



Finance Act 2016

2016 CHAPTER 24

PART 1

INCOME TAX

Employment income: taxable benefits

7 Taxable benefits: application of Chapters 5 to 7 of Part 3 of ITEPA 2003

- (1) Part 3 of ITEPA 2003 (employment income: earnings and benefits etc treated as earnings) is amended as follows.
- (2) In section 97 (living accommodation to which Chapter 5 applies), after subsection (1) insert—
 - “(1A) Where this Chapter applies to any living accommodation—
 - (a) the living accommodation is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms on which it is provided to any of those persons constitute a fair bargain), and
 - (b) sections 102 to 108 provide for the cash equivalent of the benefit of the living accommodation to be treated as earnings.”
- (3) In section 109 (priority of Chapter 5 over Chapter 1), after subsection (3) insert—
 - “(4) In a case where the cash equivalent of the benefit of the living accommodation is nil—
 - (a) subsections (2) and (3) do not apply, and
 - (b) the full amount mentioned in subsection (1)(b) constitutes earnings from the employment for the year under Chapter 1.”
- (4) In section 114 (cars, vans and related benefits to which Chapter 6 applies), after subsection (1) insert—
 - “(1A) Where this Chapter applies to a car or van, the car or van is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms

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on which it is made available to the employee or member constitute a fair bargain).”

(5) For section 117 substitute—

“117 Meaning of car or van made available by reason of employment

(1) For the purposes of this Chapter a car or van made available by an employer to an employee or member of an employee's family or household is to be regarded as made available by reason of the employment unless subsection (2) or (3) excludes the application of this subsection.

(2) Subsection (1) does not apply where—

- (a) the employer is an individual, and
- (b) the car or van in question is made available in the normal course of the employer's domestic, family or personal relationships.

(3) Subsection (1) does not apply where—

- (a) the employer carries on a vehicle hire business under which cars or vans of the same kind are made available to members of the public for hire,
- (b) the car or van in question is hired to the employee or member in the normal course of that business, and
- (c) in hiring that car or van the employee or member is acting as an ordinary member of the public.”

(6) In section 120 (benefit of car treated as earnings)—

- (a) in subsection (2) after “case” insert “ (including a case where the cash equivalent of the benefit of the car is nil) ”, and
- (b) after subsection (2) insert—

“(3) Any reference in this Act to a case where the cash equivalent of the benefit of a car is treated as the employee's earnings for a year by virtue of this section includes a case where the cash equivalent is nil.”

(7) In section 154 (benefit of van treated as earnings)—

- (a) the existing text becomes subsection (1) of that section, and
- (b) after that subsection insert—

“(2) In such a case (including a case where the cash equivalent of the benefit of the van is nil) the employee is referred to in this Chapter as being chargeable to tax in respect of the van for that year.

(3) Any reference in this Act to a case where the cash equivalent of the benefit of a van is treated as the employee's earnings for a year by virtue of this section includes a case where the cash equivalent is nil.”

(8) In section 173 (loans to which Chapter 7 applies), after subsection (1) insert—

“(1A) Where this Chapter applies to a loan—

- (a) the loan is a benefit for the purposes of this Chapter (and accordingly it is immaterial whether the terms of the loan constitute a fair bargain), and

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- (b) sections 175 to 183 provide for the cash equivalent of the benefit of the loan (where it is a taxable cheap loan) to be treated as earnings in certain circumstances.”

- (9) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

8 Cars: appropriate percentage for 2019-20 and subsequent tax years

- (1) ITEPA 2003 is amended as follows.
- (2) Section 139 (car with a CO₂ figure: the appropriate percentage) is amended as set out in subsections (3) and (4).
- (3) In subsection (2)—
 - (a) in paragraph (a), for “13%” substitute “ 16% ”,
 - (b) in paragraph (aa), for “16%” substitute “ 19% ”, and
 - (c) in paragraph (b), for “19%” substitute “ 22% ”.
- (4) In subsection (3), for “20%” substitute “ 23% ”.
- (5) Section 140 (car without a CO₂ figure: the appropriate percentage) is amended as set out in subsections (6) and (7).
- (6) In subsection (2), in the Table—
 - (a) for “20%” substitute “ 23% ”, and
 - (b) for “31%” substitute “ 34% ”.
- (7) In subsection (3)(a), for “13%” (as substituted by section 9(3)) substitute “ 16% ”.
- (8) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
 - (a) for “20%” substitute “ 23% ”, and
 - (b) for “31%” substitute “ 34% ”.
- (9) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.

