

SCHEDULE 2

Regulation 24

CALCULATION OF EARNINGS FOR THE PURPOSES OF EARNINGS-RELATED CONTRIBUTIONS IN PARTICULAR CASES

Calculation of earnings

1. This Schedule contains rules for the calculation of earnings in the assessment of earnings-related contributions in particular cases.

Calculation of earnings in respect of beneficial interest in assets within Part IV of Schedule 3

2.—(1) Except where paragraph 3, 4, 5 or 6 applies, the amount of earnings comprised in any payment by way of the conferment of any beneficial interest in any asset specified in Part IV of Schedule 3, which falls to be taken into account in the computation of a person's earnings shall be calculated or estimated at a price which that beneficial interest might reasonably be expected to fetch if sold in the open market on the day on which it is conferred.

(2) For the purposes of sub-paragraph (1), where any asset is not quoted on a recognised stock exchange within the meaning of section 841 of the Taxes Act, it shall be assumed that, in the open market which is postulated, there is available to any prospective purchaser of the beneficial interest in the asset in question all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length.

Valuation of beneficial interest in units in a unit trust scheme

3. The amount of earnings which is comprised in any payment by way of the conferment of a beneficial interest in any units in a unit trust scheme (within the meaning of section [F1237 of the Financial Services and Markets Act 2000] having a published selling price and which falls to be taken into account in the calculation of a person's earnings shall be calculated or estimated by reference to the published selling price on the day in question.

Textual Amendments

F1 Words in Sch. 2 para. 3 substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(b), 191

Here "published selling price" means the lowest selling price published on the date on which the payment in question is made, and where no such price is published on that date, it means the lowest selling price published on the last previous date on which such a price was published.

Conferment of a beneficial interest in an option to acquire asset falling within Part IV of Schedule 3

4. The amount of earnings which is comprised in a payment by way of the conferment of a beneficial interest in an option to acquire any asset falling within Part IV of Schedule 3 shall be calculated or estimated by reference to the amount which would be comprised in accordance with paragraph 2, or, if paragraph 3, 5 or 6 would apply in accordance with that paragraph, in a payment by way of the conferment of a beneficial interest—

(a) in the asset which may be acquired by the exercise of the option; or

- (b) where that asset (the first asset) may be exchanged for another asset (the second asset) and the value of the beneficial interest in the second asset is greater than that in the first, in that second asset,

on the day on which the beneficial interest in the option is conferred.

The amount shall be reduced by the amount or value, or, if variable, the least amount or value, of the consideration for which the asset may be so acquired.

Readily convertible assets

5.—(1) The amount of earnings which is comprised in—

- (a) any payment by way of the conferment of a beneficial interest in any asset falling within Part III of Schedule 3;
- (b) any payment by way of the conferment of a beneficial interest in any asset falling within Part IV of Schedule 3 which is a readily convertible asset;
- (c) any payment by way of—
 - (i) a voucher, stamp or similar document falling within paragraph 12 of Part IV of that Schedule where the asset for which it is capable of being converted is a readily convertible asset;
 - (ii) a non-cash voucher not falling within Part V (whether or not also falling within paragraph 12 of Part IV of that Schedule) which is capable of being exchanged for a readily convertible asset;

and which is to be taken into account in computing a person's earnings, shall be calculated in accordance with sub-paragraph (2) to (5).

(2) In the case of an asset falling within paragraph 1 of Part III of Schedule 3 the amount is the best estimate which can reasonably be made of [^{F2}the amount of general earnings] in respect of the provision of the asset.

(3) In the case of an asset falling within paragraph 2 of Part III of Schedule 3, the amount is the best estimate that can reasonably be made of [^{F2}the amount of general earnings] in respect of the enhancement of its value.

(4) In the case of a voucher, stamp or similar document falling within—

- (a) sub-paragraph(1)(c); or
- (b) paragraph 3 of Part III of Schedule 3,

the amount is the best estimate that can reasonably be made of [^{F2}the amount of general earnings] in respect of the provision of any asset for which the voucher is capable of being exchanged.

