

CHAPTER 4 Other benefit in kind charges

Benefit of use of car. FA82 s4(2) to (6) and (9)(a) and (b)(i), (ii) and (iv); FA92 s8(a),(b)(i) and (ii)(V) and Sch1 PtV; FA96 s6 121.—(1) (a) In this section—

“business mileage for a year of assessment”, in relation to a person, means the total number of whole miles travelled in the year in the course of business use by that person of a car or cars in respect of which this section applies in relation to that person;

“business use”, in relation to a car in respect of which this section applies in relation to a person, means travelling in the car which that person is necessarily obliged to do in the performance of the duties of his or her employment;

“car” means any mechanically propelled road vehicle constructed or adapted for the carriage of passengers, other than a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used;

“employment” means an office or employment of profit such that any emoluments) of the office or employment would be charged to tax, and cognate expressions shall be construed accordingly;

“private use”, in relation to a car, means use of the car other than business use;

“relevant log book”, in relation to a person and a year of assessment, means a record maintained on a daily basis of the person's business use for the year of assessment of a car or cars in respect of which this section applies in relation to that person for that year of assessment which—

(i) contains relevant details of distances travelled, nature and location of business transacted and amount of time spent away from the employer's place of business, and

(ii) is certified by the employer as being to the best of the employer's knowledge and belief true and accurate.

(b) For the purposes of this section—

(i) (I) a car made available in any year to an employee by reason of his or her employment shall be deemed to be available in that year for his or her private use unless the terms on which the car is so made available prohibit such use and no such use is made of the car in that year:

(II) a car made available to an employee by his or her employer or by a person connected with the employer shall be deemed to be made available to him or her by reason of his or her employment (unless the employer is an individual and it can be shown that the car was made so available in the normal course of his or her domestic, family or personal relationships);

(III) a car shall be treated as available to a person and for his or her private use if it is available to a member or members of his or her family or household;

(IV) references to a person's family or household are references to the person's spouse, sons and daughters and their spouses, parents and servants, dependants and guests;

(ii) in relation to a car in respect of which this section applies, expenditure in respect of any costs borne by a person connected with the employer shall be treated as borne by the employer;

(iii) the original market value of a car shall be the price (including any duty of customs, duty of excise or value-added tax chargeable on the car) which the car might reasonably have been expected to fetch if sold in the State singly in a retail sale in the open market immediately before the date of its first registration in the State under section 6 of the Roads Act, 1920, or under corresponding earlier legislation, or else-where under the corresponding legislation of any country or territory.

(2) (a) In relation to a person chargeable to tax in respect of an employment, this section shall apply for a year of assessment in relation to a car which, by reason of the employment, is made available (without a transfer of the property in it) to the person and is available for his or her private use in that year.

(b) In relation to a car in respect of which this section applies for a year of assessment—

(i) Chapter 3 of this Part shall not apply for that year in relation to the expense incurred in connection with the provision of the car, and

(ii) there shall be treated for that year as emoluments of the employment by reason of which the car is made available, and accordingly chargeable to income tax, the amount, if any, by which the cash equivalent of the benefit of the car for the year exceeds the aggregate for the year of the amounts which the employee is required to make good and actually makes good to the employer in respect of any part of the costs of providing or running the car; but any part of such aggregate in respect of which the cash equivalent is reduced under subsection (3)(a) shall be disregarded for the purposes of this subparagraph.

(3) (a) The cash equivalent of the benefit of a car for a year of assessment shall be 30 per cent of the original market value of the car, but shall be reduced—

(i) where no part of the cost for that year of the fuel used in the course of the private use of the car by the employee is borne directly or indirectly by the employer, by 4.5 per cent of the original market value of the car,

(ii) where no part of the cost for that year of the insurance of the car is borne directly or indirectly by the employer, by 3 per cent of the original market value of the car,

(iii) where no part of the cost for that year of repair and servicing of the car is borne directly or indirectly by the employer, by 3 per cent of the original market value of the car, and

(iv) where no part of the excise duty for that year on the licence under section 1 of the Finance

(Excise Duties) (Vehicles) Act, 1952 , relating to the car is borne directly or indirectly by the employer, by 1 per cent of the original market value of the car.

(b) Where a car in respect of which this section applies in relation to a person for a year of assessment is made available to the person for part only of that year, the cash equivalent of the benefit of that car as respects that person for that year shall be an amount which bears to the full amount of the cash equivalent of the car for that year (ascertained under paragraph (a)) the same proportion as that part of the year bears to that year.

(4) (a) Where in relation to a person the business mileage for a year of assessment exceeds 15,000 miles, the cash equivalent of the benefit of the car for that year, instead of being the amount ascertained under subsection (3), shall be the percentage of that amount applicable to that business mileage under the Table to this subsection.

(b) In the Table to this subsection, any percentage shown in column (3) shall be that applicable to any business mileage for a year of assessment which—

- (i) exceeds the lower limit shown in column (1), and
 - (ii) does not exceed the upper limit (if any) shown in column (2),
- opposite the mention of that percentage in column (3).

