



# Finance Act 1995

## 1995 CHAPTER 4

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Reliefs*

#### **93 Incidental overnight expenses etc**

- (1) In section 141 of the Taxes Act 1988 (non-cash vouchers), after subsection (6B) there shall be inserted the following subsections—

“(6C) Subsection (1) above shall not apply in relation to a non-cash voucher to the extent that it is used by the employee to obtain goods, services or money where—

- (a) obtaining the goods or services is incidental to his being away from his usual place of abode during a qualifying absence from home or, as the case may be, the money is obtained for the purpose of being used to obtain goods or services which would be so incidental;
- (b) the authorised maximum is not exceeded in relation to that qualifying absence; and
- (c) the cost of obtaining the goods or services would not be deductible as mentioned in subsection (3) above if incurred by the employee out of his emoluments.

(6D) Subsections (3) to (5) of section 200A shall apply as they apply for the purposes of that section for construing the references in subsection (6C) above to a qualifying absence from home and for determining, for the purposes of that subsection, whether the authorised maximum is exceeded.”

- (2) In section 142 of that Act (credit-tokens), after subsection (3B) there shall be inserted the following subsections—

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*Status: This is the original version (as it was originally enacted).*

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“(3C) Subsection (1) above shall not apply in relation to a credit-token to the extent that it is used by the employee to obtain goods, services or money where—

- (a) obtaining the goods or services is incidental to his being away from his usual place of abode during a qualifying absence from home or, as the case may be, the money is obtained for the purpose of being used to obtain goods or services which would be so incidental;
- (b) the authorised maximum is not exceeded in relation to that qualifying absence; and
- (c) the cost of obtaining the goods or services would not be deductible as mentioned in subsection (2) above if incurred by the employee out of his emoluments.

(3D) Subsections (3) to (5) of section 200A shall apply as they apply for the purposes of that section for construing the references in subsection (3C) above to a qualifying absence from home and for determining, for the purposes of that subsection, whether the authorised maximum is exceeded.”

(3) In section 155 of that Act (exceptions from general charge on benefits in kind for persons in director’s or higher-paid employment), after subsection (1A) there shall be inserted the following subsections—

“(1B) Section 154 does not apply in the case of a benefit provided for the employee himself where—

- (a) the provision of the benefit is incidental to the employee’s being away from his usual place of abode during a qualifying absence from home;
- (b) the authorised maximum is not exceeded in relation to that qualifying absence; and
- (c) the cost of the benefit would not be deductible as mentioned in section 156(8) if incurred by the employee out of his emoluments.

(1C) Subsections (3) to (5) of section 200A shall apply as they apply for the purposes of that section for construing the references in subsection (1B) above to a qualifying absence from home and for determining, for the purposes of that subsection, whether the authorised maximum is exceeded.”

(4) After section 200 of that Act there shall be inserted the following section—

**“200A Incidental overnight expenses**

(1) Subject to subsection (2) below, sums paid to or on behalf of any person holding an office or employment, to the extent that they are paid wholly and exclusively for the purpose of defraying, or of being used for defraying, any expenses which—

- (a) are incidental to that person’s being away from his usual place of abode during a qualifying absence from home, but
- (b) would not be deductible under section 193, 194, 195, 198 or 332 if incurred out of that person’s emoluments,

shall not be regarded as emoluments of the office or employment for any purpose of Schedule E.

(2) Subsection (1) above shall not apply in the case of any qualifying absence in relation to which the authorised maximum is exceeded.

- (3) For the purposes of this section a qualifying absence from home, in relation to a person holding an office or employment, is any continuous period throughout which that person is obliged to stay away from his usual place of abode and during which he—
- (a) has at least one overnight stay away from that place; but
  - (b) does not on any occasion stay overnight at a place other than a place the expenses of travelling to which are either—
    - (i) expenses incurred out of his emoluments and deductible, otherwise than by virtue of section 193(4), 194(2) or 195(6), under any of the provisions mentioned in subsection (1)(b) above, or
    - (ii) expenses which would be so deductible if so incurred.
- (4) In this section “the authorised maximum”, in relation to each qualifying absence from home by any person, means the aggregate amount equal to the sum of the following amounts—
- (a) £5 for every night (if any) during that absence which is a night the whole of which is spent by that person in the United Kingdom; and
  - (b) £10 for every night (if any) during that absence which is a night the whole or any part of which is spent by that person outside the United Kingdom.
- (5) For the purposes of this section the authorised maximum is exceeded in relation to a qualifying absence from home by any person if that maximum is exceeded by the amount which, in the absence of subsection (2) above and of the other requirements of this Act that that maximum is not exceeded, would fall by virtue of this section and sections 141(6C), 142(3C) and 155(1B) to be disregarded, in relation to that qualifying absence, in determining the amount of that person’s emoluments.
- (6) The Treasury may by order increase either or both of the sums for the time being specified in subsection (4)(a) and (b) above; and such an order shall have effect for determining what emoluments are received by any person on or after the date when the order comes into force.”
- (5) This section shall have effect for determining what emoluments are received by any person on or after 6th April 1995.