, by a school on school premises or by an education and library board or an HSS trust.
- (6) Care provided for a child outside the United Kingdom is registered or approved child care if it is provided by a child care provider approved by an organisation accredited under the Tax Credit (New Category of Child Care Provider) Regulations 2002.
- (7) Child care is excluded from section 318A—
  - (a) if it is provided by the partner of the employee in question, or
  - (b) if it is provided by a relative of the child wholly or mainly in the child’s home or (if different) the home of a person having parental responsibility for the child<sup>[F40]</sup>, or
  - (c) in the case of care falling within subsection (2)(ea), if—
    - (i) it is provided wholly or mainly in the home of a relative of the child, and
    - (ii) the provider usually provides care there solely in respect of one or more children to whom the provider is a relative.]
- (8) In subsection (7)—
  - “partner” means one of a married or unmarried couple; and
  - “relative” means parent, grandparent, aunt, uncle, brother or sister, whether by blood, half blood or marriage.]
- <sup>[F41]</sup>(9) In subsection (7)(c), “relative in relation to a child, also includes—
  - (a) a local authority foster parent in relation to the child,
  - (b) a foster parent with whom the child has been placed by a voluntary organisation,
  - (c) a person who fosters the child privately (within the meaning of section 66 of the Children Act 1989, or
  - (d) a step-parent of the child.]

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

### Textual Amendments

- F34** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F37** S. 318C(2)(e) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [3\(a\)](#)
- F38** S. 318C(2)(ea) inserted (6.4.2005) by [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [3\(b\)](#)
- F39** S. 318C(3)(e) and preceding word added (6.4.2005) by [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [4](#)
- F40** S. 318C(7)(c) and preceding word added (6.4.2005) by [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [5](#)
- F41** S. 318C(9) inserted (6.4.2005) by [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [6](#)

### [<sup>F34</sup>318D] Childcare: power to vary exempt amount and qualifying conditions

- (1) The Treasury may by order amend section 318A(6) (employer-contracted care: the exempt amount) so as to substitute a different sum of money for that for the time being specified.
- (2) The Treasury may by regulations make such amendments of the provisions of sections 318 to 318C relating to the qualifying conditions for the exemptions conferred by sections 318 and 318A as appear to them appropriate having regard to the corresponding provisions of regulations under section 12 of the Tax Credits Act 2002 relating to entitlement to the child care element of working tax credit.]

### Textual Amendments

- F34** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)

### *Telephones and computer equipment*

#### **319 Mobile telephones**

- (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 or a member of the employee's family or household of a mobile telephone without any transfer of property in it.
- (2) In this section "mobile telephone" means telephone apparatus which—
  - (a) is not physically connected to a land-line, and
  - (b) is not a cordless telephone or a telepoint telephone.
- (3) For the purposes of subsection (2)—
 

"cordless telephone" means telephone apparatus designed or adapted to provide a wireless extension to a telephone and used only as such an extension to a telephone which is physically connected to a land-line,

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

“telephone apparatus” means wireless telegraphy apparatus designed or adapted for the purpose of transmitting and receiving spoken messages and [F42 used in connection with a public electronic communications service], and  
 “telepoint telephone” means telephone apparatus used for the purpose of a short-range radio communications service at frequencies between 864 and 868 megahertz (inclusive).

#### Textual Amendments

**F42** Words in s. 319(3) substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 175\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

### 320 Limited exemption for computer equipment

- [F43(1) If conditions A and B are met in respect of the provision of computer equipment—
- (a) no liability to income tax arises by virtue of section 62 (general definition of earnings), and
  - (b) liability to income tax by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) arises only in respect of so much of the aggregate cash equivalent of the benefit in the tax year as exceeds £500.]
- (2) Condition A is that the equipment is made available to the employee or to a member of the employee’s family or household without any transfer of property in it.
- (3) Condition B is that the arrangements under which computer equipment is made available to employees of the employer, or to members of their families or households, do not favour directors (see subsection (6)).
- F44(4) .....
- F45(5) .....
- (6) The arrangements referred to in condition B are only taken to favour directors if—
- (a) the only such arrangements are arrangements under which the employee is required to be a director of a company, or
  - (b) taking all such arrangements together, the terms on which the equipment is made available are more favourable in some or all cases where the employee is a director than in one or more cases where the employee is not.
- (7) In this section—
- (a) “computer equipment” includes printers, scanners, modems, discs and other peripheral devices designed to be used by being connected to or inserted in a computer,
  - (b) “director” has the meaning given by section 67(1),
  - (c) references to making computer equipment available—
    - (i) include references to the provision, together with any computer equipment made available, of a right to use computer software, but
    - (ii) do not include references to the provision of access to, or the use of, [F46 a public electronic communications service.]
  - F47(d) .....