9 Cars which cannot emit CO₂: appropriate percentage for 2017-18 and 2018-19

- (1) In section 140(3)(a) of ITEPA 2003 (car which cannot emit CO₂: the appropriate percentage), for “7%” substitute “ 9% ”.
- (2) The amendment made by subsection (1) has effect for the tax year 2017-18.
- (3) In section 140(3)(a) of ITEPA 2003, for “9%” substitute “ 13% ”.
- (4) The amendment made by subsection (3) has effect for the tax year 2018-19.

10 Diesel cars: appropriate percentage

- (1) In section 24 of FA 2014 (cars: the appropriate percentage), omit the following (“the repealing provisions”)—
 - (a) subsection (2),
 - (b) subsection (6),

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- (c) subsection (10),
- (d) subsection (11), and
- (e) subsection (15).

- (2) Any provision of ITEPA 2003 amended or omitted by the repealing provisions has effect for the tax year 2016-17 and subsequent tax years as if the repealing provisions had not been enacted.

11 Cash equivalent of benefit of a van

- (1) Section 155 of ITEPA 2003 (cash equivalent of the benefit of a van) is amended as follows.
- (2) In subsection (1B)(a), for “2019-20” substitute “ 2021-22 ”.
- (3) In subsection (1C), for paragraphs (b) to (e) substitute—
- “(b) 20% for the tax year 2016-17;
 - (c) 20% for the tax year 2017-18;
 - (d) 40% for the tax year 2018-19;
 - (e) 60% for the tax year 2019-20;
 - (f) 80% for the tax year 2020-21;
 - (g) 90% for the tax year 2021-22.”
- (4) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

12 Tax treatment of payments from sporting testimonials

Schedule 2 contains provision about the tax treatment of payments from sporting testimonials.

13 Exemption for trivial benefits provided by employers

- (1) ITEPA 2003 is amended as follows.
- (2) After section 323 insert—

“323A Trivial benefits provided by employers

- (1) No liability to income tax arises in respect of a benefit provided by, or on behalf of, an employer to an employee or a member of the employee's family or household if—
- (a) conditions A to D are met, or
 - (b) in a case where subsection (2) applies, conditions A to E are met.
- (2) This subsection applies where—
- (a) the employer is a close company, and
 - (b) the employee is—
 - (i) a person who is a director or other office-holder of the employer, or
 - (ii) a member of the family or household of such a person.

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- (3) Condition A is that the benefit is not cash or a cash voucher within the meaning of section 75.
- (4) Condition B is that the benefit cost of the benefit does not exceed £50.
- (5) In this section “benefit cost”, in relation to a benefit, means—
 - (a) the cost of providing the benefit, or
 - (b) if the benefit is provided to more than one person and the nature of the benefit or the scale of its provision means it is impracticable to calculate the cost of providing it to each person to whom it is provided, the average cost per person of providing the benefit.
- (6) For the purposes of subsection (5)(b), the average cost per person of providing a benefit is found by dividing the total cost of providing the benefit by the number of persons to whom the benefit is provided.
- (7) Condition C is that the benefit is not provided pursuant to relevant salary sacrifice arrangements or any other contractual obligation.
- (8) “Relevant salary sacrifice arrangements”, in relation to the provision of a benefit to an employee or to a member of an employee's family or household, means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit.
- (9) Condition D is that the benefit is not provided in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.
- (10) Condition E is that—
 - (a) the benefit cost of the benefit provided to the employee, or
 - (b) in a case where the benefit is provided to a member of the employee's family or household who is not an employee of the employer, the amount of the benefit cost allocated to the employee in accordance with section 323B(4),does not exceed the employee's available exempt amount (see section 323B).

323B Section 323A: calculation of available exempt amount

- (1) The “available exempt amount”, in relation to an employee of an employer, is the amount found by deducting from the annual exempt amount the aggregate of—
 - (a) the benefit cost of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to the employee, and
 - (b) any amounts allocated to the employee in accordance with subsection (4) in respect of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to a member of the employee's family or household who was not at that time an employee of the employer.
- (2) The annual exempt amount is £300.

