

FINANCE (NO. 2) ACT 2010

EXPLANATORY NOTES

Section 7 Schedule 4: Expenses Paid to Mps Etc

Summary

1. **Section 7** introduces Schedule 4. This Schedule provides for the exemption from income tax of certain expenses paid or reimbursed to MPs following the introduction, by the Independent Parliamentary Standards Authority (IPSA), of a new scheme for paying the expenses of Members of Parliament (MPs). This will broadly have the effect of maintaining the tax treatment that applied to similar expenses paid under the previous arrangements for reimbursing MPs' expenses.

Details of the Schedule

2. Paragraph 1(2) substitutes a new section 292 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA), exempting from tax certain payments made by IPSA to MPs in respect of their accommodation expenses. The new section 292 reflects the position that, with effect from 7 May 2010, expenses paid to MPs are no longer paid under a resolution of the House of Commons but instead under the scheme administered by IPSA made under the Parliamentary Standards Act 2009 (PSA).
3. Subsection (1) of the new section 292 provides for payments made by IPSA under section 5(1) of PSA to be exempt from income tax if they are expressed to be made in respect of accommodation expenses, or if they are related to or in consequence of a payment of accommodation expenses. The latter condition ensures that payments made by IPSA which are related to accommodation expenses, such as the additional payments made to MPs who claim accommodation expenses for a rental property and who have caring responsibilities, are within the scope of the exemption.
4. New subsection (2) defines "accommodation expenses" for the purpose of new subsection (1).
5. New subsections (3) and (4) provide that particular payments made under IPSA's scheme in relation to overnight accommodation are not within the scope of the income tax exemption for accommodation expenses.
6. New subsection (3) provides that expenses reimbursed by IPSA for the cost of an overnight stay in a hotel, which has been incurred only because the MP was required to attend a late night sitting of the House of Commons, does not fall within the meaning of "accommodation expenses" for the purpose of new subsection (1) unless the House has sat beyond 1 a.m. Where the cost of an overnight stay in a hotel is reimbursed by IPSA because the MP was required to attend a sitting of the House beyond 1 a.m. and IPSA have agreed that it would not be reasonable for the MP to return to any residence, the exemption provided by subsection (1) will apply.

*These notes refer to the Finance (No. 2) Act 2010
(c.31) which received Royal Assent on 27 July 2010*

7. New subsection (4) provides that loans advanced to MPs for a deposit on a rental property do not fall within the meaning of “accommodation expenses” for the purposes of new subsection (1).
8. Paragraph 1(3) amends section 360 of ITEPA to take account of the new section 292.
9. Paragraph 1(4) provides for the new section 292 of ITEPA to have retrospective effect so that the tax exemption it provides applies in relation to payments made to MPs by IPSA on or after 7 May 2010, being the start of the current Parliament.
10. Paragraph 1(5) provides for any expenses that remain payable on or after 7 May 2010 under the arrangements in place prior to that date to be subject to ITEPA as if it had not been amended by this Schedule.
11. Paragraph 1(6) provides that the amendment to section 360 of ITEPA applies only in relation to expenses incurred by MPs on or after 7 May 2010.
12. Paragraph 2(1) inserts new section 293A into ITEPA.
13. New section 293A(1) provides for payments made by IPSA under section 5(1) of the PSA in respect of relevant UK travel and relevant subsistence expenses to be exempt from income tax. “Relevant UK travel expenses” and “relevant subsistence payments” are defined in subsections (2) and (3) of new section 293A(1). Subsection (4) provides further definitions for the purposes of subsection (2). These definitions rely on IPSA’s scheme under section 5 of the PSA and subsection (4) of section 293A expressly provides that if IPSA changes the definitions for the purposes of its scheme, they will also change for the purposes of subsection (2) of new section 293A.
14. Paragraph 2(2) provides that new section 293A has effect in relation to payments made by IPSA on or after 7 May 2010.
15. Paragraph 2(3) provides for any expenses that remain payable on or after 7 May 2010 under the arrangements in place prior to that date to be subject to ITEPA as if it had not been amended by this Schedule.
16. Paragraph 3 amends section 294 of ITEPA in respect of European travel expenses incurred by MPs and members of the devolved administrations.
17. Paragraph 3(2) substitutes a new subsection (1) of section 294 which consolidates the previous provisions and reflects the fact that European travel expenses incurred by MPs are no longer paid or reimbursed in accordance with a resolution of the House of Commons but instead are paid by IPSA under section 5(1) of the PSA.
18. Paragraph 3(3) amends subsection (3)(b)(iii) of section 294 to extend the definition of “relevant European location” for the purposes of the tax exemption in that section to include countries which are members of the Council of Europe. This reflects the expenses payments that IPSA will make to MPs, but the extended tax exemption will also apply to members of the devolved administrations if equivalent expenses payments are made to them under their respective expenses schemes.
19. Paragraph 3(4) provides that the amendments to section 294 of ITEPA have effect in relation to expenses payments made to MPs and members of the devolved administrations on or after 7 May 2010.
20. Paragraph 3(5) provides for any expenses that remain payable to MPs on or after 7 May 2010 under the arrangements in place prior to that date to be subject to ITEPA as if it had not been amended by this Schedule.