TABLE

Business mileage	Percentage	lower limit	upper limit	(1)	(2)	(3)	Miles	Miles	15,000		
16,000	97.5 per cent	16,000	17,000	95 per cent	17,000	18,000	90 per cent	18,000	19,000	85 per cent	
19,000	20,000	80 per cent	20,000	21,000	75 per cent	21,000	22,000	70 per cent	22,000		
23,000	65 per cent	23,000	24,000	60 per cent	24,000	25,000	55 per cent	25,000	26,000	50 per cent	
26,000	27,000	45 per cent	27,000	28,000	40 per cent	28,000	29,000	35 per cent	29,000	30,000	30 per cent
30,000	—	25 per cent									

(5) (a) Where for a year of assessment—

- (i) a person, in the performance of the duties of his or her employment, spends 70 per cent or more of his or her time engaged on such duties away from the place of business of his or her employer, and
- (ii) in relation to that person, the business mileage exceeds 5,000 miles,

then, if the person so elects in writing to the inspector, the cash equivalent of the benefit of the car for that year of assessment in relation to the person shall, instead of being the amount ascertained under subsection (3) or (4), as may otherwise be appropriate, be 80 per cent of the amount ascertained under subsection (3).

(b) When requested in writing by the inspector, a person who makes an election under paragraph (a) for a

year of assessment shall within 30 days of the date of such request furnish to the inspector a relevant log book in relation to that year of assessment.

(c) This subsection shall not apply as respects a year of assessment where—

(i) when requested to do so, a person fails to deliver to the inspector within the time specified in paragraph (b) a relevant log book in relation to that year of assessment, or

(ii) the time spent by a person in the performance of the duties of his or her employment in that year of assessment is on average less than 20 hours per week.

(d) Subsection (7)(e) shall apply for the purposes of this subsection as it applies for the purposes of subsection (7).

(e) Where a person makes an election under paragraph (a) for a year of assessment, such person shall retain the relevant log book in relation to that year of assessment for a period of 6 years after that end of that year or for such shorter period as the inspector may authorise in writing.

(6) (a) Where any amount is to be treated as emoluments of an employment under subsection (2)(b)(ii) for a year of assessment, it shall be the duty of the person who is chargeable to tax in respect of that amount to deliver in writing to the inspector, not later than 30 days after the end of that year of assessment, particulars of the car, of its original market value and of the business mileage and private mileage for that year of assessment.

(b) Where in relation to a year of assessment—

(i) a person makes default in the delivery of particulars in relation to—

(I) the original market value of a car in respect of which this section applies in relation to him or her,

(II) his or her business mileage for the year, or

(III) his or her private mileage for the year,

or

(ii) the inspector is not satisfied with the particulars which have been delivered by the person,

then, the original market value or business mileage or private mileage which is to be taken into account for the purpose of computing the amount of the tax to which that person is to be charged shall be such value or mileage, as the case may be, as according to the best of the inspector's judgment ought to be so taken into account and, in the absence of sufficient evidence to the contrary, the business mileage for a year of assessment in relation to a person shall be determined by deducting 5,000 from the total number of miles travelled in that year by that person in a car or cars in respect of which this section applies in relation

to that person.

(c) The inspector, in making a computation for the purposes of an assessment or of the Income Tax (Employments) Regulations, 1960), before the end of the year of assessment to which the computation relates, in relation to a person in relation to whom this section applies for that year of assessment, shall make an estimate of that person's business mileage for the purpose of the computation, and section 926 shall, with any necessary modifications, apply in relation to the estimate so made as it applies in relation to an estimate made under that section.

(d) A value or mileage taken into account under paragraph (b) may be amended by the Appeal Commissioners or the Circuit Court on the hearing or the rehearing of an appeal against an assessment in respect of the employment in the performance of the duties of which the business mileage is done.

(7) (a) This subsection shall apply to any car in the case of which the inspector is satisfied (whether on a claim under this subsection or otherwise) that it has for any year been included in a car pool for the use of the employees of one or more employers.

(b) A car shall be treated as having been so included for a year if—

(i) in that year the car was made available to and actually used by more than one of those employees and in the case of each of them was made available to him or her by reason of his or her employment but was not in that year ordinarily used by any one of them to the exclusion of the others,

(ii) in the case of each of them, any private use of the car made by him or her in that year was merely incidental to his or her other use of the car in the year, and

(iii) the car was in that year not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.

(c) Where this subsection applies to a car, the car shall be treated under this section as not having been available for the private use of any of the employees for the year in question.

(d) A claim under this subsection in respect of a car for any year may be made by any one of the employees mentioned in paragraph (b)(i) (they being referred to in paragraph (e) as “the employees concerned”) or by the employer on behalf of all of them.

(e) (i) Any person aggrieved by a decision of the inspector on any question arising under this subsection may, by notice in writing to that effect given to the inspector within 2 months from the date on which notice of the decision is given to that person, make an application to have his or her claim for relief heard and determined by the Appeal Commissioners.

(ii) Where an application is made under subparagraph (i), the Appeal Commissioners shall hear and determine the claim in the like manner as an appeal made to them against an assessment, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an

appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.

(iii) On an appeal against the decision of the inspector on a claim under this section all the employees concerned may take part in the proceedings, and the determination of the Appeal Commissioners or the Circuit Court, as the case may be, shall be binding on all those employees, whether or not they have taken part in the proceedings.

(iv) Where an appeal against the decision of the inspector on a claim under this subsection has been determined, no appeal against the inspector's decision on any other such claim in respect of the same car while in the same car pool and the same year shall be entertained.