



HM Revenue
& Customs

480(2018)

Expenses and benefits

A tax guide

This guide sets out 'HM Revenue and Customs' (HMRC) approach in applying legislation on employee travel. The guide itself has no binding force in law and doesn't affect any right of appeal by either party.

This booklet explains the tax law relating to expenses payments and benefits received by:

- directors
- employees

It also explains the tax law relating to the valuation of non-cash benefits received by any taxpayer:

- on or after 6 April 1998 in connection with termination of employment
- from an employer-financed retirement benefits scheme

For information on these non-cash benefits, read Chapter 27 before you look at any other section of the booklet.

This booklet is based on the law in force at 6 April 2017 and certain subsequent changes that come into force from 6 April 2018. It has no binding force and doesn't affect your rights of appeal.

Certain specific aspects of the law affecting securities/share schemes apply from dates later than 6 April 2007. Please see the website address in Chapter 23.10 for more details.

References to the relevant legislation are shown at the side of each paragraph. If you're in doubt, consult the wording of the statute, go to www.legislation.gov.uk

New or revised material is indicated by a green line in the margin.

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Chapter 1 Legal background

1.1

Under general tax law some, but not all, expenses payments and benefits are taxable remuneration. Since 1948 the Income Tax law has also contained special rules affecting most directors and employees. The broad effect of these special rules was that expenses payments made to them and benefits provided for them became taxable.

1.2

The Finance Act 1976 and subsequent Finance Acts have extended these special rules to a greater number of individuals and provided new arrangements for taxing a variety of benefits provided for directors and certain employees (for example, motor cars, loans and vans).

1.3

This booklet describes the scope of the legislation and the effect of the changes resulting from the Finance Act 1976 and subsequent Finance Acts. Most of the relevant provisions are now in Part 3 Chapters 2 to 11 Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003).

Unless otherwise stated the statutory references in this booklet are to ITEPA 2003. The full meanings of other abbreviations which also appear in the booklet are:

CAA 2001 Capital Allowances Act 2001

CTA 2010 Corporation Tax Act 2010

ESC Extra-statutory concession – followed by its letter and number

FA Finance Act – followed by year in which enacted

ICTA 1988 Income and Corporation Taxes Act 1988

ITA 2007 Income Tax Act 2007

ITTOIA 2005 Income Tax (Trading and Other Income) Act 2005

SI Statutory Instrument – followed by its number and the year in which it was made

TMA 1970 Taxes Management Act 1970.

Enquiries

1.4

Enquiries by taxpayers (or their agents) about the application of the provisions of ITEPA 2003 to their particular circumstances should be made using the contact details set out on our website at www.gov.uk/government/organisations/hm-revenue-customs

The benefits code

1.5

In ITEPA 2003, Income Tax is chargeable on employment income that includes:

- earnings – salary, wages, fees and other emoluments
- amounts treated as earnings – including the benefits code
- amounts which aren't earnings but count as employment income (see Chapters 23 and 27 of this booklet)

The benefits code concerns expenses payments to, and benefits provided for, directors and employees.

Sections 1(1), 62(1), 7(5) and (6)

Sections 63(1) and (2)

Deductible expenses

Sections 336-338

1.6

Directors or employees affected by these provisions will not necessarily have to pay tax on the full amount or value of expenses payments or benefits provided. They may be entitled to a deduction for certain expenses. More information on this is given in Chapters 7 to 10 and Chapter 20.

From 6 April 2016 expenses and benefits that would previously have been within a dispensation may be covered by the exemption for paid or reimbursed expenses. See Chapter 2.

Who's affected

Section 63(1)
Section 67(1)
Section 216(3)

1.7

| The benefits code applies to directors and employees.

Up to 5 April 2016 the benefits code applied only to:

- (a) directors and certain other persons in controlling positions whatever their remuneration, but not to certain full-time working directors and certain directors of charities and non-profit making concerns
- (b) employees, including the directors excluded under (a) above, who are remunerated at the rate of £8,500 or more a year including all expenses payments and benefits before the deduction of any allowable expenses other than
 - contributions to an approved superannuation fund in respect of which the individual is entitled to tax relief as an expense
 - exempt profit-related pay
 - contributions under an approved payroll giving scheme

For guidance on the application of the benefits code up to 5 April 2016 and the exclusion of certain directors and employees refer to booklet 480(2015).

Certain motoring expenses are disregarded for purposes of assessing the car and car fuel benefits described in Chapters 11 to 13. But all these motoring expenses, in addition to the car and fuel benefit charges mentioned in Chapters 11 to 13, must be taken into account for the purposes of the £8,500 test (see paragraph 11.14).

Directors

Sections 67(1)
and 67(2)

1.9

The word director includes directors of companies and any person in accordance with whose instructions the directors are accustomed to act (other than a person who's merely a professional adviser). The word company includes an unincorporated association.

Section 1119 CTA
2010

The word director also includes a member of the committee which manages such an association and any member of a body whose affairs are managed by its members.

Exclusion of ministers of religion from the benefits code

Sections 290C to 290G

1.10

The benefits code doesn't apply to ministers of religion who are paid at a rate of less than £8,500 a year including all expenses payments and benefits before the deduction of any allowable expenses.

Meaning of employment

Section 66(3)

1.11

The word employment as used in this booklet means any office or employment whose earnings are chargeable as employment income.

Meaning of remuneration

1.12

For simplicity, the word remuneration has been generally used in this booklet in place of the word earnings in ITEPA 2003 and means any kind of pay for a job. It includes salaries, fees, pay, wages, overtime pay, leave pay, bonus, commission, perquisites, tips, gratuities, benefits in kind and expenses payments and allowances.

Benefits provided for the family or household of an employee

Section 201(1)
Section 721(5)
Section 174(6)
Section 993 ITA 2007

1.13

Subject to minor exceptions any benefit provided for the members of the family or household of an employee ranks as if it were provided for the employee personally. The term family or household covers the employee's:

- spouse
- children and their spouses
- parents
- servants, dependants and guests
- registered civil partner

Where benefits are provided in connection with loans and share incentive schemes there are different definitions of the family circle. For beneficial loan arrangements see paragraph 17.10.

Provision of benefits by employer

Sections 201(3) and 117

1.14

Where expenses payments are made to, or benefits are provided for, an employee or members of the employee's family or household by the employer, they're deemed to have been made or provided by reason of that employment – they're regarded as part of the reward for the job.

Sections 201(3) - Proviso

1.15

There's one statutory exception to this – where the employer is an individual and a benefit provided by the employer has been made in the normal course of domestic, family or personal relationships. In addition, paragraph 11.10 gives details of certain exemptions which apply where a company provides cars for 2 or more members of the same family.

Provision of benefits by someone other than the employer

Section 201(2)
Section 209

1.16

Benefits provided for employees (or members of their families or households) by reason of their employment by someone other than their employer are taxable in the same way as if they had been provided by their employer.

Section 554A

1.17

Finance Act 2011 introduced new rules in Part 7A ITEPA 2003, which apply in certain circumstances where there are arrangements to use third parties to reward employees. These rules are sometimes referred to as the ‘disguised remuneration’ regime. Broadly speaking, if third-party arrangements are used to provide for what is in substance a reward or recognition, or a loan, in connection with the employee’s current, former or future employment, then an Income Tax charge arises and the amount concerned will count as employment income.

Sections 554A, 554B, 554C and 554D

1.18

The rules only apply where a defined step is taken through a ‘relevant third person’.

Sections 554A

1.19

The direct employer isn’t a ‘relevant third person’ unless it’s acting as a trustee.

Sections 554A

1.20

A company that’s a member of the same group of companies as the employing company at the time the step is taken isn’t a ‘relevant third person’ unless the:

- step is taken as part of a tax avoidance arrangement, or
- group company is acting as a trustee

Sections 554Z(5) and (6)

1.21

In determining whether 2 companies are members of the same group for this purpose, a special test is used. This test applies the group membership rules for Corporation Tax on chargeable gains with one modification.

The chargeable gains test is a 75% test. For the purposes of the group exception, use 51% instead of 75%. But otherwise the test works the same way.

Sections 554E to 554X inclusive

1.22

The rules in Part 7A ITEPA 2003 contain detailed exclusions. These prevent the legislation from catching certain arrangements, even where there’s a ‘relevant third person’ involved. Generally the exclusions are targeted at arrangements which aren’t tax avoidance arrangements. The exclusions are subject to conditions and cover topics such as employee share and share option schemes, employee car ownership schemes, certain pension schemes and transactions under employee benefit packages.

1.23

For more information on the new rules, refer to the CWG2(2017 to 2018), Chapter 5, paragraphs 15.7 to 15.8 titled Employment income provided through third parties (‘Disguised Remuneration’ rules).

Close companies – treatment of benefits

Sections 1064(1), (2) and (4) CTA 2010

1.24

A benefit which falls within the special provisions described in this booklet is excluded from the extended definition of distribution for close companies which normally includes benefits in kind afforded to a participator or to an associate of a participator.

Part 9, Chapter 2 CTA 2010

1.25

Broadly speaking, a close company is one under the control of 5 or fewer participators and their associates or of directors who are participators and

their associates. There are special definitions for this purpose of control, participator and associate.

There are exceptions. For example, a company whose shares are quoted on the Stock Exchange isn't normally close if 35% or more of its shares are held by the general public.

Optional remuneration arrangements

Schedule 2

Finance Act 2017

1.26

From 6 April 2017 special rules determine the amount of a benefit treated as earnings from the employment where the benefit is provided as part of optional remuneration arrangements. Optional remuneration arrangements are arrangements where an employee gives up the right, or the future right, to salary (commonly called salary sacrifice) or the right to some other form of cash remuneration in return for the benefit. They include flexible benefit packages with a cash option.

Where a benefit is chosen instead of some form of cash pay, the taxable value of the benefit and the amount liable for National Insurance contributions is the greater of the:

- amount of salary or cash pay foregone, and
- taxable value of the benefit under the normal benefit in kind rules, ignoring any amount made good

For most benefits, where those benefits are provided through optional remuneration arrangements the existing tax exemptions don't apply from 6 April 2017.

The following benefits aren't affected by the new rules:

- payments by employers into registered pension schemes
- childcare vouchers, workplace nurseries, and directly contracted employer provided childcare
- bicycles and cyclist safety equipment (including Cycle to Work)
- Ultra-Low Emission Cars (ULEVs) with CO2 emissions of no more than 75g per kilometre that are in the scope of the car benefit charge
- payments and benefits connected with taxable cars and vans

Transitional provisions apply for a limited period. Subject to certain specific exceptions, optional remuneration arrangements entered into before 6 April 2017 continue under the normal benefit rules until the earlier of:

- variation, renewal (including auto-renewal) or modification of the arrangement, and
- 6 April 2018

Those exceptions are cars with CO2 emissions of more than 75g kilometre, living accommodation and school fees where the latest date for transitional protection ending is 6 April 2021.

There's further guidance about optional remuneration arrangements in Appendix 12.

Chapter 2 Exemption for paid or reimbursed expenses (previously dispensations)

Section 65

2.1

From 6 April 2016 all dispensations cease to exist. Almost all expenses or benefits that might previously have been covered by a dispensation will be within an exemption and will not need to be reported. Where the employer is satisfied that all the expenses and/or benefits they provide would be fully covered by the expenses exemption they don't need to show these on forms P11D or deduct tax if they payroll benefits.

Common items that will be covered by the exemption include:

- travel, including subsistence costs associated with business travel
- business entertainment expenses
- credit cards used for business
- fees and subscriptions

The exemption doesn't apply to expenses or benefits that are paid or provided under a salary sacrifice agreement.

2.2

Employers wishing to pay/reimburse employee expenses using the Income Tax (Approved Expenses) Regulations - previously the benchmark scale rates - will need to have a checking system in place to ensure that payments are only made on occasions where the employee would be entitled to a deduction and incurred an amount in respect of expenses on that occasion.

Employers wishing to use a bespoke rate can apply to HMRC for an approval notice. They'll need to undertake a sampling exercise to help determine the rate to apply, and will also need to have a checking system in place.

2.3

Approval notices will apply for up to 5 years, but may be subject to review from time to time. HMRC can revoke an approval notice if they consider that the employer hasn't met the conditions of that notice or has been negligent in its operation. If HMRC revoke an approval notice the employer will need once again to report these on forms P11D after the end of the tax year or payroll them if they have registered to payroll benefits.

2.4

There's a statutory tax exemption for Mileage Allowance Payments, which if paid below a certain amount will not produce a liability to employees. Consequently such payments aren't covered by the exemption. Mileage Allowance Payments in excess of the exempt amount are taxable (see Chapter 16).

The exemption doesn't apply to 'round sum' expense allowances.

2.5

Where the exemption applies, PAYE doesn't apply to the payments or benefits concerned. The employer need not show the particular payments or benefits on the annual returns (forms P11D) they make to HMRC (see Chapter 24), and the employee need not show them in their tax return.

Chapter 3 Tax treatment of expenses payments

Section 70(1)

3.1

The provisions of the benefits code ensure that expenses payments made to an employee by reason of his or her employment will normally rank as remuneration of the employee to whom they're paid unless they're already taxable or are covered by an exemption. For exceptions to this see Chapter 5.

3.2

Expenses payments include:

- advance payments on account of expenses and reimbursements of expenses incurred, including all kinds of travelling and entertaining expenses
 - for reimbursed motoring expenses see paragraph 11.13 and 11.14
- allowances related to specific expenses; for example, based on mileage or to meet subsistence whether calculated by reference to a fixed scale or otherwise
- round sum allowances for entertaining and other expenses
- amounts put at the disposal of the employee in respect of expenses and paid away by the employee
- expenses paid by the employee by means of a credit card in the employer's name
 - unless the card you've provided was used to make a business purchase, an employee has your prior authority for the purchase and when making the purchase an employee makes it clear that they're acting on behalf of your business

Section 70(2)

Section 90(1)

For a purchase to be clearly on your business's behalf the following must apply:

- your employee must explain in advance that the purchase is on your behalf
- the supplier must accept that the purchase is on your behalf

3.3

More information about travelling and subsistence, cars and entertainment, is given in Chapters 8 to 16 and 20.

Chapter 4 Taxable benefits and facilities

Section 201(1)
Section 114(1)
Section 174(1)

4.1

All benefits provided count as employment income of the employee for whom (or for whose family or household) they're provided.