(5) In the case of an asset falling within sub-paragraph(1)(b), the amount is the best estimate that can reasonably be made of [^{F2}the amount of general earnings] in respect of the provision of the asset.

Textual Amendments

- F2** Words in Sch. 2 para. 5 substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, 7(2)

Assets not readily convertible: beneficial interests in alcoholic liquor on which duty has not been paid, gemstones and certain vouchers and non-cash vouchers

6. The amount of earnings comprised in any payment by way of the conferment of a beneficial interest in—

- (a) an asset which—
 - (i) falls within paragraph 9 or 10 of Part IV of Schedule 3 (payments by way of alcoholic liquor on which duty has not been paid or by way of gemstones not to be disregarded as payments in kind), and
 - (ii) is not a readily convertible asset;
- (b) a voucher, stamp or similar document which falls within paragraph 12 of Part IV of that Schedule and which is not capable of being exchanged for a readily convertible asset; or
- (c) a non-cash voucher not excluded by virtue of Part 5 of that Schedule and which falls within paragraph 12 of Part IV of that Schedule (assets not to be disregarded as payments in kind) which is not capable of being exchanged for a readily convertible asset;

shall be calculated or estimated on the basis of the cost of the asset in question.

Here “the cost of the asset” in relation to any voucher, stamp or similar document includes the cost of any asset for which that voucher, stamp or similar document is capable of being exchanged.

Convertible and restricted interests in securities and convertible and restricted securities

[^{F37}—(1) The amount of earnings comprised in any payment by way of the conferment of—

- (a) a convertible interest in securities;
- (b) a restricted interest in securities; or
- (c) an interest in convertible or restricted securities,

falling to be taken into account in computing a person’s earnings from employed earner’s employment shall be computed in the same manner, and shall be taken into account at the same time, as applies under Chapters 1 to 5 of Part 7 of ITEPA 2003, for the purpose of computing his employment income.

This is subject to the following qualification.

(2) For the purpose of sub-paragraph (1) no account shall be taken of any relief obtained under sections 428A or 442A of ITEPA 2003 (relief for secondary Class 1 contributions met by employee).]

Textual Amendments

F3 Sch. 2 para. 7 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2004 \(S.I. 2004/2096\)](#), regs. 1(1), **5**

Convertible interest in shares

^{F48}.....

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, SCHEDULE 2. (See end of Document for details)

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Textual Amendments

F4 Sch. 2 paras. 8-10 omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **7(4)**

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Textual Amendments

F4 Sch. 2 paras. 8-10 omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **7(4)**

Assignment or release of right to acquire shares where neither right nor shares readily convertible

F49.

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Textual Amendments

F4 Sch. 2 paras. 8-10 omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **7(4)**

Assignment or release of a right, acquired as director or employee before 6th April 1999, to acquire shares where neither right nor shares readily convertible

F410.

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Textual Amendments

F4 Sch. 2 paras. 8-10 omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **7(4)**

Exercise of a replacement right to acquire shares, obtained as an earner before 6th April 1999

[**F511.**—(1) This paragraph applies if—

- (a) an earner obtained, before 6th April 1999, a right to acquire shares in a body corporate;
- (b) the earner subsequently obtained a replacement right (within the meaning given in paragraph 16A(3) of Part 9 of Schedule 3);
- (c) the replacement right is exercised;
- (d) paragraph 11A of this Schedule does not apply; and
- (e) paragraph 16A of Part 9 of Schedule 3 does not apply because sub-paragraph (4) of that paragraph is not satisfied.

(2) If this paragraph applies, the amount of earnings comprised in any payment realised by the exercise of the replacement right shall be calculated or estimated in accordance with sub-paragraph (3).

(3) The basis for calculating the amount of a gain realised by the exercise of the replacement right shall be the best estimate that can reasonably be made of the amount found as follows.]

