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SCHEDULES

SCHEDULE 7

Section 160.

TAXATION OF BENEFIT FROM LOANS OBTAINED BY REASON OF EMPLOYMENT

PART I

MEANING OF “OBTAINED BY REASON OF EMPLOYMENT”

- 1 (1) ^{M1}Subject to sub-paragraph (5) below, the benefit of a loan is obtained by reason of a person’s employment if, in relation to that person, it is of a class described in sub-paragraphs (2), (3) or (4) below.
- (2) A loan made by his employer.
- (3) ^{M2}A loan made by a company—
- (a) over which his employer had control;
 - (b) by which his employer (being a company) was controlled; or
 - (c) which was controlled by a person by whom his employer (being a company) was controlled.
- (4) ^{M3}A loan made in any case where—
- (a) his employer was, or had control over, or was controlled by, a close company; and
 - (b) the loan was made by a person having a material interest in that close company or, that company being controlled by another company, in that other company.
- (5) [^{F1M4}Sub-paragraphs (2) and (4) above do] not apply to a loan made by ^{F2}. . . an individual, and shown to have been made in the normal course of his domestic, family or personal relationships.

Textual Amendments

- F1** Words in [Sch. 7 para. 1\(5\)](#) substituted (with effect in accordance with [s. 88\(6\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 88\(4\)\(a\)](#)
- F2** Words in [Sch. 7 para. 1\(5\)](#) repealed (with effect in accordance with [s. 88\(5\)\(6\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 88\(4\)\(a\)](#), [Sch. 26 Pt. 5\(5\)](#), Note

Marginal Citations

- M1** Source—1976 Sch.8 1(1)
- M2** Source—1976 Sch.8 2
- M3** Source—1976 Sch.8 3
- M4** Source—1976 Sch.8 1(2)

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- 2 ^{M5}In paragraph 1 above—
- (a) references to a loan being made by any person include references to his assuming the rights and liabilities of the person who originally made the loan and to his arranging, guaranteeing or in any way facilitating the continuation of a loan already in existence;
 - (b) “employer” includes a prospective employer; and
 - (c) “company”, except in the expression “close company”, includes a partnership.

Marginal Citations
M5 Source—1976 Sch.8 4

PART II

CALCULATION OF CASH EQUIVALENT OF LOAN BENEFIT

General

- 3 (1) ^{M6}The cash equivalent for any year of the benefit obtained from a loan is—
- (a) the amount of interest (calculated in accordance with paragraph 4 or 5 below) which would have been payable for that year had interest at the official rate been payable on the loan, less
 - (b) the amount of interest actually paid on the loan for that year.
- [^{F3} and, in a case where there are two or more loans, the aggregate of the cash equivalents (if any) of the benefit of each of those loans shall be treated for the purposes of section 160 as the cash equivalent of the benefit of all of them.]

^{F4}(2)

^{F4}(3)

Textual Amendments

F3 Words in [Sch. 7 para. 3\(1\)](#) added (for year 1991-92 and subsequent years of assessment) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 27(6), [Sch. 6 para. 3\(1\)](#)

F4 [Sch. 7 paras. 3\(2\)\(3\)](#) repealed (for year 1991-92 and subsequent years of assessment) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), ss. 27(6), 123, [Sch. 6 para. 3\(2\)](#), [Sch. 19 Pt. V](#), Note 6

Marginal Citations
M6 Source—1976 Sch.8 5, 6, 7

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Normal method of calculation (averaging)

- 4 ^{F5}(1) In the absence of a requirement or election that paragraph 5 below should apply, the amount of interest at the official rate payable on a loan for any year (“the relevant year”) shall be ascertained as follows—
- (a) take half the aggregate of—
 - (i) the maximum amount of the loan outstanding on 5th April preceding the relevant year or, if it was made in that year, on the date on which it was made, and
 - (ii) the maximum amount of the loan outstanding on 5th April in the relevant year or, if the loan was discharged in that year, the date of discharge;
 - (b) multiply that figure by the number of whole months during which the loan was outstanding in that year, and divide by 12;
 - (c) multiply the result by the official rate of interest in force during the period when the loan was outstanding in that year or, if the official rate changed during that period, the average rate during that period ascertained by reference to the number of days in the period and the number of days for which each rate was in force.

For the purposes of this paragraph, months begin on the sixth day of the calendar month.