Particular benefits to which special taxing rules apply

Sections 192, 211
and 223
Sections 114, 149,
174.

4.2

Certain benefits such as cars and vans available for private use, loans, certain arrangements in connection with share incentive schemes, scholarships and tax not deducted from employment income paid to directors are, however, taxed in accordance with special rules. There are also special rules for certain arrangements for providing employment income through third parties. See paragraphs 1.16 to 1.23.

Section 554A

Types of taxable benefits

4.3

Benefits and facilities include:

Section 201(2)
Sections 97,
201(2) and 315
Section 205

- the provision of living or other accommodation, including light, heat, rates and domestic or other services (see Chapter 21)
- the use of any asset provided by the employer or another person acting on the employer's behalf, for example, the use of a motorcycle, an aircraft or yacht, or of furniture or a TV set – the way in which the benefit from the use of such an asset is valued is described in paragraph 6.7 except for cars which are considered in Chapters 11 to 13, vans which are considered in Chapter 14 and mobile phones which are considered in Chapter 22
- the provision of fuel for private motoring in a provided car (see Chapter 13)
- gifts of assets to the employee, or the sale to the employee of assets at less than their market value (this applies not only to assets such as a car or a house, but also to goods such as clothes, TV sets, wines or groceries)
- any non-exempt expenses or liabilities incurred by the employee and paid direct by the employer, for example, hotel or restaurant bills, whether paid direct or through a credit card company
- Income Tax not deducted from employment income paid to a director, but paid to HMRC by the employer and not reimbursed by the director (see Chapter 19)
- scholarships awarded to students by reason of their parents' employment (see Chapter 18)
- any other benefits or facilities of any kind, for example,
 - hotel accommodation and restaurant facilities arranged by the employer, holidays, childcare (but see Chapter 5 and Appendix 11 regarding the exemption of some forms of childcare)
 - shooting, fishing and other sporting facilities (but see Chapter 5 regarding the exemption of some sporting facilities)
 - work carried out at the employee's residence

Section 149

Section 62,
Sections 206(2)
and (3)
Sections 62 and 90

Section 223

Section 211

Section 201(2)

You can find more information on expenses and benefits and their tax treatment, go to www.gov.uk/business-tax/payee

PAYE Settlement Agreement (PSA)

4.4

A PSA is a flexible scheme an employer can use to settle any PAYE tax and National Insurance contributions (NICs) due to HMRC on 3 types of expense and benefit:

- minor items
- irregular items
- items it's impractical to operate PAYE on or to value for P11D purposes

Under such a scheme an employer would settle the tax and NICs due on the items covered by a PSA with a single payment that includes both:

- the tax due on the expenses and benefits covered by the PSA – note that this tax would normally be payable by an employee (usually through their tax code), and that the tax the employer pays must be 'grossed up' taking account of the tax rates payable by the employees covered by the PSA
- Class 1B NICs, calculated not just on the value of the items covered by the PSA but also on the tax paid under the PSA
- a PSA can apply for all employees including those employees who are based overseas or who aren't domiciled in the UK, provided the expenses or benefits concerned are chargeable in the UK as PAYE income

For more information, go to www.gov.uk/payee-settlement-agreements

Extension of Class 1A National Insurance contributions (NICs)

4.5

Employers are required to pay Class 1A NICs on most benefits. See the P11D Guide and booklet CWG5 for more information.

Chapter 5 Non-taxable payments and benefits

The following expenses payments and benefits aren't normally taxable under the provisions described in this booklet.

Annual parties or similar functions

Sections 264 and 266(3)

5.1

Annual parties at Christmas or alternative functions of a similar nature, such as an annual dinner dance, which are open to staff generally and which cost no more than £150 per head to provide. Where there's more than one annual function and their total cost per head exceeds £150, only the functions that total £150 or less will not be taxed.

Please note that the figure of £150 quoted isn't an annual allowance and the criteria set out at Section 264 ITEPA 2003 must be satisfied to meet the exemption.

Carers board and lodging

5.2

Board and lodging provided to carers in the home of the person they're employed to care for is exempt from tax.

Cost of purchasing assets from employees

Section 326

5.3

Costs which an employer incurs like any other buyer, in connection with the purchase of an asset from an employee.

Employee shareholders

Sections 226A to 226D Part 7

5.4

The value of employee shareholder shares awarded, less the amount that the employee shareholder is treated as having paid for them, is treated as earnings of the employment. The employee shareholder is usually treated as having paid £2,000 for the shares and this deemed payment is usually only available once to an employee shareholder from the same employer or an associated company.

These shares are employment-related securities and, subject to the specific Income Tax treatment described here, the normal rules of Part 7 ITEPA 2003 will apply to them.

The benefit of the employer funding certain kinds of independent advice in relation to the employee shareholder agreements isn't taxable in the hands of the employee.

Employee shareholders with a material interest in the employing company aren't entitled to be treated as having paid £2,000 for the shares.

Equipment provided for disabled employees

Section 210
SI No 1596 2002

5.5

Employees with a disability aren't taxable on the benefit of the private use of equipment or services provided by their employer to enable them to take up or to continue work (for example, a wheelchair or hearing aid).

Equipment provided solely to carry out the duties of employment are exempt but where equipment is also used outside work so that private use is significant, that exemption doesn't apply. This exemption ensures that no taxable benefit arises in these circumstances.

Section 326A

Fees relating to monitoring schemes relating to vulnerable persons

5.6

With effect from 6 April 2010, there's no liability to Income Tax where an employer pays direct for, or reimburses an employee for, a fee for an application to join the Protection of Vulnerable Groups (Scotland) monitoring scheme.

Sections 265, 266(1) and 267(2)

Goodwill gifts

5.7

The provision of goodwill entertainment for an employee, or for a member of the employee's family or household, provided that:

- the person providing the entertainment is neither the employer, nor a person connected with the employer
- neither the employer nor a person connected with the employer has directly or indirectly procured the provision of the entertainment, and
- the entertainment isn't provided either in recognition of particular services which the employee has performed in the course of the employment or in anticipation of particular services which are to be performed by the employee in the course of the employment

This exemption applies only when the cost of the entertainment is assessable under Section 73 (vouchers), Section 90 (credit tokens) or Section 201 (benefits in kind). It doesn't extend to liability under Section 62 or Section 70.

Sections 270 and 324

Certain gifts received by an employee if all the following conditions are satisfied the:

- gift consists of goods or a voucher or token only capable of being used to obtain goods
- person making the gift isn't the employer or a person connected with the employer
- gift isn't made either in recognition of the performance of particular services in the course of the employment or in anticipation of particular services which are to be performed
- gift hasn't been directly or indirectly procured by the employer or by a person connected with the employer
- gift cost the donor £250 or less, and
- total cost of all gifts made by the same donor to the employee, or to members of the employee's family or household, during the Income Tax year is £250 or less

Section 320B

Health-screening and medical check-ups

5.8

A maximum of one health-screening assessment and one medical check-up in any year.

'Health-screening assessment' means an assessment to identify employees who might be at particular risk of ill-health.

'Medical check-up' means a physical examination of the employee by a health professional for (and only for) determining the employee's state of health.

Job-related living accommodation

5.9

The provision of living accommodation in certain circumstances, see paragraphs 21.2 and 21.4.

Late-night taxis

5.10

Where an employee is provided with a taxi paid for by his employer for a journey from work to home, this represents a benefit unless the:

- 4 late-night working conditions are satisfied, and
- number of journeys is no more than 60 a year

Consequently an employee provided with a taxi from work to home once a week (52 times in a year) doesn't qualify for this exemption unless all the late-night working conditions are satisfied, even though they have been provided with a taxi on fewer than 60 occasions in the year.

The late-night conditions that must be satisfied are:

1. the employee is required to work later than usual and until at least 9pm
2. such late-night working occurs irregularly, and
3. by the time the employee stops work, either public transport has ceased or it wouldn't be reasonable to expect the employee to use it, and
4. the transport provided is by taxi or equivalent road transport

In most cases it's clear whether an employee who works until at least 9pm also works later than usual. For example, most restaurant or public house employees usually work later than 9pm and consequently when doing so they don't work later than usual. They can't therefore satisfy the first condition. Something is 'usual' if it conforms to a common or ordinary pattern. The first condition is intended to apply when someone is required, on occasion, to work later than usual and until at least 9pm.

If someone works later than usual and until later than 9pm this must be irregular. Irregular means not following a regular or established pattern. An employee who works later than usual and until at least 9pm every Friday, or on the last Friday of each month, isn't working later than usual irregularly. Even if an employee works later than usual and until 9pm on one day each week, but on no particular day, this isn't irregular.

It's a matter of fact whether public transport is still available. If an employee's journey home requires taking 2 or more forms of public transport and one of those has stopped by the time of the journey home, the third condition is satisfied for the whole journey. An employer may consider various factors when deciding whether it's reasonable to expect an employee to use public transport but because the journey frequency is reduced and/or must be completed in the dark, or the employee has had a long day and is tired, or has a heavy case to carry, or is travelling to an unmanned station, aren't in isolation sufficient reasons to satisfy the second part of the third late-night working condition. The extent to which a journey from work to home after 9pm on public transport is significantly different from a journey earlier in the day, so that it's reasonable for an employer not to expect an employee to undertake that journey, depends on the facts in each case.

Long service and suggestion scheme awards

5.11

Long service awards made to directors and employees as testimonials to mark long service, which take the form of tangible articles of reasonable cost, or of shares in an employing company (or another company in the same group) when the relevant period of service isn't less than 20 years and no similar award has been made to the recipient within the previous 10 years. An article may be taken to be of reasonable cost where the cost to the employer doesn't exceed £50 per year of service.

Awards under suggestion schemes made to employees where the following conditions are satisfied.

- (a) The employer has established a scheme under which suggestions are made; the scheme is open on the same terms to all the employees, or to a particular class or description of them.
- (b) The suggestion for which the award is made relates to the activities carried on by the employer.
- (c) The suggestion is outside the scope of the employee's normal duties. The test is whether, taking account of his or her experience, the employee could not reasonably have been expected to put forward such a suggestion as part of the duties of the post.
- (d) The suggestion isn't made at a meeting held for the purpose of proposing suggestions.
- (e) Awards other than encouragement awards (see (i) below) are only made following a decision to implement the suggestion, and are made directly to the employee or employees concerned.
- (f) The decision to make an award other than an encouragement award is based on the degree of improvement in efficiency and/or effectiveness likely to be achieved, measured by reference to the prospective financial benefits and the period over which they would accrue, and the importance of the subject matter having regard to the nature of the employer's business.
- (g) The amount of an award doesn't exceed
 - 50% of the expected net financial benefit during the first year of implementation, or
 - 10% of the expected net financial benefit over a period of up to 5 years subject to an overriding maximum of £5,000. Where an award exceeds £5,000, the excess isn't covered by this exemption
- (h) Where an award is made jointly to 2 or more employees, the amount exempted at (g) above is divided between them in proportion to the amount paid to each.
- (i) Any encouragement award is of £25 or less. An encouragement award is one which is made in respect of a suggestion which has some intrinsic merit and/or reflects meritorious effort on the part of the employee in making the suggestion.

Meals

5.12

Free or subsidised meals provided on the employer's business premises, or in any canteen where:

- meals are provided for the staff generally, or a ticket or token is used to obtain such meals, and
- the meals are provided on a reasonable scale, and
- either all employees may obtain free or subsidised meals on a reasonable scale, whether on the employer's premises or elsewhere, or the employer provides free or subsidised meal vouchers for staff for whom meals aren't provided

This exemption doesn't apply in the case of a hotel, catering or similar business, to free or subsidised meals provided for its employees in a restaurant or dining room at a time when meals are being served to the public, unless part of it's designated as being for the use of staff only. Nor does the exemption apply where free or subsidised meals are provided as part of salary sacrifice or flexible remuneration arrangements.

Section 325

Medical treatment abroad

5.13

The cost of necessary medical treatment abroad borne by the employer, or borne by the employee and reimbursed by the employer, where an employee becomes ill or suffers injury while away from the UK in the performance of his or her duties, and of providing insurance for the employee against the cost of such treatment.

Section 319

Mobile phones

5.14

The provision of one mobile phone provided by an employer to an employee (but not if provided to a family or household member) including any line rental and calls for that phone paid directly by an employer, unless any of these can be converted into money by the employee. Money an employer pays to an employee to use their own mobile phone is taxable. See Chapter 22 for details.

Section 316

Office accommodation, supplies or services

5.15

Accommodation, supplies or services (for example, office services and equipment, and consumables) used by the employee in performing his or her duties, where the following conditions are satisfied if the benefit is provided:

- on or in the employer's premises the only condition is that any use of the benefit for private purposes by the employee isn't significant
- elsewhere
 - the employer's sole purpose in providing it must be to enable the employee to perform the duties of his or her employment, and
 - any use of the benefit for private purposes by the employee isn't significant, and
 - that the benefit is neither the provision of a motor vehicle, boat or aircraft, nor involves the extension, conversion or alteration of living accommodation or a building on land adjacent to it, or the construction of a building on such land

Sections 237, 261(1) and 267(2)

Parking spaces

5.16

The provision of a car or motorcycle parking space, or facilities for parking bicycles at or near the employee's place of work.

Payments towards additional household costs incurred by employees who work at home

Section 316A

5.17

From 6 April 2003, the Income Tax charge that would previously have arisen when an employer contributes to the additional household costs incurred by employees who work from home, has been abolished.

Where an employee works regularly at home, under agreed flexible working arrangements, an employer may now pay up to £4 per week, £18 per month/£216 per year with effect from 6 April 2012 without supporting evidence of the cost.

If the employer pays more, then they must either:

- retain supporting evidence to show that the payment is wholly in respect of additional household expenses incurred by the employee in carrying out the duties at home, or
- seek an arrangement with HMRC whereby they can pay a higher amount without a need to retain supporting evidence

Pensions (and others) on retirement or death

Section 307

5.18

Expenses incurred in the provision of any pension, annuity, lump sum, gratuity or similar benefit to be given to the employee or to any member of the employee's family or household on the employee's retirement or death. The cost of providing such benefits may in some circumstances be taxable under other provisions of ITEPA 2003.