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- (3) For the purposes of subsection (1) “eligible benefits” means benefits in respect of which conditions A to D in section 323A are met.
- (4) The amount allocated to an employee of an employer in respect of a benefit provided to a person (“P”) who—
- (a) is a member of the employee's family or household, and
 - (b) is not an employee of the employer,
- is the benefit cost of that benefit divided by the number of persons who meet the condition in subsection (5) and are members of P's family or household.
- (5) This condition is met if the person is—
- (a) a director or other office-holder of the employer,
 - (b) an employee of the employer who is a member of the family or household of a person within paragraph (a), or
 - (c) a former employee of the employer who—
 - (i) was a director or other office-holder at any time when the employer was a close company, or
 - (ii) is a member of the family or household of such a person.
- (6) In this section “benefit cost” has the same meaning as in section 323A.

323C Power to amend sections 323A and 323B

- (1) The Treasury may by regulations amend section 323A so as to alter the conditions which must be met for the exemption conferred by section 323A(1) to apply.
 - (2) Regulations under subsection (1) may include any amendment of section 323B that is appropriate in consequence of an amendment made under subsection (1).
 - (3) The Treasury must not make regulations under subsection (1) unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons.”
- (3) In section 716 (alteration of amounts by Treasury order) in subsection (2), after paragraph (f) insert—
- “(fa) section 323A(4) (trivial benefits provided by employers: cost of providing benefit),
 - (fb) section 323B(2) (trivial benefits provided by employers: annual exempt amount),”.
- (4) In section 717(4) (negative procedure not to apply to certain statutory instruments) after “other care: meaning of “eligible employee”),” insert “ section 323C(1) (trivial benefits provided by employers),”.
- (5) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

14 Travel expenses of workers providing services through intermediaries

- (1) In Chapter 2 of Part 5 of ITEPA 2003 (deductions for employee's expenses), after section 339 insert—

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“339A Travel for necessary attendance: employment intermediaries

- (1) This section applies where an individual (“the worker”)—
- (a) personally provides services (which are not excluded services) to another person (“the client”), and
 - (b) the services are provided not under a contract directly between the client or a person connected with the client and the worker but under arrangements involving an employment intermediary.

This is subject to the following provisions of this section.

- (2) Where this section applies, each engagement is for the purposes of sections 338 and 339 to be regarded as a separate employment.
- (3) This section does not apply if it is shown that the manner in which the worker provides the services is not subject to (or to the right of) supervision, direction or control by any person.
- (4) Subsection (3) does not apply in relation to an engagement if—
- (a) Chapter 8 of Part 2 applies in relation to the engagement,
 - (b) the conditions in section 51, 52 or 53 are met in relation to the employment intermediary, and
 - (c) the employment intermediary is not a managed service company.
- (5) This section does not apply in relation to an engagement if—
- (a) Chapter 8 of Part 2 does not apply in relation to the engagement merely because the circumstances in section 49(1)(c) are not met,
 - (b) assuming those circumstances were met, the conditions in section 51, 52 or 53 would be met in relation to the employment intermediary, and
 - (c) the employment intermediary is not a managed service company.
- (6) In determining for the purposes of subsection (4) or (5) whether the conditions in section 51, 52 or 53 are or would be met in relation to the employment intermediary—
- (a) in section 51(1)—
 - (i) disregard “either” in the opening words, and
 - (ii) disregard paragraph (b) (and the preceding or), and
 - (b) read references to the intermediary as references to the employment intermediary.
- (7) Subsection (8) applies if—
- (a) the client or a relevant person provides the employment intermediary (whether before or after the worker begins to provide the services) with a fraudulent document which is intended to constitute evidence that, by virtue of subsection (3), this section does not or will not apply in relation to the services,
 - (b) that section is taken not to apply in relation to the services, and
 - (c) in consequence, the employment intermediary does not under PAYE regulations deduct and account for an amount that would have been deducted and accounted for under those regulations if this section had been taken to apply in relation to the services.