Background Note

21. Under the PSA, IPSA has developed a new scheme under which MPs have been paid their expenses since the Parliamentary election on 6 May 2010.

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22. Prior to the establishment of IPSA, expenses were reimbursed in accordance with resolutions of the House of Commons and the tax treatment of particular expenses was determined by specific legislation for MPs in relation to some expenses and long standing concessions in relation to travel expenses. The advent of IPSA means that the specific tax legislation needs amending, and at the same time past concessionary treatments need to be formalised in legislation or ended.
23. Section 292 of ITEPA exempts from income tax accommodation expenditure that was paid to MPs in respect of additional expenses necessarily incurred in staying overnight away from their only or main home for the purpose of performing their Parliamentary duties. The current wording of the exemption reflects the fact that payments of these expenses were made under a resolution of the House of Commons. An amendment is needed to section 292 to reflect the fact that expenses payments are now administered by IPSA under the PSA and to broadly continue the tax treatment of accommodation expenses paid to MPs.
24. Section 294 of ITEPA exempts from tax expenses paid to MPs to cover the costs of certain visits to EU institutions or to the Parliaments of other EU member states. Like section 292, the exemption is tied to payments that are made in accordance with a resolution of the House of Commons. Again, these payments are now made by IPSA under its scheme and an amendment to section 294 is needed to reflect this. The amendment also extends the exemption to cover travel to the national Parliaments of Council of Europe member states.
25. To recognise the requirement of MPs of having to carry out their duties in both their constituencies and Westminster, the general rules which allow tax relief for expenses incurred on work-related travel have, under a long standing concession, been extended in the case of MPs.
26. This concessionary treatment will be ended from 7 May 2010 and instead these amendments to ITEPA will provide a statutory exemption for certain travel expenses paid or reimbursed to MPs by IPSA as expenses necessarily incurred in the performance of MPs' Parliamentary functions.
27. Prior to 7 May 2010 MPs were reimbursed the cost of certain travel by spouses and, by concession, no liability to income tax arose. The IPSA scheme reimburses some travel by MPs' spouses or partners, but in more restricted circumstances, and these amendments will exempt those payments from tax.
28. The costs of evening meals purchased by MPs and eaten on the Parliamentary estate when the House of Commons is sitting late were in some circumstances previously paid under the allowance for overnight accommodation expenses and so subject to the income tax exemption at section 292 of ITEPA. Under the IPSA scheme, payments in respect of such meals are paid separately from Accommodation Expenses. A new provision is being introduced to exempt from tax the cost of these meals reimbursed under IPSA's scheme.