5.19

Pensions advice

From 6 April 2017 the provision of pensions advice to the employee up to £500. This can include information or advice on general financial and tax issues relating to the employee's pension arrangements or pension funds. The exception applies where the employer arranges for the advice, or pays or reimburses the employee's costs.

The advice, payment or reimbursement must be available to all of the employer's employees generally or generally to its employees at a particular location. Employers can limit provision of the advice, to employees who are nearing retirement or who are about to retire on ill-health grounds as long as the advice is available to all employees in the same situation.

Purchases on employer's behalf

5.20

Businesses are often run in such a way that employees make payments on their employer's behalf. For example, an employee may buy stamps, stationery and items of equipment for the employer and be reimbursed the costs incurred from petty cash or by cheque. Such transactions aren't providing the employee with either earnings or expenses because the employee has received no money of his own. Accordingly such reimbursements don't feature on the P11D.

Removal expenses and benefits

5.21

Removal expenses borne or removal benefits provided by the employer may

Part 4 Chapter 7

be exempt from tax and NICs. The exemption is due to employees who change residence as a result of starting a new job or as a result of a transfer within an employer's organisation.

Under the rules there's relief which exempts from tax the first £8,000 of removal expenses and benefits which qualify for the exemption. To qualify, removal expenses and benefits must fall within specific categories of expenses and benefits (see below), and the change of residence must satisfy a number of conditions.

The most important condition is that the employee must change his or her only or main residence as a result of:

- starting a new employment
- a change of the duties of the employment, or
- changing the place where the duties are usually performed

It isn't necessary for the employee to dispose of the old residence in order to qualify for relief. But there must be a change of his or her main residence. If a relocation is cancelled so that the employee doesn't in fact change the main residence, any expenses reimbursed or benefits provided in connection with the cancelled relocation will be taxable.

The new residence must be within reasonable daily travelling distance of the new normal place of work.

The old residence must not be within reasonable daily travelling distance of the new normal place of work.

In order to qualify for relief the removal expenses must normally be incurred or the benefits provided before the end of the year of assessment following the one in which the employee starts the new job. It doesn't matter when the employee moved to the new home.

Expenses and benefits which qualify for exemption can be grouped into 6 categories:

- disposal or intended disposal of old residence
- acquisition or intended acquisition of new residence
- transporting belongings
- travelling and subsistence
- domestic goods for the new residence
- bridging loans

More details of these categories of exempt expenses and benefits can be found at Appendix 7.

Where the employee uses the services of a relocation management company the administration fees charged by the company are part of the costs to the employer of providing benefits for the employee.

To the extent that the benefits provided are qualifying removal benefits, the administration fee also qualifies for relief.

Section 311

Retraining expenses and courses

5.22

Costs met by an employer for an employee who's about to leave or has left within the previous year, to enable the employee to attend certain courses of retraining intended to help the employee get another job. If the employee hasn't left by the time the course starts, he or she must leave within 2 years after finishing it. The exemption is withdrawn if the employee is re-employed by the same employer in the 2 years following the end of the course and the employer is then required to advise HMRC within 60 days of this happening. Exemption is only available if the employee has been in the employment of

the employer for at least 2 years up to the time the course begins (or at the time the employment ceased) for courses which:

- are designed to teach or improve skills which will help the employee to find new work and are entirely devoted to those objectives
- last no more than 2 years

The opportunity to attend the course must have been given to all employees in a similar position. The expenses which are exempt are:

- fees for the course
- fees for examinations taken during or at the end of the course
- the cost of essential books
- the costs of travelling and subsistence to the extent that they exceed the costs normally incurred by the employee in travelling between home and normal place of work (or former place of work if the employee has left)

If, at the time the employee started the course, all the conditions were satisfied but the employee doesn't then leave the employment within 2 years after the end of the course or is re-engaged within that time, the employer must advise HMRC within 60 days and provide full details of the expenses not previously returned.

If, when the course started, it was clear or could have been established that all the conditions about the course and attendance wouldn't be satisfied but the employer nevertheless did not make a return of the appropriate amounts to HMRC, he or she may be responsible for any tax due.

Some travel between home and work

Sections 248,
266(1) and 267(2)

5.23

The cost of transport (for up to 60 journeys in the year) which an employer provides to take an employee home if either:

- the employee is occasionally required to work late (9pm or later) but those occasions aren't regular, and
- by the time the employee can go home, either public transport between the employee's place of work and home has ceased, or it wouldn't be reasonable in the circumstances for the employer to expect the employee to use it, or
- the employee normally travels to and from work in a car shared with other employees, and
- the employee can't get home in the shared car because of unforeseen circumstances which could not reasonably have been anticipated

See the section on late-night taxis for more detail about the late-working conditions (page 16).

Section 242

The benefit to employees of travel between home and work in a works bus provided that:

- the bus or minibus has a seating capacity of 9 or more, and
- the service is available to all employees, and
- the main qualifying use of the service is travel by employees between home and their workplace or between workplaces, and
- substantially, the whole use of the service is by employees (and their children)

The benefit to employees of an employer subsidising a public transport bus service (or other public transport road service) used by employees for travelling wholly or partly between home and work or between workplaces provided that:

- the service is available to all employees, and
- is used for qualifying journeys (as defined for works buses)

	<p>The benefit of bicycles and/or cyclists' safety equipment (or vouchers to obtain these) lent to employees provided that:</p> <ul style="list-style-type: none"> • such bicycles and equipment are available generally to employees, and • the employees' main use of the bicycles or equipment is for journeys between home and their workplace, or between workplaces
ESC A4	<p>Certain travelling expenses of unpaid directors of non-profit making companies and of directors holding office as part of a professional practice; see paragraphs 8.11 and 8.14 of booklet 490.</p>
Section 245	<p>Reasonable travelling and subsistence expenses reimbursed to or borne on behalf of employees where, owing to the dislocation of public transport by strikes or other industrial action, employees occupy hotel or other overnight accommodation at or near their permanent workplace, or incur extra costs in travelling to and from work.</p>
Section 246	<p>Assistance with the cost of travelling between home and work given to disabled persons. This exemption also applies to the car and car fuel scale charges in certain limited circumstances. See paragraphs 11.17 and 13.5.</p>
Section 305	<p>Travelling facilities provided between the mainland and offshore oil or gas rigs or platforms. And, where the timing of transport between the mainland and the rig make it necessary for employees to take overnight accommodation near the mainland departure point, subsistence expenses borne on behalf of, or reimbursed to, employees working on offshore oil or gas rigs or platforms.</p>
	<p>Sports facilities</p>
	<p>5.24</p>
Section 261	<p>Sports facilities generally available to the employer's employees and members of their families and households. This doesn't apply to facilities:</p> <ul style="list-style-type: none"> • available to the general public • consisting of or provided in association with overnight or holiday accommodation • provided on domestic premises, or • consisting of mechanically propelled vehicles or vessels such as cars, motor boats and aeroplanes
	<p>Trivial benefits</p>
	<p>5.25</p>
	<p>Benefits are exempt from tax and NICs if all the following conditions are met the:</p> <ul style="list-style-type: none"> • cost of providing the benefit doesn't exceed £50 (or the average cost per employee if a benefit is provided to a group of employees and it's impracticable to work out the exact cost per person) • benefit isn't cash or a cash voucher • employee isn't entitled to the benefit as part of a contractual obligation (including under salary sacrifice) • benefit isn't provided in recognition of particular services performed by the employee as part of their employment duties (or in anticipation of such services)
	<p>Where the employer is a close company and the benefit is provided to an individual who's a director or other office holder of the company (or to a member of their family or household) the exemption is capped at a total cost of £300 in the tax year.</p>
Section 210 SI No 2080 2000	<p>If any of these conditions aren't met then the benefit is taxed in the normal way, subject to any other exemptions or allowable deductions.</p> <p>The exemption applies equally to benefits provided to the employee or to the employee's family or household.</p>

Welfare counselling

5.26

The benefit of welfare counselling made available to all employees generally on similar terms is exempt from tax. For this purpose welfare counselling doesn't include:

- any medical treatment
- advice on finance or tax (other than debt counselling)
- advice on leisure or recreation
- legal advice

Work-related training expenses

5.27

There's a wide statutory exemption for payments or reimbursements, by employers or third parties, of expenditure on the provision of work-related training.

However, any payment or reimbursement of training costs which has as its purpose:

- an intention to reward the employee
- the provision to the employee of an employment inducement (for example, to take up a new job)
- enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes unconnected with 'work-related training' will remain taxable

The rules provide for the following:

- expenditure which is incurred for a mixed purpose (part-reward, part-training) will need to be apportioned – apportionment isn't necessary just because an element of genuine training is enjoyable or recreational, for example, the incidental use of a hotel's swimming pool and leisure facilities during a residential course will not require apportionment
- exemption applies to both internal and external courses
- there's no territorial limitation on the location at which training is undertaken
- exemption extends to a range of training materials including audio/video tapes and compact/floppy disks
- exemption applies not only to the cost of providing qualifying training, but also extends to related costs, such as the cost of additional childcare and the travelling and subsistence costs of the trainee
- the definition of work-related training includes training which is linked to charitable and voluntary activities
- the exemption from tax is mirrored by a NIC exemption
- incidental overnight expenses can be paid tax-free to employees on training courses in the same way as such expenses can be paid tax-free when an employee is away on business
- generally, the exemption doesn't extend to the cost of providing the employee with, or with the use of, any asset once the training has ended – exceptions are dealt with in Appendix 9

More information and guidance about the exemption for work-related training is given in Appendix 9.

Workplace nurseries and other employer-supported childcare

5.28

Since 6 April 2005 new rules have applied to the provision of childcare benefits and childcare vouchers. Changes were made to employer-supported childcare in April 2011. See Appendix 11 for details.

Chapter 6 Valuation of benefits

General rule

Sections 203(2)
and 204

6.1

The amount of a benefit which is treated as earnings from the employment is the cash equivalent value of the benefit. Apart from those benefits referred to in Chapters 11, 12, 13, 14, 17, 21, 22 and 23 the general rule is that the value for tax purposes of a benefit or facility provided for an employee or the employee's family or household is the expense incurred by the employer (or the provider of the benefit) in providing the benefit, less the amount made good by the employee to those providing the benefit.

6.2

If the benefit is shared with other people, the benefit to the employee is based on the cash equivalent value (the total cost minus any amount made good) of the benefit, apportioned as necessary if, for instance, the benefit is provided for use partly to the employee and partly to the employer. If a benefit is provided to the employee for both business and private purposes, no apportionment of the cash equivalent value is due. The full cash equivalent value represents the measure of the benefit provided to the employee for both private and business purposes, and this is the amount that must be returned on forms P11D and P11D(b) or payrolled if you're registered to payroll benefits. However, to determine the employment Income Tax liability for the benefit, the employee is entitled to seek a deduction under Sections 336 to 338 (see paragraph 7.1) for expenses incurred for business use, to set against the cash equivalent value of the benefit.

Section 365

6.3

If the employee doesn't incur any expenses because the employer meets all the costs incurred for business purposes, but otherwise the employee would have incurred expenses for business use of the benefit, the employee is entitled to a deduction under Section 365, equivalent to the proportion that the business use of the benefit represented relative to its total use for business and private purposes. For example, if an asset provided as a benefit is used by an employee 40% for business use and 60% for private use, the cash equivalent value returned on form P11D/P11D(b) is for the full 100% use but for tax purposes the employee is entitled to a deduction under Section 365 equivalent to 40% of the cash equivalent value. Consequently, the tax liability will be based on 60% of the cash equivalent value, which represents the proportion of private use of the benefit.

Exception -
Section 62

6.4

If the benefit consists of the transfer to the employee of any goods or assets which he or she is then able to sell for cash, the value of the benefit for tax purposes is the greater of the:

- second-hand value of the goods or assets in the employee's hands, or
- expense incurred by the employer under paragraph 6.5 on page 25 (but see paragraph 6.9 on page 25)

6.5

Where the benefit consists of the employee being supplied with goods or services, the expense incurred by the employer should include the extra cost of:

- buying the goods or providing the services
- selecting and testing those goods or services
- storing, distributing and installing the goods or services
- servicing and other ‘after sales’ expenses

Section 328(1)

6.6

Where any goods or services or any other benefit is supplied to the employee partly for private and partly for business use, the employee may be able to claim a deduction for the part of the cost that relates to business use, provided part or all of the expense would have been allowable under the expenses rule (see Chapter 7) had the employee met it.

Assets placed at disposal of employee

Sections 205(2) and (3)

6.7

The initial cost of an asset of the kind mentioned in paragraph 4.3 used by an employee isn’t treated as remuneration if the asset remains the property of the employer or of the person making it available for the use of the employee. In such a case the annual value of the use of the asset (or the rent or hire charge paid for it if this is greater) plus any current expenditure met by the employer or the person making the asset available, is the cost of the benefit which will count as remuneration of the employee. The annual value is taken as 20% of the market value of the asset when it was first used to provide a benefit.

Sections 205A

Where the asset is used for business purposes, the employee isn’t entitled to a deduction under the expenses rule. However, if the asset is unavailable for private use the amount treated as remuneration is reduced by multiplying the cost of the benefit by the number of days unavailable divided by the number of days in the year. Circumstances when an asset is treated as being unavailable for private use include, if for more than 12 hours during that day the asset:

- isn’t in a condition fit for use
- is undergoing repair or maintenance
- couldn’t lawfully be used, or
- is used in a way that’s neither ‘use by’ nor ‘use at’ the direction of the employee or a member of their family or household

An asset is also treated as unavailable for private use if on a day the employee uses the asset in the performance of the duties of their employment and doesn’t use the asset otherwise.

As indicated in paragraph 4.3 different rules apply to mobile phones, vans and cars.

Living accommodation

Sections 97 and 103

6.8

As regards the provision of living accommodation for an employee and members of his or her family or household see Chapter 21.

Assets transferred to an employee

Sections 206(2) and (3)

6.9

The rules for assets transferred to employees are different depending on whether or not the asset has depreciated or been used.

