

## SCHEDULES

### SCHEDULE 10

Section 57.

#### BENEFITS IN KIND: DEREGULATORY AMENDMENTS

##### *Introduction*

- 1 Chapter II of Part V of the Taxes Act 1988 (provisions relating to the Schedule E charge: benefits in kind, etc.) is amended as follows.

##### *Accommodation, supplies or services used in performing duties of employment*

- 2 (1) After section 155 (exceptions from the general charge) insert—

##### **“155ZA Accommodation, supplies or services used in performing duties of employment**

- (1) Section 154 does not apply to a benefit consisting in the provision of accommodation, supplies or services used by the employee in performing the duties of his employment if the following conditions are met.
- (2) Where the benefit is provided on premises occupied by the employer or other person providing it, the only condition is that any use of it for private purposes by the employee or members of his family or household is not significant.
- (3) Where the benefit is provided otherwise than on premises occupied by the employer or other person providing it, the conditions are—
  - (a) that the sole purpose of providing the benefit is to enable the employee to perform the duties of his employment,
  - (b) that any use of it for private purposes is not significant, and
  - (c) that it is not an excluded benefit.
- (4) The Treasury may make provision by regulations as to what is an excluded benefit for the purposes of subsection (3)(c) above.

The regulations may provide that a benefit is an excluded benefit only if such conditions as may be prescribed are met as to the terms on which, and persons to whom, it is provided.

- (5) Subject to any such regulations, the provision of any of the following is an excluded benefit (whatever the terms and whoever it is provided to)—
  - (a) a motor vehicle, boat or aircraft;
  - (b) a benefit that involves—
    - (i) the extension, conversion or alteration of any living accommodation, or

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(ii) the construction, extension, conversion or alteration of a building or other structure on land adjacent to and enjoyed with such accommodation.

(6) For the purposes of this section—

- (a) use “for private purposes” means any use that is not use in performing the duties of the employee’s employment; and
- (b) use that is at the same time use in performing the duties of an employee’s employment and use for private purposes counts as use for private purposes.”.

(2) In section 154(2) and (3), after “155” insert “, 155ZA”.

*Power to provide by regulations for exemption of minor benefits*

3 (1) After section 155ZA (inserted by paragraph 2(1) above), insert—

**“155ZB Power to provide for exemption of minor benefits**

- (1) The Treasury may make provision by regulations for exempting from section 154 such minor benefits as may be specified in the regulations.
- (2) Any exemption conferred by regulations under this section is conditional on the benefit being made available to the employer’s employees generally on similar terms.”.

(2) In section 154(2), after “155ZA,” (inserted by paragraph 2(2) above) insert “155ZB,”.

*Beneficial loans: exception of loan where whole of interest qualifies for relief*

4 (1) After section 161 (exceptions from the charge to tax on beneficial loan arrangements), insert—

**“161A Treatment of qualifying loans**

- (1) In this Chapter a “qualifying loan” means a loan made to a person where, assuming interest is paid on the loan (whether or not it is in fact paid), the whole or part of the interest paid on it for the year—
  - (a) is eligible for relief under section 353 or would be so eligible but for subsection (2) of that section, or
  - (b) is deductible in computing the amount of the profits to be charged—
    - (i) under Case I or II of Schedule D in respect of a trade, profession or vocation carried on by him, or
    - (ii) under Schedule A in respect of a Schedule A business carried on by him.

(2) Section 160(1) does not apply to a loan in any year in which, on the assumption mentioned in subsection (1) above, the whole of the interest paid on it is eligible for relief or deductible as mentioned in that subsection.”.

(2) In section 160—

- (a) subsection (1C) shall cease to have effect, and

- (b) in subsection (5), after “161” insert “, 161A”.

*Beneficial loans: loans on ordinary commercial terms*

- 5 (1) After section 161A (inserted by paragraph 4(1) above) insert—

**“161B Beneficial loans: loans on ordinary commercial terms**

- (1) Section 160(1) does not apply to a loan on ordinary commercial terms.
- (2) Schedule 7A to this Act has effect as to what is meant by a loan on ordinary commercial terms.”.
- (2) After Schedule 7 insert—

“SCHEDULE  
7A

BENEFICIAL LOANS: LOANS ON ORDINARY COMMERCIAL TERMS

*Introduction*

- 1 For the purposes of section 161B(1) a loan “on ordinary commercial terms” means a loan—
- (a) made by a person (“the lender”) in the ordinary course of a business carried on by him which includes—
- (i) the lending of money, or
- (ii) the supplying of goods or services on credit, and
- (b) in relation to which the requirements of paragraph 2, 3 or 4 below are met.

