

FINANCE ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Section 60: Salary Sacrifice: Restricting Tax Exemption for Workplace Canteens

Summary

1. [Section 60](#) amends section 317 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) to restrict the exemption for the benefit of free or subsidised meals where an employee has an entitlement in conjunction with salary sacrifice or flexible benefits arrangements to employer-provided free or subsidised meals. The amended section 317 will have effect on and after 6 April 2011.

Details of the Section

2. Section 317 of ITEPA removes the tax charge on the provision of meals for directors or employees if the meal is provided in a canteen or on the employer's premises and the following conditions are met:
 - the meal is on a reasonable scale;
 - all employees, or all employees at a particular work location, may obtain a free or subsidised meal (or a voucher for one); and
 - in the case of a hotel, catering or similar business, if free or subsidised meals are provided for employees in a restaurant or dining room when meals are being served to the public, part of the dining area must be designated for staff use only and the meals must be taken in that part.
3. This section will remove the tax exemption in circumstances where employees are in effect using a designated amount of their gross remuneration to fund the purchase of food and drink at work.
4. Subsidy benefits that are quantifiable but not connected to salary sacrifice or flexible benefits arrangements will not be affected.
5. The section achieves this by amending section 317 of ITEPA to restrict its application.
6. Subsection (3) inserts new subsection (4A) into section 317. New subsection (4A)(a) will prevent the exemption from applying where the provision of free or subsidised meals is linked to a salary sacrifice arrangement in which the employee has agreed to reduce their existing taxable employment income and is to be provided in return with food and drink (or the means of obtaining it).
7. New subsection (4A)(b) will prevent the exemption from applying where the provision of free or subsidised meals is linked to a flexible benefits remuneration arrangement in which the employee and employer have agreed that part of the reward for that employment will be provided as food and drink (or the means of obtaining it) rather than some other form of employment reward that the employee could have received instead,

*These notes refer to the Finance Act 2010 (c.13)
which received Royal Assent on 8 April 2010*

8. Subsection (4) inserts new subsection (5A) into section 317, which provides definitions of the terms used in new subsection (4A).
9. Once they take effect, the new subsections apply equally to salary sacrifice and flexible benefits remuneration arrangements entered into before, on and after 6 April 2011. Subsection (5) of the section provides for the commencement.

Background Note

10. The Government has become aware that some employers and employees have developed remuneration arrangements involving salary sacrifice or flexible benefits to take advantage of the exemption at section 317.
11. These arrangements are intended to allow some employees to purchase meals out of gross pay, and hence obtain a significant tax and National Insurance Contributions (NICs) advantage over the majority of employees who must purchase their meals using their net pay, from which tax and NICs have already been deducted.
12. This section prevents the exemption from being used in such arrangements, while ensuring it continues to apply to free or subsidised meals provided not as part of salary sacrifice or flexible benefit arrangements. This remains subject to such meals meeting the pre-existing conditions of the exemption.