Asset transferred to a director or employee or a member of his or her family or household before the asset has depreciated or been used

The amount chargeable is the greater of:

- the expense incurred by that person in connection with the provision of the asset, or
- the second-hand value of the asset in the hands of the employee if it falls within the meaning of earnings in Section 62
- less any amount made good

Asset transferred to a director or employee or a member of his or her family or household after the asset has depreciated or been used

Where an employee (or member of the employee's family or household) benefits from the transfer of an asset (other than a car, van, exempt bicycle or cyclist's safety equipment – see Chapter 5 – or living accommodation) at less than its market value, the benefit for tax purposes is the difference between the sum (if any) paid for the asset by the employee and so on and the higher of the market value of the asset:

- as at the date of transfer, or
- when first applied as a benefit minus any sums already taken into account in taxing benefits derived from the use of that asset

Where an asset not within the preceding paragraph (for example, a car, or something which had never been applied as a benefit) is similarly transferred and the asset has been used or has depreciated in value since its production or acquisition by the person transferring it, tax is charged on the market value of the asset at the time of transfer to the employee minus any amount paid for it by the employee.

Optional remuneration arrangements

6.10

From 6 April 2017 where a benefit is provided as part of optional remuneration arrangements the amount of the benefit treated as earnings from the employment is the greater of the:

- value of the benefit worked out under the normal rules (ignoring any amount made good)
- amount of any salary or cash pay foregone

There's further guidance about optional remuneration arrangements in Appendix 12.

Making good

6.11

Making good is where an employee gives something (usually a cash payment) to the person providing a benefit in return for it. This has the effect of reducing the taxable value of the benefit and reduces the amount of tax and National Insurance contributions (NICs) payable on the benefit.

From the 2017 to 2018 tax year, the latest date for making good is normally 6 July following the end of the tax year in which the benefit is provided if the amount made good is to be taken into account for tax and NICs purposes.

Where the benefit is payrolled under voluntary payrolling arrangements the latest dates for making good are earlier. The latest date for making good is the final payday of the tax year in which the benefit is provided. Exceptions to this are where the benefit is car fuel or van fuel or the use of a credit token when the employee has to make good the benefit before 1 June following the end of the tax year in which the benefit was provided.

Chapter 7 Deductions for expenses

Sections 337 and 338 7.1

An employee's remuneration for tax purposes is reduced by the cost of journeys:

- he or she has to make in the performance of the duties of the employment, or
- to a workplace he or she has to attend to carry out the duties of the employment, but not if the journey is ordinary commuting or private travel

Section 336

Where not covered by the exemption for paid/reimbursed expenses (see Chapter 2), the employee is also entitled to a deduction for any other expenses which are incurred wholly, exclusively and necessarily in the performance of the duties of the employment, (but see Chapter 20 for an exception for some entertaining expenses).

7.2

No deduction is due for expenses which merely put employees in a position to perform the duties of their employment, other than for the cost of travel to a temporary workplace. For example, no deduction is due for the cost of buying ordinary work clothes.

Section 36, CAA 2001

7.3

Where plant or machinery, such as a computer is necessarily provided by an employee, for use in the performance of the duties, he or she may be entitled to a deduction by way of capital allowances for depreciation related to its business use. No deduction is available if the employee's employer would have provided the plant or machinery necessary to do the job, but the employee chooses to provide it instead.

You can claim Annual Investment Allowance (AIA) on any purchase of equipment up to an annual amount of £50,000 in 2009 to 2010, up to £100,000 in 2010 to 2011 and 2011 to 2012 and up to £25,000 in 2012 to 2013. If the total is £50,000 or less, you can claim 100% of the total amount as AIA.

You can claim Writing Down Allowance on any balance of capital expenditure on plant and machinery that you haven't been able to claim the Annual Investment Allowance for, and on residual balances of expenditure that you've carried forward from the previous accounting period. The rates are 20% for 2011 to 2012 and 18% for 2012 to 2013.

Since 2002 to 2003, employees and office holders have not been able to obtain capital allowances for a car, motorcycle or cycle.

Sections 359(2) and (3) ICTA 1988

7.4

If an employee obtains a loan, other than an overdraft, to purchase plant or machinery in respect of which he or she is entitled to capital allowances (paragraphs 7.2 and 7.3 above), he or she can obtain relief for interest paid on the loan. The interest has to be paid within 3 years after the end of the tax year in which the debt was incurred. The relief due will be restricted to take account of any private use of the plant or machinery.

Sections 343 and 344 Subscriptions to professional societies

7.5

An employee may obtain a deduction for annual subscriptions paid to certain approved professional bodies or learned societies, where the body's activities are relevant to the duties of the employment.

A deduction may also be due for certain statutory fees paid to such bodies by an employee as a condition of carrying on the employment (for example, as a registered veterinary surgeon or a practising solicitor). A list of approved bodies is available, go to www.gov.uk/government/publications/professional-bodies-approved-for-tax-relief-list-3

Deduction for expenditure on special security measures

7.6

Employees who face a special threat to their personal physical security because of their work are entitled to a deduction equal to the tax charge which may arise in respect of the provision of, or payment for, security measures by their employer, or by somebody acting on the employer's behalf. A deduction is due if all the following conditions are satisfied:

- there must be a special threat to the employee's personal physical security (for example, from terrorists or other groups who resort to violence)
- the threat must arise wholly or mainly by virtue of the particular office or employment concerned
- the person providing the benefits or reimbursing the expense must have the meeting of that threat as the sole object in bearing the cost
- in the case of a security service, the benefit resulting to the employee must consist wholly or mainly of an improvement in the employee's personal physical security

7.7

Where an employee is provided with a security asset the full amount of the taxable benefit can be deducted if the provider intends the asset to be used solely to improve personal physical security. If the provider intends the asset to be used only partly to improve personal physical security the employee is entitled to a deduction for an appropriate proportion of the resulting benefit.

7.8

No deduction is due in respect of:

- security expenditure which an employee incurs out of his or her own pocket and which isn't reimbursed by or on behalf of the employer
- any benefit arising from the provision of
 - cars, ships or aircraft
 - a dwelling or ground connected to a dwelling
 - living accommodation

There's, however, a separate exemption for living accommodation which is provided as part of special security arrangements - see paragraph 21.2(c).

Employee liabilities and indemnities

7.9

Employees are entitled to a deduction for costs or expenses incurred as a result of a claim that they're subject to liabilities imposed in respect of their actual or alleged acts or omissions in their capacities as employees. They're also entitled to a deduction for costs or expenses incurred in connection with giving evidence in criminal or civil proceedings about a matter related to their employment.

7.10

A deduction is also due for the premiums paid on an insurance policy taken out solely to cover the costs or expenses referred to in paragraph 7.9 above.

7.11

In both cases, no deduction is allowed for a payment made in relation to arrangements for which tax avoidance is one of the main purposes.

Chapter 8 Travelling and subsistence expenses

The current rules on the tax treatment of business travel by employees came into effect on 6 April 1998. The rules are explained in detail in booklet 490, 'Employee travel – A tax and NICs guide for employers'. Please note that booklet 490 isn't reprinted every year, so if you already have a copy you should use that. The latest edition of booklet 490 was issued in April 2016.

The booklet 490 can be accessed by clicking on the following link
www.gov.uk/government/publications/490-employee-travel-a-tax-and-nics-guide

The travel and subsistence rules changed from 6 April 2016 for workers providing their services through certain employment intermediaries (including employment businesses, umbrella companies and personal service companies).

Chapter 9 Employees engaged on international work

Additional expenses rules

Where an employee goes abroad to work, or an overseas employee comes to work in the UK, some expenses for which a deduction isn't due under the rules mentioned in Chapter 8, may still qualify for relief under special rules for foreign travel. The special rules for foreign travel are explained in Chapter 7 of the booklet 490 Employee travel - A tax and NICs guide for employers.

For the text of the guide please use the following link
www.gov.uk/government/publications/490-employee-travel-a-tax-and-nics-guide

Chapter 10 Expenses for spouse accompanying employee on business trips

10.1

Where an employer (or another person acting on behalf of the employer) bears the travelling and subsistence expenses of an employee's spouse who accompanies him or her on a business trip, the employee is liable to tax on the cost of the spouse's trip unless either:

- relief is due under the special rules for employees working abroad (Chapter 9) or
- the expenses of the spouse's journey can be allowed or exempted under the ordinary expenses rule as incurred 'wholly, exclusively and necessarily in the performance of the employee's duties. Whether such an allowance can be made will depend upon the facts of the particular case (see paragraphs 10.2 to 10.6)

10.2

A deduction or an exemption for the spouse's expenses might be admissible if the spouse has some practical qualification directly associated with the employee's mission which she or he uses to assist the employee regularly during the trip. For example, as a competent linguist the spouse acts as translator at business meetings, when otherwise an outside interpreter would have been required. A spouse's expenses might also be allowed where the employee's health is so poor that it would be unreasonable to expect him or her to travel alone.

10.3

Where the spouse's presence is for the purpose of accompanying the employee at business entertainment functions, the expenses of the spouse's trip will first need to be considered under the rules, outlined in Chapter 20, about entertainment. If a disallowance for the expense is made in calculating the employer's tax liability, a deduction or exemption may be available under the ordinary expenses rule where the spouse's presence is essential in order to act as host or hostess at a series of business entertaining occasions which the employee is required to organise as part of the duties.

10.4

Where however the part played by the spouse is relatively unimportant (such as giving occasional assistance with clerical duties or making the travel and hotel reservations), or the main reason for the spouse's travel is personal, for example, to avoid the separation from the employee or to visit relatives abroad, the expenses will not be deductible or exempted under the ordinary expenses rule. It isn't enough for the employee's spouse merely to attend functions where other guests are accompanied by their spouses.

Keeping of records

10.5

Where it's asserted that a spouse's expenses are allowable for tax purposes it's important that the deduction or exemption should be supported by records. If it's claimed that the reason for the spouse's journey was to act as host or hostess during the business entertaining of overseas customers it should be borne in mind that HMRC may ask for evidence and the extent of entertaining.

Spouse's expenses borne by the employee

10.6

Where the spouse's expenses aren't borne by the employer (or another person acting on behalf of the employer) no deduction or exemption for tax purposes under the expenses rule described in paragraph 7.1 can normally be allowed.

Chapter 11 Cars and vans available for private use - when a benefit charge is incurred

11.1

This chapter relates to company cars for the period from 6 April 2003 and to company vans from 6 April 2005.

11.2

‘Company car’ or ‘company van’ are the terms used in this guidance to describe a car or van for which an employee is chargeable to car or van benefit. ‘Vehicle’ denotes car or van.

11.3

Definitions of car and van

Car means any mechanically propelled road vehicle except:

- (a) a goods vehicle (a vehicle of a construction primarily suited for the conveyance of goods or burden of any description), for example, a lorry- estate cars and off-road recreational vehicles count as cars
- (b) a motorcycle
- (c) an invalid carriage, or
- (d) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used, for example, a Grand Prix racing car

Car is defined in legislation. This means that it can include vehicles which aren’t cars within the usual day-to-day meaning of the word car.

11.4

Van means:

- a vehicle of a construction primarily suited for the conveyance of goods or burden of any description (this doesn’t include people)
- with a design weight (the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden) not exceeding 3,500 kilograms

Definitions of car and van: double cab pick-ups

11.5

With effect from 6 April 2002, vehicles commonly known as ‘double cab pick-ups’ are classified as cars or vans in line with their treatment for VAT. For more information, go to www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim23150

There’s no change to the treatment of these vehicles in earlier years, or to the existing treatment of any other vehicles.

When is a charge incurred?

11.6

A car or van benefit charge is incurred whenever these conditions are met:

- a car or van
- is made available
- without any transfer of the property in it
- to an employee (or to a member of the employee’s family or household)
- by reason of the employment
- is available for private use

Section 115

Section 114 and
Section 120(cars)
or Section 154 (vans)

Section 114(3A)

11.7

In addition, for a van benefit charge to be incurred from 6 April 2005 onwards, private use by the employee or by a member of their family or household must be more than ‘insignificant’ (see paragraph 14.5 onwards).

Vehicles part owned by the employee

11.8

The High Court has confirmed that car benefit applies to these cars and has always done so. The judgement applies equally to vans.

Car or van provided by the employer

11.9

Where a vehicle is made available for the private use of an employee (or members of their family or household) by the employer it’s deemed to be made available by reason of the employment, that’s to say, it’s deemed to go with the job.

There’s one statutory exception to this. This is where the employer is an individual and it can be shown that the vehicle was provided in the normal course of ordinary domestic, family or personal relationships. For example, an individual who employs a son might, as a parent, provide the son with a vehicle to be used for private purposes only. Facts in support of a claim that it had been so provided would be that it had not been treated as a business asset and that no expense or capital depreciation allowance relating to it had been allowed as deductions in computing the parent’s taxable profits.

Unless specified otherwise, members of an employee’s family or household include the employee’s:

- spouse or civil partner
- sons, daughters, and their spouses or civil partners
- parents
- domestic staff
- dependents
- guests

Section 117 Section 721(4)(5)

11.10

In addition to the statutory exemption mentioned above, a director or employee for 2015 to 2016 earning at a rate of £8,500 or more a year is not taxed on the benefit of a vehicle, or of fuel for that vehicle, made available for private use to a member of their family or household if the person to whom the car was made available is chargeable on the benefit in their own right.

A charge is similarly not made on any relative where the person to whom the vehicle was made available isn’t chargeable on the value of the benefit, provided that the person receives the vehicle in their own right as an employee, and either it can be shown that :

- equivalent vehicles are made available to employees in similar employment with the same employer who are unrelated to directors or employees
- that the provision of an equivalent vehicle is in accordance with the normal commercial practice for a job of that kind

Sections 169 and 169A

Cash alternatives to a company vehicle

11.11

Where an employee has the option of giving up the use of a company vehicle in return for a cash payment, the tax treatment depends on the choice made by the employee. If the employee keeps the use of the company vehicle, the benefit is taxed accordingly. If the employee gives up the vehicle and takes the cash, the cash will form part of the employee's remuneration for tax purposes.

Calculating the charge

11.12

Where a charge applies, details of how to calculate it are at:

- Chapter 12 for car benefit
- Chapter 14 for van benefit

If fuel is provided for the vehicle, see paragraph 11.16.

The scope of the charge

11.13

The car, van and fuel benefit charges mentioned in this chapter, and in Chapters 12 to 14, are normally the only tax charges which can be made in respect of the benefit derived by an employee (or members of the employee's family or household) from a vehicle made available for private use by reason of their employment or from fuel provided for that vehicle. However, the expense of a chauffeur continues to count as an additional benefit, see paragraph 11.15.