Textual Amendments

F5 Sch. 2 para. 11 heading substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **7(5)**

[^{F6}Exercise, assignment or release of share option — market value of option or resulting shares increased by things done otherwise than for genuine commercial purposes

11A.—(1) This paragraph applies for calculating or estimating the amount of earnings which is comprised in a payment which—

- (a) would be disregarded in the computation of earnings for the purposes of earnings-related contributions by virtue of paragraph 16 of Part 9 of Schedule 3; but
- (b) is not disregarded because paragraph 17 of that Part applies to it.

(2) If this paragraph applies, the amount of earnings to be taken into account for the purpose of earnings related contributions is the amount which would, but for paragraph 16 [^{F7}or 16A] of Part 9 of Schedule 3, have been taken into account by virtue of section 4(4)(a) of the Act.

This is subject to the following qualification.

(3) If—

- (a) the right to acquire shares in a body corporate is not capable of being exercised more than ten years after the date on which it was obtained,
- (b) an amount of earnings was taken into account for the purpose of earnings-related contributions in respect of the earner’s obtaining that right, at the time he obtained it (“the deductible amount”), and
- (c) no exercise, assignment or release of the whole or any part of—
 - (i) that right,
 - (ii) any right replacing that right (“a replacement right”), or
 - (iii) any subsequent replacement right,has occurred on or after 10th April 2003,

the deductible amount may be deducted from the amount otherwise to be taken into account by virtue of this paragraph.]

Textual Amendments

F6 Sch. 2 para. 11A and cross-heading inserted (10.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2003 \(S.I. 2003/1059\)](#), regs. 1(1), **3(3)**

F7 Words in Sch. 2 para. 11A(2) inserted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **7(6)**

Interpretation of paragraphs 9, 10 and 11

^{F8}**12.**

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, SCHEDULE 2. (See end of Document for details)

Textual Amendments
F8 Sch. 2 para. 12 omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, 7(7)

In those paragraphs—

- (a) “the total market value” means the price which the shares which are the subject of the right in question might reasonably be expected to fetch on sale in the open market;
- (b) the total market value of the subsequent right is similar to the total market value of the first right if it is not substantially greater than the first right;
- (c) “total discount” means the difference between the total value of the exercise price of the shares that are the subject of the right in question and the total market value of that right;
- (d) neither the consideration given for the grant of the right nor any entire consideration shall be taken to include the performance of any duties of or in connection with the office or employment by reason of which the right was granted and no part of the amount or value of the consideration given for the grant shall be deducted more than once;
- (e) “shares”, so far as the context permits, includes stock; and
- (f) “body corporate” includes—
 - (i) a body corporate constituted under the law of a country or territory outside the United Kingdom; and
 - (ii) an unincorporated association wherever constituted.

Apportionment of a payment to a retirement benefits scheme for the benefit of two or more people

F9 13.

Textual Amendments
F9 Sch. 2 para. 13 omitted (6.4.2006) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, 7

Valuation of non-cash vouchers

14.—(1) The amount of earnings comprised in any payment by way of a non-cash voucher which is not otherwise disregarded by these Regulations and which falls to be taken into account in calculating an employed earner’s earnings shall be calculated on the basis set out in sub-paragraph (2).

[^{F10}(1A) This paragraph is subject to paragraph 14A (valuation of non-cash vouchers provided under optional remuneration arrangements).]

(2) The basis referred to in sub-paragraph (1) is that of an amount equal to the expense incurred (“the chargeable expense”)—

- (a) by the person at whose cost the voucher and the money, goods or services, for which it is capable or being exchanged, are provided;
- (b) in, or in connection with that provision,

and any money, goods or services obtained by the employed earner or any other person in exchange for the voucher shall be disregarded.

This is subject to the following [^{F11}qualifications].

[^{F12}(3) For the purposes of sub-paragraph (2) the chargeable expense shall be reduced by any part of that which the employed earner makes good to the person incurring it.]