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

### Textual Amendments

- F43** S. 320(1) substituted (with effect in accordance with s. 79(4) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 79\(2\)](#)
- F44** S. 320(4) repealed (with effect in accordance with s. 79(4) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 79\(3\), Sch. 42 Pt. 2\(8\)](#)
- F45** S. 320(5) repealed (with effect in accordance with s. 79(4) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 79\(3\), Sch. 42 Pt. 2\(8\)](#)
- F46** Words in s. 320(7)(c)(ii) substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 175\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))
- F47** S. 320(7)(d) repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

## *Awards and gifts*

### **321 Suggestion awards**

- (1) This section applies where an employer establishes a scheme for the making of suggestions that is open on the same terms—
  - (a) to employees of the employer generally, or
  - (b) to a particular description of them.
- (2) No liability to income tax arises in respect of an encouragement award or financial benefit award made under the scheme for a suggestion which meets conditions A to C if, or to the extent that, it does not exceed the permitted maximum for the award under section 322.
- (3) Condition A is that the suggestion relates to the activities carried on by the employer.
- (4) Condition B is that the suggestion is made by an employee who could not reasonably be expected to make it in the course of the duties of the employment, having regard to the employee's experience.
- (5) Condition C is that the suggestion is not made at a meeting held for the purpose of proposing suggestions.
- (6) In this section and section 322—
  - “encouragement award” means an award, other than a financial benefit award, made for a suggestion with intrinsic merit or showing special effort, and
  - “financial benefit award” means an award for a suggestion relating to an improvement in efficiency or effectiveness which the employer has decided to adopt and reasonably expects will result in a financial benefit.

### **322 Suggestion awards: “the permitted maximum”**

- (1) The permitted maximum for an encouragement award for the purposes of section 321 (suggestion awards) is £25.

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

- (2) The permitted maximum for a financial benefit award where no such award for the suggestion has been made before is—
- (a) if only one such award is made for the suggestion, the suggestion maximum, and
  - (b) if two or more such awards are made on the same occasion to different persons for the suggestion, the appropriate proportion of the suggestion maximum.
- (3) If on a later occasion or occasions one or more further such awards are made for the same suggestion, the permitted maximum for each is—
- (a) if only one such award is made for the suggestion on that occasion, the residue of the suggestion maximum, and
  - (b) if two or more such awards are made on the same occasion to different persons for the suggestion, the appropriate proportion of that residue.
- (4) The suggestion maximum for a financial benefit award is the financial benefit share or £5000 if that is less.
- (5) In subsection (4) “the financial benefit share” means the greater of—
- (a) half the financial benefit reasonably expected to result from the adoption of the suggestion for the first year after its adoption, and
  - (b) one-tenth of the financial benefit reasonably expected to result from its adoption for the first 5 years after its adoption.
- (6) In this section—
- “the appropriate proportion” means such proportion as the award bears to the total of the financial benefit awards made on the same occasion for the suggestion,
- “the residue of the suggestion maximum” means the suggestion maximum less the total previous exemption, and
- “the total previous exemption” means the total of the amounts exempted from income tax under section 321 in respect of financial benefit awards for the suggestion made on previous occasions.

### **323 Long service awards**

- (1) No liability to income tax arises in respect of a long service award which meets the condition in subsection (3) if or to the extent that the chargeable amount does not exceed the permitted maximum.
- (2) In subsection (1)—
- “chargeable amount” means the amount of employment income which would be charged to tax in respect of the award apart from subsection (1),
- “long service award” means an award made to an employee to mark not less than 20 years' service with the same employer, and
- “permitted maximum” means [<sup>F48</sup>£50] for each year of service in respect of which the award is made.
- (3) The condition is that the award must take the form of—
- (a) tangible moveable property,
  - (b) shares in a company which is, or belongs to the same group as, the employer, or

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- (c) the provision of any other benefit except—
- (i) a payment,
  - (ii) a cash voucher,
  - (iii) a credit-token,
  - (iv) securities,
  - (v) shares not within paragraph (b), or
  - (vi) an interest in or rights over securities or shares.
- (4) Subsection (1) does not apply to an award (“the later award”) if another award to mark a particular period of service with the same employer has been made to the employee in the period of 10 years ending with the date on which the later award is made.
- (5) For the purposes of this section, service is treated as being with the same employer if it is with two or more employers—
- (a) each of whom is a successor or predecessor of the others, or
  - (b) one of whom is a company which belongs or has belonged to the same group as the others or a predecessor or successor of the others.
- (6) In this section “group” means a body corporate and its 51% subsidiaries.