- ^{F6}(2) Where an employment-related loan is replaced, directly or indirectly—
- (a) by a further employment-related loan, or
 - (b) by a non-employment-related loan which in turn is, in the same year of assessment or within 40 days thereafter, replaced, directly or indirectly, by a further employment-related loan,
- sub-paragraph (1) above applies as if the replacement loan or, as the case may be, each of the replacement loans were the same loan as the first-mentioned employment-related loan.
- (3) For the purposes of sub-paragraph (2) above “employment-related loan” means a loan the benefit of which is obtained by reason of a person’s employment (and “non-employment-related loan” shall be construed accordingly).
- (4) The references in sub-paragraph (2) above to a further employment-related loan are to an employment-related loan the benefit of which is obtained by reason of—
- (a) the same or other employment with the person who is the employer in relation to the first-mentioned employment-related loan, or
 - (b) employment with a person who is connected (within the meaning of section 839) with that employer.]

Textual Amendments

- F5** Sch. 7 para. 4 renumbered as para. 4(1) (with effect in accordance with s. 45(5) of the amending Act) by virtue of Finance Act 1995 (c. 4), s. 45(4)
- F6** Sch. 7 para. 4(2)-(4) inserted (with effect in accordance with s. 45(5) of the amending Act) by Finance Act 1995 (c. 4), s. 45(4)

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Election for alternative method of calculation

- 5 (1) For any year of assessment (“the relevant year”) the alternative method of calculation set out in this paragraph applies if—
- (a) the inspector so requires, by notice given to the employee, for the purpose of any assessment to income tax (or the adjustment of any such assessment in consequence of an appeal); or
 - (b) the employee so elects, by notice given to the inspector within the time allowed by sub-paragraph (2) below.
- (2) An election by the employee must be made—
- (a) in a case where an assessment including the emoluments in question has been made on the basis of the normal method of calculation, within the time allowed for appealing against that assessment or such further time as the inspector may allow;
 - (b) where no such assessment has been made, within six years after the end of the relevant year of assessment.
- (3) The alternative method of calculating the amount of interest at the official rate payable on a loan for the relevant year is as follows—
- (a) take each period in the relevant year during which the official rate of interest remains the same;
 - (b) for each such period take for each day in the period the maximum amount outstanding of the loan on that day, and add those amounts together;
 - (c) multiply that sum by the official rate in force during the period divided by 365; and
 - (d) add together the resulting figures for each period in the relevant year.

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Apportionment of cash equivalent in case of joint loan etc.

- 5A (1) Where in any year there are two or more employees chargeable to tax in respect of the same loan—
- (a) the cash equivalent of the benefit of the loan (determined in accordance with this Schedule) shall be apportioned between them in a fair and reasonable manner, and
 - (b) the portion allocated to each employee shall be treated as the cash equivalent of the benefit of the loan so far as he is concerned.
- (2) For the purposes of determining the cash equivalent in such a case, the references in paragraph 5 above to the employee shall be construed as references to all the chargeable employees.

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PART III

F7

Textual Amendments

F7 Sch. 7 Pts. 3-5 repealed (with effect in accordance with s. 88(5)(6) of the repealing Act) by Finance Act 1994 (c. 9), s. 88(4)(b), Sch. 26 Pt. 5(5), Note

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7 Section 160(1) does not apply to a loan in any year—
(a) for which interest is paid on the loan and the whole of that interest is eligible for relief, or
(b) for which no interest is paid on the loan but had interest been paid on it at the official rate the whole of that interest would have been eligible for relief.

8 Where for any year interest is paid on a loan and part of that interest is eligible for relief, the calculation of the cash equivalent under Part II of this Schedule is modified as follows—
(a) where paragraph 4 applies, the maximum amounts referred to in subparagraph (a)(i) and (ii) of that paragraph shall be proportionately reduced by reference to the proportion which so much of that interest paid for that year as is not eligible for relief bears to the whole of the interest so paid;
(b) where paragraph 5 applies, the maximum amounts referred to in subparagraph (3)(b) of that paragraph shall be proportionately reduced by reference to the proportion which so much of the interest paid on each such amount for the day in question as is not eligible for relief bears to the whole of the interest so paid; and
(c) the amount of interest eligible for relief shall be left out of account in ascertaining for the purposes of paragraph 3(1)(b) above the amount of interest paid for that year.

9 (1) Where for any year—
(a) no interest is paid on a loan, but
(b) had interest been paid on it at the official rate part of that interest would have been eligible for relief,

then the calculation of the cash equivalent under Part II of this Schedule shall be modified as provided by paragraph 8(a) or (b) above with the substitution for the references to the amounts of interest paid or not eligible for relief of references to the amounts (ascertained in accordance with the following provisions of this paragraph) which would have been paid or would not have been eligible for relief.