[^{F13}(4) The valuation of qualifying childcare vouchers is determined in accordance with paragraph 7 of Part 5 of Schedule 3.]

Textual Amendments

- F10** Sch. 2 para. 14(1A) inserted (6.4.2018) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2018 \(S.I. 2018/120\)](#), regs. 1, **5(2)**
- F11** Word in Sch. 2 para. 14(2) substituted (6.4.2005) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), **8(a)**
- F12** Sch. 2 para. 14(3) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment and Application of Schedule 38 to the Finance Act 2012\) Regulations 2013 \(S.I. 2013/622\)](#), regs. 1, **39**
- F13** Sch. 2 para. 14(4) added (6.4.2005) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), **8(b)**

[^{F14}Valuation of non-cash vouchers provided under optional remuneration arrangements

14A.—(1) This paragraph applies for calculating the amount of earnings comprised in any payment by way of a non-cash voucher which falls to be taken into account in calculating an employed earner's earnings, if this is made pursuant to optional remuneration arrangements.

(2) The amount of earnings is the relevant amount.

(3) To find the relevant amount, first determine which (if any) is the greater of—

- (a) the chargeable expense (without taking account of the qualification in paragraph 14(3)); or
- (b) the amount foregone.

(4) If the amount in sub-paragraph (3)(a) is greater than or equal to the amount foregone, the “relevant amount” is the chargeable expense (taking account of the qualification in paragraph 14(3)).

(5) Otherwise, “the relevant amount” is the difference between—

- (a) the amount foregone; and
- (b) any part of the chargeable expense that the employed earner makes good to the person incurring it.

(6) For the purposes of sub-paragraphs (3) to (5), assume that the amount in sub-paragraph (3)(a) is zero if the condition in sub-paragraph (7) is met.

(7) The condition is that the payment would be exempt from income tax but for section 228A(1) of ITEPA 2003.

(8) In this paragraph—

- (a) “chargeable expense” has the meaning given in paragraph 14; and
- (b) “amount foregone” means the amount foregone with respect to the benefit of the non-cash voucher for the purposes of the benefits code as mentioned in section 69B of ITEPA 2003.

(9) Where a payment by way of a non-cash voucher is made partly pursuant to optional remuneration arrangements and partly otherwise than pursuant to such arrangements, these

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, SCHEDULE 2. (See end of Document for details)

Regulations are to apply with any modifications (including provision for just and reasonable apportionments) that may be required for ensuring that it is treated—

- (a) in accordance with this paragraph so far as it is made pursuant to optional remuneration arrangements; and
- (b) in accordance with any other treatment that is applicable so far as it is made otherwise than pursuant to such arrangements.]

Textual Amendments

F14 Sch. 2 para. 14A inserted (E.W.S.) (6.4.2018) by The Social Security (Contributions) (Amendment) Regulations 2018 (S.I. 2018/120), regs. 1, 5(3)

Apportionment of earnings comprised in a cash or non-cash voucher provided for benefit of two or more employed earners

15.—(1) The amount of earnings comprised in any payment by way of a cash voucher or a non-cash voucher provided for the benefit of two or more employed earners and which falls to be taken into account in computing the earnings of each of those earners shall be calculated or estimated on the basis set out in whichever of sub-paragraphs (2) or (3) applies.

(2) If the respective proportion of the benefit of the voucher to which each of those earners is entitled is known at the time of the payment, the basis is that of a separate payment equal to that proportion.

(3) In any case where the respective proportions are not known at the time of the payment, the basis is equal apportionment between all those earners.

(4) In this paragraph—

- (a) “chargeable expense” has the same meaning, and is calculated in the same way, as in paragraph 14; and
- (b) if an employed earner makes good any part of the chargeable expense to the person incurring it, that chargeable expense in relation to that employed earner shall be reduced by that part.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, SCHEDULE 2.