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- (8) For the purpose of recovering the amount referred to in subsection (7)(c) (“the unpaid tax”)—
- (a) the worker is to be treated as having an employment with the client or relevant person who provided the document, the duties of which consist of the services, and
 - (b) the client or relevant person is under PAYE regulations to account for the unpaid tax as if it arose in respect of earnings from that employment.
- (9) In subsections (7) and (8) “relevant person” means a person, other than the client, the worker or a person connected with the employment intermediary, who—
- (a) is resident, or has a place of business, in the United Kingdom, and
 - (b) is party to a contract with the employment intermediary or a person connected with the employment intermediary under or in consequence of which—
 - (i) the services are provided, or
 - (ii) the employment intermediary, or a person connected with the employment intermediary, makes payments in respect of the services.
- (10) In determining whether this section applies, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that this section does not to any extent apply.
- (11) In this section—
- “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not enforceable, and any associated operations;
- “employment intermediary” means a person, other than the worker or the client, who carries on a business (whether or not with a view to profit and whether or not in conjunction with any other business) of supplying labour;
- “engagement” means any such provision of service as is mentioned in subsection (1)(a);
- “excluded services” means services provided wholly in the client’s home;
- “managed service company” means a company which—
- (a) is a managed service company within the meaning given by section 61B, or
 - (b) would be such a company disregarding subsection (1)(c) of that section.”
- (2) In section 688A of ITEPA 2003 (managed service companies: recovery from other persons), in subsection (5), in the definition of “managed service company”, after “section 61B” insert “ but for the purposes of section 339A has the meaning given by subsection (11) of that section ”.
- (3) After section 688A of ITEPA 2003 insert—

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“688B Travel expenses of workers providing services through intermediaries: recovery of unpaid tax

- (1) PAYE regulations may make provision for, or in connection with, the recovery from a director or officer of a company, in such circumstances as may be specified in the regulations, of amounts within any of subsections (2) to (5).
 - (2) An amount within this subsection is an amount that the company is to account for in accordance with PAYE regulations by virtue of section 339A(7) to (9) (persons providing fraudulent documents).
 - (3) An amount within this subsection is an amount which the company is to deduct and pay in accordance with PAYE regulations by virtue of section 339A in circumstances where—
 - (a) the company is an employment intermediary,
 - (b) on the basis that section 339A does not apply by virtue of subsection (3) of that section, the company has not deducted and paid the amount, but
 - (c) the company has not been provided by any other person with evidence from which it would be reasonable in all the circumstances to conclude that subsection (3) of that section applied (and the mere assertion by a person that the manner in which the worker provided the services was not subject to (or to the right of) supervision, direction or control by any person is not such evidence).
 - (4) An amount within this subsection is an amount that the company is to deduct and pay in accordance with PAYE regulations by virtue of section 339A in a case where subsection (4) of that section applies (services provided under arrangements made by intermediaries).
 - (5) An amount within this subsection is any interest or penalty in respect of an amount within any of subsections (2) to (4) for which the company is liable.
 - (6) In this section—
 - “company” includes a limited liability partnership;
 - “director” has the meaning given by section 67;
 - “employment intermediary” has the same meaning as in section 339A;
 - “officer”, in relation to a company, means any manager, secretary or other similar officer of the company, or any person acting or purporting to act as such”
- (4) In Part 4 of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (payments, returns and information), after Chapter 3A insert—

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“CHAPTER 3B

CERTAIN DEBTS OF COMPANIES UNDER SECTION 339A OF ITEPA (TRAVEL EXPENSES OF WORKERS PROVIDING SERVICES THROUGH EMPLOYMENT INTERMEDIARIES)

97ZG Interpretation of Chapter 3B: “relevant PAYE debt” and “relevant date”

- (1) In this Chapter “relevant PAYE debt”, in relation to a company means an amount within any of paragraphs (2) to (5).
- (2) An amount within this paragraph is an amount that the company is to account for in accordance with these Regulations by virtue of section 339A(7) to (9) of ITEPA (persons providing fraudulent documents).
- (3) An amount within this paragraph is an amount which a company is to deduct and pay in accordance with these Regulations by virtue of section 339A of ITEPA in circumstances where—
 - (a) the company is an employment intermediary,
 - (b) on the basis that section 339A of ITEPA does not apply by virtue of subsection (3) of that section the company has not deducted and paid the amount, but
 - (c) the company has not been provided by any other person with evidence from which it would be reasonable in all the circumstances to conclude that subsection (3) of that section applied (and the mere assertion by a person that the manner in which the worker provided the services was not subject to (or to the right of) supervision, direction or control by any person is not such evidence).
- (4) An amount within this paragraph is an amount that the company is to deduct and pay in accordance with these Regulations by virtue of section 339A of ITEPA in a case where subsection (4) of that section applies (services provided under arrangements made by intermediaries).
- (5) An amount within this paragraph is any interest or penalty in respect of an amount within any of paragraphs (2) to (4) for which the company is liable.
- (6) In this Chapter “the relevant date” in relation to a relevant PAYE debt means the date on which the first payment is due on which PAYE is not accounted for.