Private motoring expenses paid directly on behalf of, or reimbursed to, the employee in respect of a company vehicle will not give rise to a tax liability in addition to the car, van and fuel benefit charge mentioned in this chapter and Chapters 12 to 14.

11.14

Note though, certain motoring expenses not separately charged to tax must nevertheless be taken into account in addition to the vehicle and fuel benefit charges in determining whether or not an employee is remunerated at a rate of £8,500 or more a year (see paragraph 1.7). The motoring expenses in question are those which are met by:

- the settling of a debt incurred personally by the individual in respect of motoring expenses
- the reimbursement of expenditure incurred by the employee in connection with the vehicle, or
- vouchers or credit cards provided by the employer or by reason of the individual's employment

Approved Mileage Allowance Payments (AMAPs) aren't taken into account, but the rate of remuneration is calculated without the benefit of any Mileage Allowance Relief (see Chapter 16).

Expenses of a chauffeur

11.15

The expense incurred by an employer in the provision of a chauffeur, whether for a company vehicle or an employee's own private vehicle, is a separate benefit assessable on the employee. The cash equivalent of that benefit is calculated in the same way as for other benefits in kind (see Chapter 6).

Sections 120,
149 and 154

Section 239(5)

Sections 149 to
153 (cars)
Sections 160 to
164 (vans)

Provision of fuel

11.16

The car or van benefit charge doesn't cover fuel provided for the company vehicle. If fuel is provided for a company car, or for a company van for which the benefit charge is under paragraph 14.3, a fuel benefit charge is also incurred.

Chapter 13 deals with the fuel benefit charge.

Exceptions to the car or van benefit charge

Sections 167 and 168
Section 118(1)
Section 247

11.17

The only exceptions to the car, van and fuel benefit charges are:

- (a) pooled cars or vans (see Chapter 15)
- (b) vehicles in which private use by the employee is specifically prohibited and which aren't so used - both requirements must be satisfied for the exemption to apply
- (c) cars provided for home-to-work travel to employees who are disabled if all these conditions are met:
 - the car has been adapted in accordance with the employee's needs (or is an automatic where the employee's disability prevents them from driving any other car)
 - it's only made available for business travel, home-to-work travel and travel for training within one or more of Sections 250, 255 and 311
 - other private use by the employee and any other person is prohibited
 - no other private use is in fact made of the car
- (d) From the 2004 to 2005 tax year only, emergency vehicles meeting the conditions in paragraphs 11.18 to 11.22 below. They're also exempt from the general benefits charge (see Chapter 4)

Section 248A

Exceptions: emergency vehicles (from 2004 to 2005 onwards)

11.18

The person (this condition must be met). Only those 'employed in an emergency service' qualify for the exemption. This means:

- constables and other persons employed for police purposes
- persons employed for the purposes of a fire, or fire and rescue service, and
- persons employed in the provision of ambulance or paramedic services

11.19

The vehicle (this condition must be met). For the purposes of this exemption, an emergency vehicle:

- is a vehicle which is used to respond to emergencies, and
- either has fixed to it a lamp designed to emit a flashing light for use in emergencies ('fixed' indicates that the light must be a permanent fitting to the vehicle. It need not be permanently fixed to the exterior of the vehicle, but a vehicle with only a light which can be removed from the vehicle isn't an 'emergency vehicle' for the purposes of this exemption), or
- would have such a lamp fixed to it but for the fact that a special threat to the personal physical security of those using it would arise by reason of it being apparent that they were employed in an emergency service.

11.20

The terms (this condition must be met): the emergency vehicle must be made available on terms which prohibit its private use other than when the person is on call (paragraph 11.21) or is engaged in on-call commuting (paragraph 11.22).

11.21

The person is 'on call' (either this condition or the next one must be met):

- at the time they use the emergency vehicle, the person must be liable, as part of normal duties, to be called on to use it to respond to emergencies
- use isn't limited to ordinary commuting, but such use as is permitted can only be reasonably local to the area in which the employee lives and works (they're unlikely to be in a position to meet the previous bullet in this condition otherwise)

11.22

The person is engaged in 'on-call commuting' (either this condition or the previous one must be met):

- at the time they use the emergency vehicle the person must be required to do so in order that it's available for their use, as part of normal duties, for responding to emergencies
- the emergency vehicle can only be used for ordinary commuting, or for travel between 2 places that's for practical purposes substantially ordinary commuting

Cars and vans in the motor industry

11.23

Problems can arise in the motor industry in respect of demonstration, test and experimental vehicles. Where, as part of their normal duties, sales staff or demonstrators have to take a vehicle home for the express purpose of calling on a prospective customer, the vehicle will not on that account alone be regarded as available for private use. If, however, such a vehicle is otherwise available for the employee's private use, for example, at weekends or holidays, the appropriate car or van benefit charge will be assessable on the employee concerned.

11.24

The use of test or experimental vehicles by engineers in both the motor and components industries will be considered on the particular facts of the case. Any private use of the test or experimental vehicle by the employee will result in a taxable car benefit charge.

Business travel and private use

11.25

'Business travel' means travel for which expenses would qualify for deduction if they were incurred by the employee. Broadly, this means travelling expenses which involve 2 types of business journey, journeys which employees:

- have to make in the performance of their duties, and
- make, to or from a place they have to attend, in the performance of their duties – but not journeys which are ordinary commuting or private travel

Detailed guidance on the types of journey which give rise to qualifying travelling expenses is contained in booklet 490, 'Employee travel - A tax and NICs guide for employers'.

11.26

'Private use' means any use other than for the employee's business travel. This therefore includes commuting journeys.

Chapter 12 Calculating the car benefit charge

12.1

Chapter 11 deals with the circumstances in which a car benefit charge is incurred from 6 April 2003. This chapter deals with the calculation of the car benefit charge from the same date.

Section 120A

From 6 April 2017 where a car benefit is provided as part of optional remuneration arrangements the amount of the benefit treated as earnings from the employment is the greater of the:

- value of the benefit worked out under the normal rules (ignoring any capital contribution or private use payment)
- amount of any salary or cash pay foregone

There's further guidance about optional remuneration arrangements in Appendix 12.

Method of calculation

Section 121(1)

12.2

Car benefit is calculated in a series of numbered steps (more details start at the paragraphs given).

1. Find the price of the car (paragraph 12.4).
2. Add the price of any accessories which fall to be taken into account (paragraph 12.8).
3. Make any required deductions for capital contributions by the employee (paragraph 12.16).
4. Find the appropriate percentage for the car (paragraph 12.22).
5. Multiply the figure at Step 3 by the appropriate percentage at Step 4 (paragraph 12.31).
6. Make any required deduction for periods when the car was unavailable (paragraph 12.34).
7. Make any required deduction for payments by the employee for private use of the car (paragraph 12.37).
8. Make any required adjustment where the car is shared (paragraph 12.36).

This method of calculation is modified in the case of classic cars (those 15 years of age or more; Steps 1 to 3, see paragraph 12.18).

There are special rules for disabled drivers affecting Step 1 (paragraph 12.7), Step 2 (paragraph 12.15) and Step 4 (paragraph 12.30).

Appendix 1 contains some examples.

Cars which run on 'road fuel gas'

12.3

There are different rules for these cars:

Section 137

- (i) Cars manufactured to run on road fuel gas: an adjustment at Step 1 (paragraph 12.6)

Section 146

- (ii) Cars converted to run on road fuel gas: an adjustment at Step 2 (paragraph 12.14)

Sections 125(2)(b) and SI 2001 No 1123

'Road fuel gas' means any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and which is for use as fuel in road vehicles. The 2 types of road fuel gas currently in use are compressed natural gas (CNG) and liquid petroleum gas (LPG).

Step 1: The price of the car

Sections 122 to 124

12.4

The price of a car means its:

- list price, if it has one, or
- notional price, if it has no list price (see paragraph 12.5)

Section 123

The list price is the inclusive price published by the manufacturer, importer or distributor of the car if sold singly in a retail sale in the open market in the UK on the day before the date of the car's first registration. It includes standard accessories, any relevant taxes (VAT, car tax (where appropriate), any customs or excise duty, any tax chargeable as if it were a customs duty) and delivery charges, but excludes the new car registration fee because it's an administration fee, not a tax.

The list price isn't the dealer's advertised price for the car, nor the price paid for the car, which may incorporate discounts or cashbacks from the list price.

Second-hand cars are treated in exactly the same way as new cars. The list price is the price as outlined above on the day before the car was first registered (when the car was new).

The notional price of a car with no list price

Section 124

12.5

The normal price is the list price. Only if there's no list price can the notional price be used.

The notional price of a car is the price which might reasonably have been expected to be its list price if its manufacturer, importer or distributor had published a price as the inclusive price appropriate for a sale of a car of the same kind sold singly in a retail sale in the open market in the UK on the day before the date of the car's first registration.

The notional price includes all accessories equivalent to the qualifying accessories (paragraph 12.8) available with the relevant car at the time when it was first made available to the employee (for instance, all accessories which would otherwise be added at Step 2 as initial extra accessories, see paragraph 12.11), and any relevant taxes (as in paragraph 12.4).

Cars manufactured to run on 'road fuel gas' (type (ii) in paragraph 12.3)

Section 146

12.6

The price of the car found under Step 1 is reduced by so much of that price as it's reasonable to attribute to the car being manufactured in such a way as to be capable of running on road fuel gas rather than only on petrol. Normally, this means replacing the price of the car which can run on road fuel gas with the (lower) price of the petrol-only equivalent model.

Automatic car for a disabled employee

12.7

From 2009 to 2010 only, if the only car that an employee who holds a disabled person's badge can drive is one with automatic transmission, the price of the car is the list (or notional, where appropriate) price of the closest manual equivalent, which is:

- a car first registered at or about the same time as the automatic car, and
- which doesn't have automatic transmission, but otherwise is the closest variant available of the make and model of the automatic car

Step 2: Accessories

Qualifying accessories

Section 125(1)

12.8

A qualifying accessory is an accessory which is:

- (a) made available for use with the car without any transfer of the property in the accessory
- (b) made available by reason of the employee's employment
- (c) attached to the car (whether permanently or not)

Please note:

- condition (a) means that accessories which the employee owns aren't included, for example, where an employee buys his or her own in-car stereo system for use in the company car
- condition (c) means that only accessories which are attached to the car are qualifying accessories – a roof rack, for example, which can be removed from time to time will be a qualifying accessory if the other conditions are satisfied, but optional accessories such as car rugs, loose tools, maps and so on which aren't attached to the car aren't included

Meaning of accessory

Section 125(2)

12.9

'Accessory' includes any type of equipment, but doesn't include:

- (a) an accessory necessarily provided for use in the performance of the duties of the employment
- (b) equipment by means of which a car is capable of running on road fuel gas (see paragraph 12.14)
- (c) equipment to enable a disabled person to use the car (see paragraph 12.15)
- (d) a mobile phone

Please note:

Condition (a) means that those accessories which are necessarily provided for use in the performance of duties of the employee's employment aren't counted. An example would be a tow bar fitted as an option to a car because as part of the job the employee is required to tow a trailer carrying the equipment needed to carry out the duties of the job. The price of such a tow bar is disregarded at Step 2 and so it isn't taxable as a benefit, whether or not any private use is made of it.

Section 125A

From 6 April 2011 the cost of certain security enhancements will not be included in the cost of accessories where they're provided to safeguard the life of the employee because the nature of their employment creates a threat to their personal safety. These enhancements are:

- armour designed to protect the car's occupants from explosions or gunfire
- bullet resistant glass
- any modifications to the fuel tank designed to protect the contents from explosions or gunfire (including making the tank self sealing) and
- any modifications made to the car as a consequence of the preceding 3 examples

The rules for accessories

12.10

Accessories are dealt with in 3 groups:

- initial extra accessories (those with the car when it's first made available to the employee, paragraph 12.11)
- later accessories (those added after the car was first made available to the employee, paragraph 12.12)
- replacement accessories (which can be replacements for accessories in either of the above groups, paragraph 12.13) – in all cases, the price includes any charge for delivering the accessory to the seller's place of business, VAT and any fitting charges

Initial extra accessories

12.11

The price of initial extra accessories is only added to a car with a list price (the notional price of the car at paragraph 12.5 includes them).

An initial extra accessory is a non-standard accessory which is available with the car at the time when it's first made available to the employee. The price of an initial extra accessory is:

- (a) the list price published by the manufacturer, distributor or importer of the car for the day immediately before the date of the car's first registration
- (b) if there's no such price, the list price published by the manufacturer, distributor or importer of the accessory at the time immediately before the accessory is first made available with the car, or
- (c) if there's no list price of either kind, the notional price (the inclusive price it might reasonably have been expected to fetch at the time immediately before the accessory is first made available with the car)

The price of those in category (a) is added whether or not they're available with the car in the tax year in question. The price of those in categories (b) and (c) are added if they remain available with the car at any time in the tax year in question.

Both list and notional prices are for the accessory if sold singly in a retail sale in the open market in the UK and include any relevant taxes (paragraph 12.4) other than car tax.

Later accessories

12.12

The price of any later accessories is added to all cars. The price is in either category (b) or (c) and 127(2) of paragraph 12.11, as appropriate, and is calculated on the same basis.

A later accessory is one which wasn't available with the car at the time when it's first made available to the employee, but is available in the tax year in question. Later accessories are disregarded if added before 1 August 1993 or if the price doesn't exceed £100.

The lower limit of £100 means that inexpensive accessories which are made available during the period aren't included in the benefit charge. However, a set of items should not be divided for this purpose – for example, a set of 4 alloy wheels with a total cost of £300 isn't treated as 4 separate wheels each with an individual cost of £75.

If a later accessory is added part way through a tax year, its price is included at Step 2 for the whole year. There's no time-apportionment.

Sections 126(2)
and 127(1)

Section 128

Section 129

Section 130

Sections 126(3)
and 127(2)

Replacement accessories

Section 131

12.13

A replacement accessory is an accessory which replaces another qualifying accessory ('the old accessory') and is of the same kind as the old accessory. 'Kind' for this purpose depends on function: a radio/cassette player and a radio/CD player aren't of the same kind because their function is different, whereas alloy wheels are of the same kind as steel wheels because their function is the same.

Where the replacement accessory isn't superior to the old accessory, Step 2 operates as though the replacement had not been made. The price of the original accessory continues to be counted (even though it may have been removed in an earlier tax year) and the price of the replacement is ignored.

