



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

### CHAPTER 7

TAXABLE BENEFITS: LOANS

*Supplementary provisions relating to taxable cheap loans*

#### 184 Interest treated as paid

- (1) This section applies where [<sup>F1</sup>—
  - (a) the cash equivalent of the benefit of a taxable cheap loan is treated as earnings from an employee's employment for a tax year under section 175(1), or
  - (b) the relevant amount in respect of the benefit of a taxable cheap loan is treated as earnings from an employee's employment for a tax year under section 175(1A).]
- (2) The employee is to be treated for the purposes of the Tax Acts as having paid interest on the loan in that year equal to the cash equivalent.
- (3) But the employee is not to be treated as having paid that interest for the purposes of this Chapter or of any of [<sup>F2</sup>the following Chapters of this Part—
  - Chapter 3 (taxable benefits: expenses payments);
  - Chapter 6 (taxable benefits: cars, vans and related benefits);
  - Chapter 10 (taxable benefits: residual liability to charge).]
- (4) The interest is to be treated—

*Status: Point in time view as at 01/04/2024.*

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- (a) as accruing during the period in the tax year during which the employee holds the employment and the loan is outstanding, and
  - (b) as paid by the employee at the end of the period.
- (5) The interest is not to be treated—
- (a) as income of the person making the loan, or
  - (b) as relevant loan interest to which section 369 of ICTA applies (mortgage interest payable under deduction of tax).

#### Textual Amendments

- F1** Words in s. 184(1) substituted (with effect in accordance with Sch. 2 para. 62 of the amending Act) by Finance Act 2017 (c. 10), **Sch. 2 para. 46**
- F2** Words in s. 184(3) substituted (with effect in accordance with s. 13(4) of the amending Act) by Finance Act 2015 (c. 11), **Sch. 1 para. 11**

### 185 Apportionment of cash equivalent in case of joint loan etc.

Where in any tax year the cash equivalent of the benefit of the same taxable cheap loan is to be treated as earnings of two or more employees—

- (a) the cash equivalent of the benefit of the loan (determined in accordance with the provisions of this Chapter) is to be apportioned between them in a just and reasonable manner, and
- (b) the portion allocated to each employee is to be treated as the cash equivalent of the benefit of the loan so far as that employee is concerned.

### 186 Replacement loans

- (1) This section applies where an employment-related loan (“the original loan”) is replaced, directly or indirectly, by—
- (a) a further employment-related loan, or
  - (b) a loan which is not an employment-related loan but which in turn is, in the same tax year or within 40 days after the end of the tax year, replaced, directly or indirectly, by a further employment-related loan.
- (2) In such a case, for the purposes of calculating the cash equivalent of the benefit of the original loan under section 175(3), section 182 (normal method of calculating interest at the official rate) applies as if the replacement loan, or each of the replacement loans, were the same loan as the original loan.
- (3) Where section 182 is applied as modified by subsection (2) then for the purposes of section 175(3)(b) the amount of interest actually paid on the loan for the tax year in question is the total of—
- (a) the amount of interest actually paid on the original loan for that year, and
  - (b) the amount of interest actually paid on the replacement loan or on each of the replacement loans for that year.
- (4) In this section a “further employment-related loan” means a loan which is an employment-related loan made in relation to—
- (a) the same or other employment with the person who is the employer in relation to the original loan, or

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- (b) employment with a person who is connected with that employer.

### **187 Aggregation of loans by close company to director**

- (1) This section applies where, in relation to any tax year, there are employment-related loans between the same lender and borrower which are aggregable with each other.
- (2) The lender may elect for aggregation to apply for that tax year in the case of the borrower.
- (3) The effect of the election is that all the aggregable loans are to be treated as a single loan for the purposes of—  
section 175 (benefit of taxable cheap loan treated as earnings),  
the provisions of this Chapter relating to the calculation of the cash equivalent of the benefit of a taxable cheap loan, and  
section 184 (interest treated as paid).
- (4) For this purpose loans are aggregable for any tax year if they are made in the same currency and all the following conditions are met in relation to each of them—  
(a) there is a time in the tax year when—  
(i) the loan is outstanding,  
(ii) the lender is a close company, and  
(iii) the borrower is a director of that company;  
(b) at all times in the tax year the rate of interest on the loan is less than the official rate applying at that time;  
(c) the loan is not a qualifying loan within the meaning of section 180 (see section 180(5)).
- (5) An election under this section must be made by the lender in a notice given—  
(a) to [<sup>F3</sup>an officer of Revenue and Customs] , and  
(b) before 7th July after the end of the tax year to which the election relates.

#### **Textual Amendments**

- F3** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

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