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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2017, Cross Heading: Optional remuneration arrangements. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 2

#### OPTIONAL REMUNERATION ARRANGEMENTS

##### *Optional remuneration arrangements*

- 1 In Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings), in Chapter 2 (taxable benefits: the benefits code), after section 69 insert—

##### **“69A Optional remuneration arrangements**

- (1) Subsections (2) to (7) have effect for the purposes of the benefits code.
- (2) A benefit provided for an employee is provided under “optional remuneration arrangements” so far as it is provided under arrangements of type A or B (regardless of whether those arrangements are made before or after the beginning of the person's employment).
- (3) “Type A arrangements” are arrangements under which, in return for the benefit, the employee gives up the right (or a future right) to receive an amount of earnings within Chapter 1 of Part 3.
- (4) “Type B arrangements” are arrangements (other than type A arrangements) under which the employee agrees to be provided with the benefit rather than an amount of earnings within Chapter 1 of Part 3.
- (5) A benefit provided for an employee is to be regarded as provided under optional remuneration arrangements (whether of type A or type B) so far as it is just and reasonable to attribute the provision of the benefit to the arrangements in question.
- (6) Where a benefit is provided for an employee under any arrangements, the mere fact that under the arrangements the employee makes good, or is required to make good, any part of the cost of provision is not to be taken to show that the benefit is (to any extent) provided otherwise than under optional remuneration arrangements.
- (7) Where a benefit is provided for an employee partly under optional remuneration arrangements and partly otherwise than under such arrangements, the benefits code is to apply with any modifications (including provision for just and reasonable apportionments) that may be required for ensuring that the benefit is treated—
  - (a) in accordance with the relevant provision in the column 2 of the table so far as it is provided under optional remuneration arrangements, and
  - (b) in accordance with the relevant provision in column 1 of the table so far as it is provided otherwise than under such arrangements.

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<i>Column 1</i>	<i>Column 2</i>
<i>Section</i>	<i>Section</i>
81(1)	81(1A)(b)
87(1)	87A(1)(a)
94(1)	94A(1)(a)
102(1A)	102(1B)(b)
120(1)	120A(1)(a)
149(1)	149A(2)(a)
154(1)	154A(1)(a)
160(1)	160A(2)(a)
175(1)	175(1A)(b)
203(1)	203A(1)(a)

### **69B Optional remuneration arrangements: supplementary**

- (1) For the purposes of the benefits code “the amount foregone”—
- (a) in relation to a benefit provided for an employee under type A arrangements means the amount of earnings mentioned in section 69A(3);
  - (b) in relation to a benefit provided for an employee under type B arrangements means the amount of earnings mentioned in section 69A(4);
  - (c) in relation to a benefit provided for an employee partly under type A arrangements and partly under type B arrangements, means the sum of the amounts foregone under the arrangements of each type.
- (2) Subsection (3) applies where, in order to determine the amount foregone with respect to a particular benefit mentioned in section 69A(3) or (4), it is necessary to apportion an amount of earnings to the benefit.
- (3) The apportionment is to be made on a just and reasonable basis.
- (4) In this section and section 69A references to a benefit provided for an employee include a benefit provided for a member of an employee's family or household.
- (5) In this section and section 69A—
- “benefit” includes any benefit or facility, regardless of its form and the manner of providing it;
- “earnings” means earnings within Chapter 1 of Part 3 (and includes a reference to amounts which would have been such earnings if the employee had received them).”

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