Where an accessory is replaced by a superior accessory, the price of the replacement accessory is added at Step 2 in the normal way but the price of a non-standard old accessory is disregarded (note that the price of a standard accessory counted at Step 1 isn't disregarded).

Cost of converting a car to run on 'road fuel gas' (type (ii) in paragraph 12.3)

Section 125(2)(b)

12.14

The cost of equipment to enable a car to run on road fuel gas isn't treated as an accessory and therefore the cost of conversion to run on road fuel gas isn't added at Step 2.

Equipment for disabled people

Section 172

12.15

Equipment to enable a disabled person to use the car isn't counted as an accessory (and therefore its price is disregarded at Step 2) if it's either:

- designed solely for use by a chronically sick or disabled person (for example, hand controls for people who are unable to operate ordinary pedal controls, or fittings to enable a wheelchair user to use the car), or
- if the employee holds a disabled person's (blue) badge at the time the car is first made available to them, other equipment which is made available for use with the car as a non-standard accessory because it enables the employee to use the car in spite of the disability which entitles them to the blue badge (for example, optional power steering or electric windows on a car made available to an employee who wouldn't be capable of operating it without them, but note that there's no reduction for such items if they're fitted as standard accessories because these are accounted for at Step 1)

Step 3: Capital contributions

Section 132

12.16

The effect of Step 3 is to reduce the amount carried forward from Step 2 where the employee has contributed a capital sum, or capital sums, to expenditure on the provision of:

- the car (Step 1), or
- any qualifying accessory (so long as it's taken into account at Step 2)

The amount to be deducted is the lesser of:

- the total of the capital sums contributed by the employee in that, and any earlier years, to expenditure on the provision of the car or any qualifying accessory taken into account at Step 2, and
- £5,000

Capital contributions are payments towards the cost of the car or qualifying accessories. They should not be confused with payments for private use of the car, see paragraph 12.37.

Years when amount allowed

Section 132(2)

12.17

The deduction under paragraph 12.16 is made for the year in which the contribution is made and all subsequent years in which the employee is chargeable to tax in respect of the car. Therefore, if the car is transferred from one employee to another, the first employee's contributions aren't taken into account in calculating the benefit of that car for the second employee.

Steps 1 to 3: Changes for classic cars

Section 147

12.18

Steps 1 to 3 are varied in the case of a classic car whose list price is low compared with its current value. A classic car:

- is 15 or more years old at the end of the tax year, and
- has a market value for the year of £15,000 or more, and
- has a market value that exceeds the amount carried forward from Step 3 above

When all the above conditions are met, substitute the market value of the classic car for the year less any capital contribution for the amount otherwise carried forward from Step 3 above.

Market value

12.19

The market value of a classic car is the price which it might reasonably have been expected to fetch in a sale on the open market on the last day in the tax year when it was available to the employee, on the assumption that any qualifying accessories available with the car on that day are included in the sale.

Market values of classic cars may be found in specialist publications, contemporaneous sale documents or insurance details for the car concerned. If a classic car is bought in a poor state of repair and is restored during the year, then it's the market value of the restored vehicle on the last day in the tax year when it was available to the employee which is used, not the cost of the earlier purchase.

Capital contribution towards classic cars

12.20

The amount to be deducted is calculated in exactly the same way and with the same limit as for other cars (paragraph 12.16).

Section 121(1)

Price cap for expensive cars

12.21

From 2011 to 2012 there's no restriction on the price of a car. The full price of the car determined in Steps 1 to 3 is used to calculate the car benefit so the figure carried forward at Step 3 is the figure multiplied by the appropriate percentage at Step 5.

For the years up to and including 2010 to 2011 the price of a car at Step 3 was restricted to £80,000.

Step 4: The appropriate percentage

The approved CO₂ emissions figure

Sections 134 to 136

12.22

Cars registered in the UK and in other European Community countries must be submitted by their manufacturers or importers for a 'type approval' test. The level of CO₂ emitted by the car is one of the factors reviewed in the course of the test. The approved CO₂ emissions figure for car benefit purposes is that which is recorded on the type approval certificate summarising the results of the type approval testing procedure. The result of this test is available in various ways.

For cars first registered:

- on or after 1 January 1998 with an approved CO₂ emissions figure, see paragraphs 12.23 to 12.27
- on or after 1 January 1998 without an approved CO₂ emissions figure, see paragraph 12.28
- before 1 January 1998, see paragraph 12.31 for all such cars

Please note: for car benefit purposes, the CO₂ emissions figure that applies at the date of first registration is set for the life of the car.

Cars first registered in the UK from 1 March 2001

12.23

The approved CO₂ emissions figure is shown on the Vehicle Registration Document (V5) or Vehicle Registration Certificate (V5C).

Cars first registered 1 January 1998 to 28 February 2001

12.24

The Vehicle Certification Agency (VCA) supplies CO₂ (and other emissions) data. Information on CO₂ emissions for both new (unregistered) and used (registered) cars can be found at carfueldata.direct.gov.uk

More information on vehicles and CO₂ emissions can also be found at www.dft.gov.uk/vca/index.asp

As the VCA website figures relate to new cars currently on sale in the UK, employers will not be able to use the internet database to find the approved CO₂ emissions figure for a car sold as new, say, 2 years ago. However, the downloaded or printed version of the VCA booklet that was current at the time a car was first registered will provide a useful historical record.

What if I find 2 contradictory CO₂ emissions figures?

12.25

The figures should normally be the same if they relate to the same car and the same year. You should make sure that you refer to the source of information that's most appropriate for the age of the car in question. The VCA used to produce a booklet called New Car Fuel Consumption and Emission Figures, if you've retained a copy of this booklet there's no need to check the database on the internet as well once you've found the CO₂ figure for the right model of car and year. However, if you do happen to find a small discrepancy, use the lower figure. If you find a larger discrepancy then contact HMRC for advice.

Remember, for cars registered 1 March 2001 and later the Vehicle Registration Document (V5) or Vehicle Registration Certificate (V5C) will be the definitive source of the approved CO₂ emissions figure.

Cars with a CO₂ emissions figure first registered on or after 1 January 1998 only

12.26

From 2012 to 2013 onwards there are no longer special rules for qualifying low emission cars. The appropriate percentage for these cars can be found in the ready reckoner at Appendix 2.

12.27

There's a ready reckoner in Appendix 2 which gives the appropriate percentages for a petrol-powered car for 2015 to 2016 onwards. See previous editions for earlier years. This is subject to an adjustment for diesel cars (see paragraph 12.29).

From 2015 to 2016 there are 2 new appropriate percentage bands:

- 0 – 50 g/km
- 51 – 75 g/km

The appropriate percentages for these bands can be found in the ready reckoner at Appendix 2.

Section 139

Section 139

Cars first registered on or after 1 January 1998 without an approved CO₂ emissions figure

Section 140

12.28

The appropriate percentage for the very few cars with an internal combustion engine and one or more reciprocating pistons but without an approved CO₂ emissions figure is based on their engine size, as follows.

Cylinder capacity of a car in cubic centimetres	Appropriate percentage 2016 to 2017	Appropriate percentage 2017 to 2018	Appropriate percentage 2018 to 2019
1,400 or less	16%	18%	20%
More than 1,400 but no more than 2,000	27%	29%	31%
More than 2,000	37%	37%	37%

If the car can't emit CO₂ in any circumstances by being driven the appropriate percentage is for 2010 to 2015 - 0%, 2015 to 2016 - 5%, 2016 to 2017 - 7%, 2017 to 2018 - 9%, and 2018 to 2019 - 13%.

In any other case (for example a car with a rotary Wankel engine) the appropriate percentage is

- 35% up to 2014 to 2015
- 37% from 2015 to 2016

This is subject to adjustments for cars powered by other fuels as shown in paragraph 12.29.

Cars first registered on or after 1 January 1998: adjustments to the appropriate percentage

Sections 137 and 141, SI2001/1123

12.29

The following adjustments apply for 2011 to 2012. See earlier editions for previous years.

Type of fuel	P11D code 2016 to 2017 onwards	P11D code 2015 to 2016	P11D code 2011 to 2012	Former code	Adjustment	Note
Zero-emission cars (including electric cars)	A	A	E	E	None	1
Diesel cars (all Euro standards)	D	D	D	D, L	Supplement 3% up to 2017 to 2018	2
					Supplement 4% from 2018 to 2019 (read note 4 on page 46)	
All other	A	A	A	P, B, C, H, G	None	3

From 2016 to 2017 the diesel supplement should still be added to all diesel cars, however from April 2018 if the diesel car is certified to meet the Real Driving Emission 2 (RDE2) standard it's exempt from the supplement – see note 4 on page 46.

Notes:

1. The appropriate percentage for type E cars is 0% for 2010 to 2015 inclusive. From 2015 to 2016 2 new appropriate percentage bands are introduced (see paragraph 12.27) and the type E code will no longer be used.
2. Subject to the overall maximum percentage of 37% from 2015 to 2016.
3. Former type B cars have different CO₂ emissions figures for different fuels; the lowest CO₂ figures can still be used (normally that for gas).
4. From April 2018, if your diesel car is certified to meet the RDE2 standard don't apply the adjustment for the diesel supplement. For 2018 to 2019 only, if the diesel car is RDE2 compliant use P11D code A. The Certificate of Conformity, available from the manufacturer will confirm whether the diesel car is RDE2 (also known as Euro 6d) compliant.

Cars first registered on or after 1 January 1998: reduction for disabled employees

Section 138

12.30

If the only car that an employee who holds a disabled person's badge can drive is one with automatic transmission, the appropriate percentage is calculated using the approved CO₂ emissions figure of the closest manual equivalent, which is:

- a car first registered at or about the same time as the automatic car, and
- which doesn't have automatic transmission, but otherwise is the closest variant available of the make and model of the automatic car

The appropriate percentage for all cars registered before 1 January 1998

Section 142

12.31

The appropriate percentage for every car first registered before 1 January 1998 is based on its engine size, even if (exceptionally) it has an approved CO₂ emissions figure.

Cylinder capacity of a car in cubic centimetres	Appropriate percentage up to 2017 to 2018	Appropriate percentage 2018 to 2019 onwards
1,400 or less	18%	20%
More than 1,400 but no more than 2,000	29%	31%
More than 2,000	37%	37%

If the car doesn't have an internal combustion engine with reciprocating pistons, the appropriate percentage is:

- up to 2009 to 2010 the appropriate percentage is 15% if it's a car propelled solely by electricity, for example by a battery (From 2010 to 2011 this legislation is repealed and the appropriate percentage in the bullet below will apply)
- in any other case (for example, a car with a rotary Wankel engine), the appropriate percentage is 32% up to 2015 to 2016 and 37% from 2016 to 2017 onwards

Step 5: Calculating the car benefit charge for a full year

Section 121(1)

12.32

The cash equivalent of the benefit of the car for a full year is calculated by multiplying the figure from Step 3 (the price of the car and accessories) by the appropriate percentage from Step 4.

Step 6: Reductions for periods when car unavailable

Section 143

12.33

When the car is unavailable for any part of the year, the figure carried forward from Step 5 is reduced in proportion to the number of days of unavailability.

Meaning of unavailable

Section 143(2)

12.34

A car is treated as being 'unavailable' on any day if the day falls:

- (a) before the first day on which the car is available to the employee, or
- (b) after the last day on which the car is available to the employee, or
- (c) within a period of 30 or more consecutive days throughout which the car isn't available to the employee

Replacement cars

Section 145

12.35

If the normal car isn't available for a period of less than 30 days, there is no reduction because the car isn't deemed to be 'unavailable' during that period.

If during that period the employee is provided with a replacement car, it isn't also charged as a benefit if it's not:

- materially better than the normal car, or
- provided as part of an arrangement whose purpose was to provide the employee with a materially better car than the normal car

Step 7: Reductions for private use

Section 144

12.36

Payments that an employee makes for the private use of the car are deducted from the figure carried forward from Step 6 and can reduce the benefit charge to nil.

To qualify as a deduction:

- there must be a requirement in the year to make payments as a condition of the car being available for private use, and
- from 2014 to 2015 the wording of this section changed to ensure that any payment for private use must be paid within the relevant tax year before it can be deducted at step 6
- the payments must be specifically for that private use - payments for supplies of services, such as petrol or insurance, don't count
- from the 2017 to 2018 tax year, private use payments made before 6 July following the tax year in which the benefit is provided will be accepted as reducing the cash equivalent as long as they meet the conditions described in this section

Any payments which the employee makes specifically for the private use of a replacement car as described in paragraph 12.35 are allowed as though they were payments for the private use of the normal car in that period.

More than one car made available

12.35

Where an employee has 2 or more cars made available at the same time each car has to be considered separately. As car benefit arises on cars 'made available' these employees are likely to have 2 or more car benefit charges in a tax year. No account of any other car should be made when calculating the benefit for each car provided.

Where 2 cars are provided consecutively the benefit chargeable for each car will depend on the length of time each car was unavailable to the employee. They're treated as separate cars with the relevant reductions applied to each car.

Step 8: Adjustment for shared car

12.37

A shared car is one:

- which is available to more than one employee concurrently
- made available by the same employer
- available concurrently for each employee's private use, and
- for which 2 or more of those employees are chargeable to tax for that year

Where these conditions are fulfilled the benefit of the car to each employee is:

- calculated separately under Section 121 (paragraphs 12.4 to 12.37), and
- then reduced on a just and reasonable basis

However, only availability to those chargeable on the benefit of the car is to be taken into account in making this reduction. Any availability to employees not so chargeable (either because their earnings are insufficient or because they're prohibited from using the car privately and don't do so) is to be disregarded. The total amount chargeable in respect of the car can't be any more than if the car had been available to one employee for private use and there had been no sharing.

Chapter 13 Fuel provided for company cars and vans

Section 149

13.1

Where fuel is provided for a car the benefit of which is taxed in accordance with Chapters 11 and 12 ('company cars'), a fuel benefit charge will normally apply to tax the fuel provided in addition to the car benefit charge. This is so whether or not the fuel is provided for private use.

Section 160

A fuel benefit charge also arises where fuel is provided for a van taxed in accordance with Chapters 11 and 14 ('company vans'), but only where the charge arises under paragraph 14.3.