*Requirements relating to original loan*

- 2 (1) This paragraph applies to any loan and the relevant time for the purposes of this paragraph is the time the loan was made.
- (2) The requirements of this paragraph are—
- (a) that at the relevant time comparable loans were available to all those who might be expected to avail themselves of the services provided by the lender in the course of his business;
- (b) that a substantial proportion of the relevant loans were made to members of the public;
- (c) that the loan in question and comparable loans generally made by the lender at or about the relevant time to members of the public are held on the same terms; and
- (d) that if those terms differ from those applicable immediately after the relevant time they were imposed in the ordinary course of the lender’s business.
- (3) For the purposes of this paragraph a loan is comparable to another loan if it is made for the same or similar purposes and on the same terms and conditions.

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- (4) The relevant loans for the purposes of sub-paragraph (2)(b) are—
- (a) the loan in question, and
  - (b) comparable loans made by the lender at or about the relevant time.
- (5) In determining for the purposes of this paragraph whether any loans made by any person before 1st June 1994 are made on the same terms or conditions, or held on the same terms, there shall be left out of account any amounts, by way of fees, commission or other incidental expenses, incurred for the purpose of obtaining any of those loans by the persons to whom they are made.

*Requirements relating to loan varied before 6th April 2000*

- 3 (1) This paragraph applies to a loan that has been varied before 6th April 2000 and the relevant time for the purposes of this paragraph is the time of the variation.
- (2) The requirements of this paragraph are—
- (a) that a substantial proportion of the relevant loans were made to members of the public;
  - (b) that the loan in question and relevant loans generally made by the lender at or about the relevant time to members of the public are held on the same terms; and
  - (c) that if those terms differ from those applicable immediately after the relevant time they were imposed in the ordinary course of the lender's business.
- (3) The relevant loans for the purposes of sub-paragraph (2)(a) are—
- (a) the loan in question;
  - (b) any existing loans which were varied at or about the time of the variation of the loan in question so as to be held on the same terms as that loan after it was varied;
  - (c) any new loans made by the lender, at or about that time, which are held on those terms.

*Requirements relating to loan varied on or after 6th April 2000*

- 4 (1) The requirements of this paragraph apply to a loan that has been varied on or after 6th April 2000 and the relevant time for the purposes of this paragraph is the time of the variation.
- (2) The first requirement is that at the relevant time members of the public that had loans from the lender for similar purposes had a right to vary their loans on the same terms and conditions as applied in relation to the variation of the loan in question.
- (3) The second requirement is that any existing loans so varied and the loan in question as varied are held on the same terms.
- (4) The third requirement is that if those terms differ from the terms applicable immediately after the relevant time, they were imposed in the ordinary course of the lender's business.

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- (5) The fourth requirement is that a substantial proportion of the relevant loans were made to members of the public.
- (6) The relevant loans for the purposes of sub-paragraph (5) are—
- (a) the loan in question;
  - (b) any existing loans which were varied at or about the time of the variation of the loan in question so as to be held on the same terms as that loan after it was varied;
  - (c) any new loans made by the lender, at or about that time, which are held on those terms.

*Disregard of certain penalties, fees, etc.*

- 5 Amounts incurred by the person to whom a loan is made—
- (a) on penalties or interest or similar amounts incurred as a result of varying the loan, and
  - (b) on fees, commission or other incidental expenses, incurred for the purpose of obtaining the loan,
- shall be left out of account in determining for the purposes of paragraph 3 or 4 whether rights to vary loans are exercisable on the same terms and conditions or loans are held on the same terms.

*Meaning of 'member of the public'*

- 6 For the purposes of this Schedule a “member of the public” means a member of the public at large with whom the lender deals at arm’s length.”.

- (3) In section 160(5)—
- (a) after “161A” (inserted by paragraph 4(2)) insert “, 161B”, and
  - (b) for “Schedule 7” substitute “Schedules 7 and 7A”.
- (4) In section 161, subsections (1A) and (1B) shall cease to have effect.

*Beneficial loans: apportionment of benefit in case of joint loan etc.*

- 6 In Schedule 7 to the Taxes Act 1988 (taxation of benefit from loans obtained by reason of employment), after paragraph 5 insert—

*“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.

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- (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.”.