97ZH Interpretation of Chapter 3B: general

In this Chapter—

- “company” includes a limited liability partnership;
 - “director” has the meaning given by section 67 of ITEPA;
 - “personal liability notice” has the meaning given by regulation 97ZI(2);
 - “the specified amount” has the meaning given by regulation 97ZI(2)
- (a).

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97ZI Liability of directors for relevant PAYE debts

- (1) This regulation applies in relation to an amount of relevant PAYE debt of a company if the company does not deduct that amount by the time by which the company is required to do so.
- (2) HMRC may serve a notice (a “personal liability notice”) on any person who was, on the relevant date, a director of the company—
 - (a) specifying the amount of relevant PAYE debt in relation to which this regulation applies (“the specified amount”), and
 - (b) requiring the director to pay to HMRC—
 - (i) the specified amount, and
 - (ii) specified interest on that amount.
- (3) The interest specified in the personal liability notice—
 - (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA, and
 - (b) is to run from the date the notice is served.
- (4) A director who is served with a personal liability notice is liable to pay to HMRC the specified amount and the interest specified in the notice within 30 days beginning with the day the notice is served.
- (5) If HMRC serve personal liability notices on more than one director of the company in respect of the same amount of relevant PAYE debt, the directors are jointly and severally liable to pay to HMRC the specified amount and the interest specified in the notices.

97ZJ Appeals in relation to personal liability notices

- (1) A person who is served with a personal liability notice in relation to an amount of relevant PAYE debt of a company may appeal against the notice.
- (2) A notice of appeal must—
 - (a) be given to HMRC within 30 days beginning with the day the personal liability notice is served, and
 - (b) specify the grounds of the appeal.
- (3) The grounds of appeal are —
 - (a) that all or part of the specified amount does not represent an amount of relevant PAYE debt, of the company, to which regulation 97ZI applies, or
 - (b) that the person was not a director of the company on the relevant date.
- (4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal by the company, that—
 - (a) the specified amount is a relevant PAYE debt of the company, and
 - (b) the company did not deduct, account for, or (as the case may be) pay the debt by the time by which the company was required to do so.
- (5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal is to uphold or quash the personal liability notice.

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- (6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the specified amount so that it does represent an amount of relevant PAYE debt, of the company, to which regulation 97ZI applies.

97ZK Withdrawal of personal liability notices

- (1) A personal liability notice is withdrawn if the tribunal quashes it.
- (2) An officer of Revenue and Customs may withdraw a personal liability notice if the officer considers it appropriate to do so.
- (3) If a personal liability notice is withdrawn, HMRC must give notice of that fact to the person upon whom the notice was served.

97ZL Recovery of sums due under personal liability notice: application of Part 6 of TMA

- (1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—
 - (a) the personal liability notice were an assessment, and
 - (b) the specified amount, and any interest on that amount under regulation 97ZI(2)(b)(ii), were income tax charged on the director upon whom the notice is served,
 and that Part of that Act applies with the modification in paragraph (2) and any other necessary modifications.
- (2) Summary proceedings for the recovery of the specified amount, and any interest on that amount under regulation 97ZI(2)(b)(ii), may be brought in England and Wales or Northern Ireland at any time before the end of the period of 12 months beginning with the day after the day on which the personal liability notice is served.

97ZM Repayment of surplus amounts

- (1) This regulation applies if—
 - (a) one or more personal liability notices are served in respect of an amount of relevant PAYE debt of a company, and
 - (b) the amounts paid to HMRC (whether by directors upon whom notices are served or the company) exceed the aggregate of the specified amount and any interest on it under regulation 97ZI(2)(b)(ii).
- (2) HMRC is to repay the difference on a just and equitable basis and without unreasonable delay.
- (3) HMRC is to pay interest on any sum repaid.
- (4) The interest—
 - (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA, and
 - (b) is to run from the date the amounts paid to HMRC come to exceed the aggregate mentioned in subsection (1)(b)."

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- (5) The amendment made by subsection (4) is to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs in exercise of the power conferred by section 688B of ITEPA 2003 (inserted by subsection (3)).
- (6) The amendment made by subsection (1) has effect in relation to the tax year 2016-17 and subsequent tax years.
- (7) The amendment made by subsection (4) has effect in relation to relevant PAYE debts that are to be deducted, accounted for or paid on or after 6 April 2016.

15 Taxable benefits: PAYE

In section 684 of ITEPA 2003 (PAYE regulations), in subsection (2), in item 1ZA(a), for “Chapters 3 and 5 to 10” substitute “ Chapters 3 to 10 ”.

Status:

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Changes to legislation:

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