See paragraph 13.5 below where the:

- fuel is provided only for business use, or
- employee or their family is required to and does cover all private fuel costs personally for the whole period for which the company vehicle is available to them

See paragraph 13.9 where this applies only for part of that time.

'Vehicle' below means car or van.

If private use payments or capital contributions (or both) reduce the cash equivalent of the calculation for the company car or van to £nil (see paragraph 12.2), a fuel benefit will still arise if the fuel is provided for private use and this isn't made good (see paragraph 13.5 and 13.10).

Fuel for vehicles owned or hired by employees

Sections 62, 73 and 82

13.2

The fuel benefit charges don't apply to fuel provided for use in an employee's own vehicle, or in a vehicle hired by the employee. The expense incurred by an employer (or another person on behalf of the employer) in providing fuel for any such vehicle is taxable upon the employee. See also Chapter 16.

The remaining paragraphs deal only with fuel provided for 'company vehicles'.

The provision of fuel

Sections 149(3) and 160(3)

13.3

Subject to paragraph 13.5 below, a fuel benefit charge is incurred where either the:

- cost of the fuel for the 'company vehicle' is met either directly or indirectly by some person other than the employee (or members of their family or household), or
- employee is reimbursed for the cost of any fuel used in that vehicle

Except as described in paragraph 13.12, the payment of a mileage allowance in connection with the use of a 'company vehicle' will normally constitute the provision of fuel.

Scope of the car and van fuel benefit charge

Sections 239(1)(2) and 269(1)

13.4

The fuel benefit charge is normally the only tax charge in respect of the provision of fuel for private use by an employee (or members of their family or household) in a 'company vehicle'. So the cost of fuel for private motoring reimbursed to the employee or paid on their behalf by the employer (for example, by way of credit card or a voucher) will not produce a tax liability in addition to the fuel benefit charge, unless the amount reimbursed exceeds

the cost of that fuel. If the reimbursement is excessive, the 'profit element' will be chargeable to tax in the normal way.

Reducing the fuel benefit charge to nil

13.5

For 2016 to 2017 and earlier, the fuel benefit charge is nil whenever fuel is provided for a 'company vehicle' and:

- (a) in the year the employee is required to make good to the person providing the fuel for private motoring (including travel between home and work) the whole of the expense incurred in its provision, and in fact does so, or
- (b) fuel is made available only for business travel.

From the 2017 to 2018 tax year the latest date for making good the cost of all fuel provided for private use when calculating the fuel benefit charge is by 6 July following the tax year in which the private fuel is provided.

On (a), see paragraphs 13.10 and 13.11 for guidance on the meaning of 'making good' and paragraph 13.13 on the use of HMRC advisory fuel rates in this context.

In the context of (b), see paragraph 11.25 for the meaning of 'business travel'.

Calculating the fuel benefit charge for a whole year

13.6

Cars

The car fuel benefit charge is calculated by multiplying 2 figures:

- a fixed sum of £23,400 for 2018 to 2019 (£22,600 for 2017 to 2018)
- the 'appropriate percentage' used to calculate the car benefit (see paragraph 12.22 onwards)

There's never any need to calculate a new appropriate percentage for car fuel benefit. In every case, whether or not the car has an approved CO₂ emissions figure, the appropriate percentage used to calculate the car benefit charge is used to calculate the car fuel benefit charge.

For example a car powered by petrol has CO₂ emissions of 160g/km. The appropriate percentage used to calculate the car benefit charge for 2018 to 2019 is 33%.

The 2018 to 2019 car fuel benefit charge is £23,400 x 33% = £7,722

13.7

Vans

There was no van fuel benefit charge until 2005 to 2006, so any fuel provided in earlier years was covered by the van benefit charge.

For 2018 to 2019 the charge is £633 (£610 for 2017 to 2018, £598 for 2016 to 2017 and £594 for 2015 to 2016).

Reducing the charge: car or van unavailable

13.8

The fuel benefit charge is reduced proportionately for periods for which the 'company vehicle' is unavailable (see paragraph 12.32 and 14.11 respectively). The proportion by which the charge is reduced is the same for both the vehicle benefit and fuel benefit.

Sections 151
and 162

Sections 150

Sections 161

Sections 152(1)
and 163(1)

Reduction because private fuel is withdrawn

13.9

The fuel benefit charge is reduced if free fuel ceases to be provided to an employee during the tax year. This requires a decision to introduce conditions (a) or (b) in paragraph 13.5 above on a date in the year.

Any days after the provision of free fuel ceased on which the company vehicle was available are added to any days for which it was unavailable as described in paragraph 13.8. However, receiving free fuel again later in the same tax year will prevent any apportionment under this paragraph.

'Making good' fuel provided for private motoring

13.10

Where the employee is required to make good the cost of all fuel provided for private motoring in a 'company vehicle' as described in paragraphs 13.5 or 13.9, they may do so by.

- (a) Payment – that's by paying to the person providing the fuel a sum of money either directly or by deduction from their net salary or wages, or
- (b) reinstatement – that's by replacing the fuel provided for private use by a corresponding amount of fuel purchased from their own pocket, or
- (c) any combination of (a) or (b) above.

Payment or reinstatement as outlined in (a) and (b) must be made in the tax year in which the fuel itself is provided. This applies for 2016 to 2017 and earlier years.

From the 2017 to 2018 tax year onwards payment or reinstatement as outlined in (a) and (b) must be made by 6 July following the tax year in which the fuel is provided to count as making good.

See paragraph 13.13 for how HMRC advisory fuel rates can simplify this for company cars.

13.11

The fuel benefit charge is only reduced in accordance with paragraph 13.5 or 13.9 if the employee makes good the cost of all the fuel provided for private motoring. If the employee fails to fully make good in this way, the fuel benefit charge as calculated under paragraphs 13.6 to 13.9 applies without any reduction for the repayments made by the employee.

Mileage allowance paid by the employer

13.12

Where the employer doesn't directly meet the cost of fuel used for business in a 'company vehicle' but pays the employee a business mileage allowance, no fuel benefit charge will arise if the mileage allowance does no more than meet the cost of fuel used for business travel (see paragraph 11.25).

If the mileage allowance is excessive, but it's only paid for genuine business travel, the 'profit element' will be chargeable to tax in the normal way.

However, a car fuel benefit charge will arise where, for instance, the payments to the employee cover travel between home and work.

See paragraph 13.13 for how HMRC advisory fuel rates can simplify this for company cars.

Advisory fuel rates (for company cars only – not applicable to vans)

13.13

We have published guidelines on fuel only mileage rates for company cars.

For the full background about the advisory fuel rates and details of both current and past rates, go to

www.gov.uk/government/publications/advisory-fuel-rates

This makes clear that there's no obligation to use the advisory fuel rates.

Where employers wish to use them, they only apply where employers:

- reimburse employees for business travel in their company cars (paragraph 13.12), or
- require employees to repay the cost of fuel used for private travel in those company cars (paragraph 13.5 or 13.9)

If you pay more than advisory fuels rates and the payment isn't an actual reimbursement, the excess is taxed (and subject to Class 1 National Insurance).

Advisory fuel rates don't apply to electric cars - any mileage payments should be based on actual costs incurred.

Optional remuneration arrangements

13.14

From 6 April 2017 where the fuel benefit is provided as part of optional remuneration arrangements the amount of the benefit treated as earnings from the employment is the greater of the:

- value of the benefit worked out under the normal rules (ignoring any amount made good)
- amount of any salary or cash pay foregone

There's further guidance about optional remuneration arrangements in Appendix 12.

Section 149A

Chapter 14 Vans available for private use

Important

These rules only apply from 6 April 2005.

For earlier years, see previous editions of booklet 480.

Section 115

14.1

Chapter 11 deals with the circumstances in which a van benefit charge is incurred from 6 April 2005. This chapter deals with the calculation of the van benefit charge from the same date.

The amount of the charge

Section 155

14.2

The charge is nil if both the following requirements are satisfied throughout the year (or part of the year depending on when the van is available to the employee) the van must:

- only be available to the employee for business travel and commuting - must not in fact be used for any other private purpose except to an insignificant extent, and
- be available to the employee mainly for use for the employee's business travel

Section 155(3)

14.3

If one of the requirements at paragraph 14.2 isn't met, the charge for 2018 to 2019 is £3,350 (£3,230 for 2017 to 2018).

14.4

If the van can't in any circumstances emit CO₂ by being driven, the charge for 2010 to 2015 inclusive was nil.

From 2015 to 2016 if the van can't emit CO₂ by being driven and the tax year is any year between 2015 to 2016 and 2021 to 2022 the cash equivalent is the appropriate percentage of the van benefit charge for that tax year as follows:

- 20% for 2015 to 2016
- 20% for 2016 to 2017
- 20% for 2017 to 2018
- 40% for 2018 to 2019
- 60% for 2019 to 2020
- 80% for 2020 to 2021
- 90% for 2021 to 2022

Sections 114 (3A) and 155(3)

Insignificant

14.5

The word 'insignificant' isn't defined, so takes its normal meaning of 'too small or unimportant to be worth consideration' (New Oxford English Dictionary). Private use is to be considered insignificant if it's:

- insignificant in quantity in the tax year as a whole (that's, a few days at most)
- insignificant in quality (for example, a week's exclusive private use is clearly not insignificant)
- intermittent and irregular
- very much the exception in terms of the pattern of use of that van by that employee (or their family or household) in that tax year

14.6

Examples of insignificant use are an employee who (using the van):

- takes an old mattress or other rubbish to the tip once or twice a year
- regularly makes a slight detour to stop at a newsagent on the way to work
- calls at the dentist on the way home

14.7

Examples of use which isn't insignificant are an employee who:

- uses the van to do the supermarket shopping each week
- takes the van away on a week's holiday
- uses the van outside of work for social activities

14.8

If the van in which the private use takes place is shared (see 'shared vans' below), use is likely to be insignificant if it isn't just and reasonable to reduce the benefit of the other sharer on account of it (precisely because the use is 'too small or unimportant to be worth consideration').

Reductions in the charge

Section 156

14.9

The charge is reduced for the following reasons, and in this order when the van is:

- unavailable (paragraph 14.10)
- shared (paragraph 14.12)
- payments are made for private use of the van (paragraph 14.16)

Reduction because van unavailable

Section 156

14.10

When the van is unavailable for any part of the year, the benefit charge is reduced in proportion to the total number of days on which it's unavailable.

14.11

A van is treated as unavailable to an employee on any day if the day falls:

- before the first day on which the van is available to the employee
- after the last day on which the van is available to the employee
- within a continuous period of 30 or more days throughout which the van is, in fact, not available to the employee at all

Shared vans

Section 157

14.12

The next adjustment to the amount of the charge is to take into account whether the van is shared. A shared van is one which is:

- available to more than one employee concurrently
- so made available by the same employer, and
- available concurrently for each employee's private use

Section 157

14.13

To calculate the charge on each employee sharing a van:

- calculate the charge (as above) as though the van were not shared, and then
- reduce that charge on a 'just and reasonable' basis

Section 158

14.14

There's a special rule where 2 members of the same family or household, 'E' and 'M', share a van and E is in excluded employment (that's, isn't chargeable under the benefits code). In that case, E's use of the van is disregarded when applying the 'just and reasonable' reduction to the charge on M.

14.15

In general, the total charge for the shared van should not exceed the cash equivalent of the van if only one employee had used it. The benefit received by each employee should be reduced on a just and reasonable basis.

Payments for private use

14.16

The amount chargeable on each employee is reduced pound for pound by the amount which the employee is required to pay, and actually pays, for private use of the van. This adjustment is made after any reduction arising from shared use of the van. From 2014 to 2015 onwards the wording of this section changed to ensure that any payment for private use must be paid within the relevant tax year before it can be deducted.

From the 2017 to 2018 tax year onwards private use payments made before the 6 July following the tax year when the benefit was provided will be accepted as reducing the cash equivalent as long as they meet the conditions described in this chapter.

Van temporarily replaced

14.17

If a van is unavailable for fewer than 30 days and is replaced by another, there's no additional charge for the replacement van. Instead, it's treated as though it were the normal van for that period, meaning that the terms and conditions for the replacement are treated as though they applied to the normal van.

Record keeping

14.18

Employers will need to be able to substantiate the end of year returns they make on form P11D, including nil returns. Where they have registered to payroll benefits through Real Time Information (RTI), details regarding calculating the taxable amount should also be kept.

14.19

Where a benefit is declared or payrolled, the employer will need to identify:

- each van used by an employee
- the age of each van (up to and including 2006 to 2007)
- if a van is shared, by whom and in what proportions
- periods of 30 or more consecutive days when a van was incapable of use
- contributions required to be paid and actually paid by any employee having had private use of a van

14.20

Where a nil return is made, it will be necessary to demonstrate that the necessary conditions have been complied with in practice as well as in theory. Useful information will include the terms and conditions on which the van is

Section 159

made available to the employee and mileage records showing actual use.

Optional remuneration arrangements

Section 154A

14.21

From 6 April 2017 where the van benefit is provided as part of optional remuneration arrangements the amount of the benefit treated as earnings from the employment is the greater of the:

- value of the benefit worked out under the normal rules (ignoring any private use payment)
- amount of any cash pay foregone

There's further guidance about optional remuneration arrangements in Appendix 12.

Chapter 15 Pooled cars or vans

Sections 167 and 168
Sections 167(2)
and 168(2)

15.1

In this chapter references to cars include vans. A car isn't considered to be available for private use if it's a pooled car. So no assessable benefit arises from its use.

Sections 167(3)
and 168(3)

A car only qualifies as a pooled car if all the following conditions are satisfied.

- (a) It's available to, and actually used by, more than one employee.
- (b) It's made available, in the case of each of those employees, by reason of their employment.
- (c) It isn't ordinarily used by one of them to the exclusion of the others.
- (d) Any private use by an employee is merely incidental to their business use of it.
- (e) It isn't normally kept overnight on or near the residence of any of the employees unless it's kept on premises occupied by the provider of the car.

If a car fails any of these conditions it might be regarded as shared car or van (see paragraph 12.36).

Employers need to be able to demonstrate that the conditions for the car or van to be a pool vehicle have been met, for instance by keeping mileage records to show when the car was used, by whom and for what journeys.

The word employee has its ordinary meaning here. The definition in paragraphs 1.7 and 1.8 doesn't apply in connection with pooled cars.