#### Textual Amendments

**F48** Word in s. 323(2) substituted (13.6.2003) by [The Income Tax \(Exemption of Minor Benefits\) \(Increase in Sums of Money\) Order 2003 \(S.I. 2003/1361\)](#), arts. 1(1), 3

### 324 Small gifts from third parties

- (1) No liability to income tax arises in respect of a gift provided for an employee or a member of the employee’s family or household if conditions A to E are met.
- (2) Condition A is that the gift is not provided by the employer or a person connected with the employer.
- (3) Condition B is that neither the employer nor a person connected with the employer has directly or indirectly procured the gift.
- (4) Condition C is that the gift is not made in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.
- (5) Condition D is that the gift is not cash or securities or the use of a service.
- (6) Condition E is that the total cost to the donor of all the eligible gifts in respect of the employee in question during the tax year does not exceed [<sup>F49</sup>£250].
- (7) For the purposes of condition E, the total cost to the donor includes any value added tax payable on the supply of the gifts to the donor, whether or not the donor is entitled to a credit or repayment in respect of that tax.
- (8) In this section “eligible gifts” means all gifts which—
  - (a) meet conditions A to D, or
  - (b) are non-cash vouchers or credit-tokens and meet—
    - (i) conditions A to C, and

*Status: Point in time view as at 18/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)*

(ii) conditions A and B in section 270 (exemption for small gifts of vouchers and tokens from third parties).

(9) Subsection (1) does not apply to non-cash vouchers and credit-tokens (but see section 270 which makes provision for a corresponding exemption for them).

#### **Textual Amendments**

**F49** Word in s. 324(6) substituted (13.6.2003) by [The Income Tax \(Exemption of Minor Benefits\) \(Increase in Sums of Money\) Order 2003 \(S.I. 2003/1361\)](#), arts. 1(1), 4

### *Overseas medical treatment*

#### **325 Overseas medical treatment**

(1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of—

- (a) providing an employee with medical treatment outside the United Kingdom where the need for it arises while the employee is outside the United Kingdom for the purpose of performing the duties of the employment, or
- (b) providing an employee with insurance against the cost of providing such treatment.

(2) For the purposes of this section—

- (a) “medical treatment” includes all procedures for diagnosing or treating any physical or mental illness, infirmity or defect, and
- (b) providing a person with medical treatment includes providing for the person to be an in-patient so that such treatment can be given.

#### **[<sup>F50</sup>325A Health and employment insurance payments**

(1) No liability to income tax in respect of employment income arises on any payment if or to the extent that—

- (a) were the payment an annual payment falling within Chapter 7 of Part 5 of ITTOIA 2005, it would be exempt from income tax under section 735 of that Act (health and employment insurance payments), and
- (b) it meets conditions A and B.

(2) Condition A is that the payments are made—

- (a) to a person (“the employee”) who made payments or contributions in respect of premiums under an insurance policy which another person took out wholly or partly for the employee's benefit, or
- (b) to the employee's husband or wife.

(3) Condition B is that the payments are attributable on a just and reasonable basis to the payments or contributions in respect of premiums.]



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*Status: Point in time view as at 18/04/2005.*

**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4. (See end of Document for details)

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### Textual Amendments

**F50** S. 325A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 592](#) (with [Sch. 2](#))

### *Expenses incidental to sale etc. of asset*

## **326 Expenses incidental to transfer of a kind not normally met by transferor**

- (1) No liability to income tax arises by virtue of the payment or reimbursement of expenses which—
  - (a) are incidental to, and incurred wholly and exclusively as a result of, an employment-related asset transfer, and
  - (b) are of a kind not normally met by the transferor.
- (2) There is an “employment-related asset transfer” if—
  - (a) an asset or the beneficial interest in an asset is transferred to an employee’s employer or a person nominated by the employer, and
  - (b) the right or opportunity to make the transfer arose by reason of the employment.
- (3) In this section references to a transfer are to a sale or any other kind of disposal.

**Status:**

Point in time view as at 18/04/2005.

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 4.