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- (2) For the purposes of paragraph 8(a) above as applied by this paragraph, the whole amount of interest at the official rate which would have been paid for any year shall be taken to be the amount payable for that year calculated in accordance with paragraph 4 above (disregarding paragraph 8); and the amount of that interest which would not have been eligible for relief shall be ascertained—
 - (a) by finding that amount on the assumption that the amount referred to in paragraph 4(a)(i) was the amount outstanding for the whole year;
 - (b) by finding that amount on the assumption that the amount referred to in paragraph 4(a)(ii) was the amount outstanding for the whole year; and
 - (c) by adding together the resulting figures and dividing by 2.
- (3) For the purposes of paragraph 8(b) above as applied by this paragraph, the amount of interest which would have been paid and the amount of it which would not have been eligible for relief shall be ascertained on the assumption that interest at the official rate was paid daily throughout the year on the maximum amount outstanding on each day.

10 (1) If—

- (a) a person has a loan on which no interest is paid and of which the benefit was obtained by reason of his or any other person’s employment (“the employer’s loan”); and
- (b) that person or his wife or her husband has another loan which was made later than, or at the same time as, the employer’s loan and interest on which is, in whole or in part, eligible for relief;

then, for the purposes of determining whether, had interest been paid on the employer’s loan at the official rate, the whole or any part of that interest would have been eligible for relief, sections . . . 355(1) to (4), 356 to 358 and 360 to 365 shall have effect as if the employer’s loan were made after any other loan which falls within paragraph (b) above and which, in the context of the application of sections 354(1) to (4) and 355(5), relates to the same land, caravan or house boat as does the employer’s loan.

- (2) Where such a loan is made as is mentioned in paragraph (b) of sub-paragraph (1) above, sections . . . 355(1) to (4), 356 to 358 and 360 to 365 have effect in accordance with that sub-paragraph with respect to so much of the interest referred to therein as would be paid on and after the day on which the loan is made; and paragraph 9(3) above shall have effect for the purpose of determining how much of that interest would have been eligible for relief.

11 (1) Where in any year a person has, alone or together with his wife or her husband, two or more loans—

- (a) on which no interest is paid, and
- (b) which, assuming the application of sections 354(1) to (4) and 355(5), would relate, in the context of those sections, to the same land, caravan or house boat,

then, for the purpose of determining whether, had interest been paid on any of those loans, it would, in whole or in part, have been eligible for relief, it shall be assumed

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in the first instance that those loans constitute a single loan (equal in amount to the aggregate of the actual loans) and to the extent that, had interest been paid on that single loan, it would have been eligible for relief, the relief shall then be attributed first to the earliest of the actual loans and, if all the relief is not thereby attributed, the balance shall be attributed to the next in time and so on with any of the balance remaining until the relief is wholly attributed.

- (2) Nothing in sub-paragraph (1) above affects the operation of paragraph 10 above in relation to the priority which it gives to a loan falling within sub-paragraph (1) (b) of that paragraph, but any question which of two or more loans falling within sub-paragraph (1) above is the earlier shall be determined without regard to that paragraph.

- 12 References in paragraphs 10 and 11 above to a husband or wife do not include references to a separated husband or wife.

- 13 This Part of this Schedule is subject to the provisions of Part IV below.

PART IV

F11

Textual Amendments

F11 Sch. 7 Pts. 3-5 repealed (with effect in accordance with s. 88(5)(6) of the repealing Act) by Finance Act 1994 (c. 9), s. 88(4)(b), Sch. 26 Pt. 5(5), Note

- 14 This Part of this Schedule applies in relation to the employee for any year for which he is, or, apart from paragraph 7, 8 or 9 above as they apply in relation to home loans, would be, liable to income tax at a rate higher than basic rate or to tax chargeable in respect of excess liability.

- 15 Where this Part of this Schedule applies in relation to the employee for any year, none of paragraphs 7, 8 and 9 above shall apply in his case in relation to any home loan in that year, except as provided by paragraph 17 below.

- 16 (1) Where, by virtue only of paragraph 15 above, paragraph 7, 8 or 9 above does not apply in the case of the employee in relation to a home loan in any year, there shall be treated as interest eligible for relief under section 353 by virtue of section 355(1) (a) in that year—

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- (a) in a case where, apart from paragraph 15 above, paragraph 7 would have applied in relation to the home loan, an amount equal to the cash equivalent of the benefit of that loan in that year, apart from paragraph 7, or
- (b) in a case where, apart from paragraph 15 above, paragraph 8 or 9 would have applied in relation to the home loan, an amount equal to the difference between—
 - (i) the cash equivalent of the benefit of the home loan in that year, apart from paragraphs 8 and 9, and
 - (ii) what the cash equivalent of the benefit of the home loan would have been in that year, apart from paragraph 15 above,
 but subject to the following provisions of this paragraph.
- (2) In the application of section 353 by virtue of this paragraph—
 - (a) the amount that falls to be treated as mentioned in sub-paragraph (1) above shall be taken to fall within paragraph (a) of subsection (1) of that section; and
 - (b) subsections (2) and (3) of that section shall be disregarded in relation to that amount.

