

FINANCE ACT 2009

EXPLANATORY NOTES

INTRODUCTION

Section 71: Taxable Benefit of Living Accommodation: Lease Premiums

Background Note

26. Where an employee (or a member of their family or household) is provided with accommodation by reason of the employee's employment there is a tax charge on the benefit to the employee of that accommodation. Where rent is paid by the person at whose cost the accommodation is provided the charge is based on the actual rent paid (less any amount made good by the employee), where that is more than the annual value of the accommodation. However, some arrangements are being entered into that involve upfront payments, which are described as a lease premium, and payment of a very small rent in order to try to avoid paying tax.
27. The section ensures that where a lease premium is paid for a lease of 10 years or less, the same tax treatment will follow as if the lease premium were actual rent paid. The taxable amount in any tax year will be treated as the amount of the lease premium spread over the duration of the lease plus the amount of any rent paid by the person at whose cost the accommodation is provided less any amount made good by the employee. The new rules will not apply where the lease is in respect of living accommodation which forms part of premises which is used by the person at whose cost the accommodation is provided, mainly for a purpose which is not the provision of living accommodation.