

Benefits in kind: general charging provision. ITA67 s117; FA73 s41; FA74 s86 and Sch2 Ptl; FA96 s131(9)(a) 118.—(1) Subject to this Chapter, where—

(a) a body corporate incurs expense in or in connection with the provision, for any of its directors or for any person employed by it in an employment to which this Chapter applies, of—

(i) living or other accommodation,

(ii) entertainment,

(iii) domestic or other services, or

(iv) other benefits or facilities of whatever nature, and

(b) apart from this section the expense would not be chargeable to income tax as income of the director or employee,

then, sections 112, 114 and 897 shall apply in relation to so much of the expense as is not made good to the body corporate by the director or employee as if the expense had been incurred by the director or employee and the amount of the expense had been refunded to the director or employee by the body corporate by means of a payment in respect of expenses, and income tax shall be chargeable accordingly.

(2) Subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee in any of its business premises of any accommodation, supplies or services provided for the director or employee personally and used by the director or employee solely in performing the duties of his or her office or employment.

(3) Subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision of living accommodation for an employee in part of any of its business premises which include living accommodation if the employee is, for the purpose of enabling the employee properly to perform his or her duties, required by the terms of his or her employment to reside in the accommodation and either—

(a) the accommodation is provided in accordance with a practice which since before the 30th day of July, 1948, has commonly prevailed in trades of the class in question as respects employees of the class in question, or

(b) it is necessary in the case of trades of the class in question that employees of the class in question should reside on premises of the class in question;

but this subsection shall not apply where the employee is a director of the body corporate in question or of any other body corporate over which that body corporate has control or which has control over that body corporate or which is under the control of a person who also has control over that body corporate.

(4) Subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision of meals in any canteen in which meals are provided for the staff generally.

(5) Subsection (1) shall not apply to expense incurred by the body corporate in or in connection with the provision for a director or employee, or for the director's or employee's spouse, children or dependants, of any pension, annuity, lump sum, gratuity or other like benefit to be given on the death or retirement of the director or employee.

(6) Any reference in this section to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter.

(7) Where expense is incurred by a person connected with a body corporate, being expense which if incurred by the body corporate would be expense of the kind mentioned in subsection (1)(a), the body corporate shall be deemed for the purposes of this section to have incurred the expense, and subsection (1) shall apply accordingly in relation to any person, being a director or employee of the body corporate, in respect of whom the expense was incurred.

(8) A person shall be regarded as connected with a body corporate for the purposes of subsection (7) if the person is—

(a) a trustee of a settlement ) made by the body corporate, or

(b) a body corporate,

and would be regarded as connected with the body corporate for the purposes of section 10.