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- 17 Paragraph 15 above shall not prevent paragraph 7, 8 or 9 applying in the case of the employee in any year if, apart from paragraph 15—
- (a) he would not have been charged for that year to income tax at any rate higher than basic rate in respect of any of his total income or to tax in respect of excess liability; and
 - (b) the aggregate of the following amounts, that is to say—
 - (i) the amount of income in respect of which, apart from any home loans, he would have been charged to income tax for that year at the basic rate,
 - (ii) any income which is treated by virtue of section 683(1) or 684(1) as his income for that year for the purposes of excess liability, notwithstanding that he would not have been charged to tax otherwise than at the basic rate,
 - (iii) the cash equivalents, apart from paragraphs 7, 8 and 9 above, of the benefit of any home loans in that year, and
 - (iv) his nominal element (if any) for that year, reduced by an amount equal to the cash equivalents, apart from paragraph 15 above, of the benefit of any home loans in that year,
 does not exceed the basic rate limit by more than the amount specified in section 161(1) for that year.

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- 18 If, in the case of the employee, there is a home loan in any year and that is a year for which—
- (a) he is liable to income tax at a rate higher than basic rate or to tax chargeable in respect of excess liability (whether or not by virtue of this Part of this Schedule), but
 - (b) he would not have been so liable apart from any home loans, and

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(c) there is in his case a nominal element,
then, in computing his liability to income tax for that year, the amount which falls to be treated as emoluments under section 160(1) in consequence of the operation of paragraph 15 above (or, if more than one, the aggregate of those amounts) shall be taken to be the highest part of the income charged to tax, and an amount equal to the nominal element shall be taken to be the lowest portion of that part.

PART V

F17

Textual Amendments

F17 Sch. 7 Pts. 3-5 repealed (with effect in accordance with s. 88(5)(6) of the repealing Act) by Finance Act 1994 (c. 9), s. 88(4)(b), Sch. 26 Pt. 5(5), Note

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- 19 (1) In this Schedule—
- “eligible for relief” shall be construed in accordance with subparagraph (2) below;
- “eligible loan” means—
- (a) any loan the interest on which is eligible for relief, other than a home loan; and
- (b) in a case where part of the interest on a loan is eligible for relief otherwise than by virtue of section 355(1)(a), 356(1) or 365, that proportion of the loan which that part of the interest bears to the whole of the interest;
- and in determining for the purposes of this definition whether the whole or any part of the interest on a loan is so eligible for relief, it shall be assumed that interest at a uniform rate is paid on the loan, whether or not that is in fact the case;
- “excess liability” means liability to income tax over what it would be if all income tax not chargeable at the lower rate by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,, to the exclusion of any higher rate;
- “home loan” means—
- (a) any loan the interest on which is, or apart from section 357 would have been, eligible for relief by virtue of section 355(1)(a), 356(1) or 365; and
- (b) in a case where part of the interest on a loan is or would have been so eligible for relief, that proportion of the loan which that part of the interest bears to the whole of the interest;
- and in determining for the purposes of this definition whether the whole or any part of the interest on a loan is or would have been so eligible for relief, it shall be assumed that interest at a uniform rate is paid on the loan, whether or not that is in fact the case;
- “loan”, except in Part I of this Schedule, shall be construed in accordance with subparagraphs (3) to (5) below;
- “nominal element”, in relation to the employee, means the amount (if any) which, apart from paragraph 15 above, would, by virtue of section 161(1), not have been charged to tax under section 160 in that year in his case.

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- (2) Interest is “eligible for relief” for the purposes of this Schedule if it is eligible for relief under section 353 or would be eligible for such relief apart from subsection (2) of that section.
- (3) In the definitions of “eligible loan” and “home loan” in sub-paragraph (1) above, “loan” means any such loan as is mentioned in section 160(1), and for this purpose sub-paragraphs (4) and (5) below shall be disregarded.
- (4) Where by virtue of sub-paragraph (1) above part of a loan constitutes a home loan or an eligible loan, the loan shall be treated for the purposes of this Schedule, apart from Part I, as if it were two or more separate loans, consisting respectively—
 - (a) of the part (if any) which is a home loan,
 - (b) of the part (if any) which is an eligible loan, and
 - (c) of the part (if any) which is neither a home loan nor an eligible loan,and, subject to sub-paragraph (5) below, references in this Schedule, apart from Part I, to loans, home loans and eligible loans shall be construed accordingly.
- (5) Except for home loans and eligible loans, all the loans between the same lender and borrower for which a cash equivalent falls to be ascertained and which are outstanding at any time, as to any amount, in any year are to be treated for the purposes of this Schedule, apart from Part I, as a single loan.

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