Meaning of 'merely incidental to'

Sections 167(3)(d)
and 168(3)(d)

15.2

The expression 'merely incidental to' imposes a qualitative rather than a quantitative test. The use of a car for what is primarily a business journey but embracing some limited private use would be within the terms of (b) in paragraph 15.1 above. A simple example might be where an employee who's required to undertake a long business journey is allowed to take a pool car home the previous night in readiness for an early morning start. The office to home journey although private is, in this particular context, subordinate to the lengthy business trip the following day and is undertaken to further the business trip. In short, it's merely incidental to the business use of the car on that occasion. A reservation is necessary in this type of case: if it happened too often, condition (e) in paragraph 15.1 above wouldn't be met.

Meaning of 'not normally kept overnight'

Sections 167(3)(e)
and 168(3)(e)

15.3

It's accepted that a car isn't normally kept overnight at or near the homes of employees if the number of occasions on which it's taken home by employees doesn't amount to more than 60% of the year. But where a car is garaged at the employees' homes on a large number of occasions, although for less than 60% of the year, it's unlikely that all the home-to-work journeys would satisfy the 'merely incidental to' test in paragraph 15.2.

15.4

Where a chauffeur employed to drive pooled cars is obliged to take a pooled car home for retention overnight, the purely private use by the chauffeur in travelling between their normal place of work and his or her home wouldn't of itself be regarded as disqualifying the car from treatment as a pooled car. Equally, the fact that in such circumstances the car was kept overnight at the chauffeur's home wouldn't normally be regarded as disqualifying the car from counting as a pooled car.

Inadequate parking facilities

15.5

Subject to the exception mentioned in paragraph 15.4 all 5 conditions in paragraph 15.1 must be satisfied if the car is to qualify for exemption as a pooled car. So a car which met the tests at (a) to (d) in paragraph 15.1, but which was normally taken home at night by an employee because of inadequate parking facilities at the employer's premises, would fail test (e) in paragraph 15.1 and would thus not count as a pooled car.

Chapter 16 Mileage payments and passenger payments

Mileage Allowance Payments

Section 229(2)

16.1

Mileage Allowance Payments (MAPs) are defined as ‘amounts, other than passenger payments, paid to an employee for expenses related to the employee’s use of such a vehicle for business travel’ (see paragraph 16.10) about passenger payments; ‘such a vehicle’ refers to any car, van, motorcycle or cycle.

Please note that:

- the payment must be made direct to the employee, not to someone else for the employee’s benefit
- only MAPs can be paid tax-free as Approved Mileage Allowance Payments (AMAPs) in the way described below

Approved Mileage Allowance Payments

Sections 229(3) and 230

16.2

Employees using their own cars, vans (including electric cars and vans), motorcycles or cycles for business travel can receive a tax-free amount (the approved amount for MAPs) instead of being taxable on what they received and having to obtain a deduction for expenses incurred. These tax-free amounts are called Approved Mileage Allowance Payments, or AMAPs for short.

Section 359

Actual costs of business journeys made in the employee’s private car can’t be claimed as a deduction by the employee as the legislation specifically prevents this where mileage allowance payments are made to that employee.

16.3

AMAPs cover any general or mileage-related expenses in relation to the car itself (such as fuel, servicing, tyres, road fund licence, insurance and depreciation), plus interest on any loan to buy the vehicle. No additional deduction is available for expenses of that type.

They don’t cover other expenses specific to the particular journey (such as parking charges, road tolls or accommodation) and the normal rules for deductions apply to expenses of this type.

Section 230(2)

16.4

The approved amount (the maximum that can be paid tax-free) is calculated as the number of miles of business travel by the employee (other than as a passenger, and whether or not they’re reimbursed for them) multiplied by a rate expressed in pence per mile. The tax-free amount therefore depends only on business miles travelled and isn’t related to the actual expenses incurred.

16.5

There are 3 kinds of vehicles under the AMAPs scheme:

- cars or vans (including those powered by electricity)
- motorcycles
- cycles

Each kind of vehicle is dealt with separately, though different vehicles of the same kind are dealt with as though they were the same vehicle. The rate in pence per mile for each kind of vehicle is in Appendix 3.

16.6

Where an employee receives payments from 2 or more associated employments, all business travel is treated as though it related to a single employment when calculating whether the 10,000-mile limit for cars or vans has been reached.

16.7

If you pay more than the approved amount, the excess should be returned on form P11D, or payrolled if you've registered to payroll. If you pay the exact amount, don't notify HMRC at all, whether on forms P11D, or otherwise. If you pay less (or nothing at all), the employee is entitled to a deduction for the shortfall as Mileage Allowance Relief – see paragraph 16.9.

16.8

There's a similar scheme for NICs, but the rules and rates for NICs are slightly different – see the latest edition of booklet CWG2 Employer further guide to PAYE and NICs for details.

Mileage Allowance Relief (MAR)

16.9

If an employee is paid less than the approved amount, they're entitled to a deduction for the shortfall. Employers can agree with HMRC to make separate optional reports of negative amounts under a scheme called Mileage Allowance Relief Optional Reporting Scheme (MARORS) which only caters for negative amounts. Contact HMRC if you want to enter this scheme.

Passenger payments

16.10

There's an additional exemption from tax for payments to employees travelling on business journeys because they're carrying other employees, for whom the journeys are also business travel, as passengers. The payments must be made specifically because passengers are being carried and be in addition to Mileage Allowance Payments for the travel itself.

16.11

Passenger payments can be paid to employees using:

- their own car or van (and so eligible for Approved Mileage Allowance Payments)
- a company vehicle for which they're chargeable to either car or van benefit (and so not eligible for Approved Mileage Allowance Payments)

16.12

The maximum that can be paid tax-free is calculated as the number of business miles for which a passenger is carried multiplied by a rate expressed in pence per mile. The rate is in Appendix 3.

Miles for which no passenger payments are made are excluded from the calculation.

16.13

Payments can be made for each passenger on the same journey.

Sections 231
and 232

Section 233

Section 234

16.14

If you pay more than the maximum amount, the excess should be returned on form P11D, or payrolled if you've registered to payroll. If you pay the exact amount, don't notify HMRC at all, whether on form P11D or otherwise. If you pay less (or nothing at all), there's no equivalent to Mileage Allowance Relief – the employee isn't entitled to any deduction for the shortfall.

Record keeping

16.15

Although payments within the above limits are exempt from tax, meaning that no report needs to be made to HMRC about them, employers should ensure that adequate records are kept to demonstrate that payments satisfy the conditions for exemption. Records should relate to miles travelled and not to actual expenses incurred (see paragraph 16.4).

Optional remuneration arrangements

16.16

From 6 April 2017 where mileage payments are provided as part of optional remuneration arrangements the payments aren't exempt from tax and the employee is taxable on the amount of salary or cash pay foregone. There's further guidance about optional remuneration arrangements in Appendix 12.

Chapter 17 Beneficial loan arrangements

Section 175(1)

17.1

A director or employee obtains a benefit by reason of the employment when he or she, or any of his or her relatives, is provided with a cheap or interest-free loan. The employee is generally taxable on the difference between interest at the appropriate official rate and the interest, if any, actually paid. Such loans are called beneficial loans.

17.2

It isn't necessary for the loan to be advantageous to the recipient for a chargeable benefit to arise. It's sufficient if the cheap or interest-free loan is made by reason of the employment.

Section 188(1)

17.3

The director or employee can also benefit if a loan made by reason of his or her employment is released or written off. The director or employee is then no longer obliged to repay the amount he or she was lent. A tax charge will arise irrespective of the terms of the loan which has been released or written off.

Amount chargeable

Section 175(3)

17.4

The amount chargeable is called the cash equivalent of the benefit of the loan. This is the difference between the:

- interest that would have been payable if the borrower had been required to pay interest on the loan at the appropriate 'official rate' (or rates) for the tax year concerned, and
- amount of interest actually paid by the borrower for the same tax year

Official rates are prescribed by the Treasury by means of Statutory Instruments. There are tables of official rates in Appendix 4. Detailed information on how to calculate the cash equivalent is given in paragraphs 17.27 to 17.30.

Section 181(1)

As regards the treatment of belated interest payments, see paragraph 17.35.

Loans in foreign currencies

Section 181(2)

17.5

Treasury regulations may specify different rates for use with certain loans made in the currency of a country outside the UK.

The loans are those where the benefit is obtained by a person who:

- normally lives in the country or territory where the currency in which the loan is made, and
- has lived in that country or territory at some time in the period of 6 years ending with the year of assessment concerned

The phrases 'normally lives' and 'has lived at some time' aren't defined in law and so have their ordinary common-sense meanings. A person normally lives in the place (if any) where, taking all the facts into account, one would normally expect him/her to be in the absence of some special reason to the contrary (such as a temporary period of employment elsewhere). 'Has lived at some time' carries an implication of continuity but not necessarily of permanence.

A table showing currencies for which official rates, different from that generally applicable have been prescribed, what those rates are and for which periods they apply, is in Table 3 of Appendix 4.

Meaning of 'loan'

Section 173(2)

17.6

Loan means more than just lending money. It includes any form of credit.

It follows that any kind of advance made by reason of the employment is covered.

For example, any amount shown in the employer's books or records as owed by a director or employee will count as a loan.

Identifying the loan

17.7

The identification of the loan or loans made is a crucial step in the process of dealing with beneficial loans. A loan (but not necessarily a debt consisting of some other form of credit (see paragraph 17.6 above)) is always created by an agreement between the borrower(s) and the lender(s). It's the agreement which sets out the scope of the loan. The terms of an agreement for a loan may take any one of a variety of forms. For example, they may provide that the loan is effectively to be divided into segments for the purposes of:

- securing it on assets, and/or
- calculating interest payable, and/or
- accounting

So a single loan may:

- be represented by 2 or more accounts
- bear interest on different segments at different rates, and
- be secured on 2 or more assets

In spite of all these factors, if the agreement under which it's made and accepted is an agreement for a single loan, it will remain a single loan and be treated as such for all the purposes of the beneficial loan rules unless and until it reaches the point where it may be aggregated with other loans in the calculation of the cash equivalent. (See paragraph 17.27.)

Just as a single loan may involve 2 or more accounts, rates of interest and forms of security, so 2 or more separate loans may be:

- subject to the same terms as regards interest, and/or
- secured on the same asset, and/or
- held in the same account

The fact that 2 or more separate loans may be aggregated for a particular purpose of ITEPA 2003 doesn't make them a single loan or mean that they can be treated as such for any other purpose. Each form of credit other than a loan is a single loan for the purposes of the beneficial loan rules. So a series of similar forms of credit (for example, the provision of a monthly service on credit) is for those purposes a series of separate single loans.

An Alternative Finance Arrangement (Sections 46 to 57 Finance Act 2005) provided by an employer to an employee is taxed in the same manner as a beneficial loan. Such arrangements (for example, wakala or a diminishing musharaka) don't give rise to payment or receipt of interest, but they're taxed in the same way as equivalent arrangements that do give rise to interest.

Meaning of 'making a loan'

Section 173(2)(b)

17.8

Making a loan includes:

- arranging a loan
- guaranteeing a loan
- in any way facilitating a loan, and
- taking over a loan from another person

Loans taken over from another person

Section 174(4)(a)

17.9

If the rights over an existing loan are taken over by another person the loan will remain within the charge if it was within the charge when it was first made. A loan within the scope of the charge can't be removed from it by the original lender transferring his or her rights to another person. But a loan which wasn't within the charge when it was first made can be brought within it if it's taken over by a person mentioned in paragraph 17.11 below.

Meaning of 'relative'

Section 174(6)

17.10

Relative is given a special meaning for the purposes of the charge on beneficial loans or their release or writing off.

Persons defined as relatives include:

- the employee's spouse
- the parents, children, and brothers and sisters of both spouses
- remote ancestors or descendants of both spouses, for example, grandparents and grandchildren
- the spouses of all the persons mentioned above

This definition is much wider than that used for other benefits of directors and employees within the benefits code (see paragraph 1.22).

Meaning of 'loan obtained by reason of the employment'

Sections 174(1) and (2)

17.11

The phrase 'by reason of the person's employment' is given a special meaning in connection with the charge on beneficial loans or their release or writing off. The benefit of a loan or its release or writing off is obtained by reason of a person's employment if the loan is made by:

- the employer or a prospective employer – but there's an exception to this rule at 17.12
- a company or partnership
 - controlled by the employer, or
 - controlling the employer, or
 - under the same control as the employer
- a person having a material interest in a close company or in another company or partnership controlling that close company and the employee's employer
 - is that close company, or
 - controls it, or
 - is controlled by it

But note the exception to this rule which is explained in paragraph 17.13 below. The extended meaning of 'making a loan' in paragraph 17.8 applies for the purpose of these rules.

Note also that a loan made by a person other than the employer may in some cases fall within the rules on employment income through third parties – see paragraphs 1.16 to 1.23.

Exception for loans made by an employer who's an individual

Section 174(5)

17.12

There's an exception to the rule in paragraph 17.11 that the benefit of a loan is obtained by reason of a person's employment if it's made by his or her employer or prospective employer. No charge arises if it's shown that a loan has been made by an employer who's an individual, in the normal course of domestic, family or personal relationships.

Loans by persons with a material interest in a close company

17.13

The exception explained in paragraph 17.12 applies to loans made by a person within the third bullet of paragraph 17.11 as well as to loans made by a person within the first bullet. So a loan made by an individual who has a material interest in a close company or in another company or partnership which controls such a company, isn't a loan the benefit of which is obtained by reason of a person's employment if it can be shown that the loan was made in the normal course of the lender's domestic, family or personal relationships.

Qualifying loans

Sections 180(4) and (5)

17.14

The rules set up a special category of loans called qualifying loans. A summary of loans which are 'qualifying' is set out in Appendix 5. Loans which aren't qualifying are referred to in what follows as non-qualifying loans. Loans used to purchase land aren't qualifying loans. The distinction between qualifying and non-qualifying loans is relevant in relation to:

- the exemption for qualifying loans on which the whole of any interest would be eligible for relief (see paragraph 17.15), and
- the exemptions for small loans (see paragraphs 17.16 and 17.17), and
- aggregation and non-aggregation of loans (see paragraph 17.27)

Exemptions for some qualifying loans

Section 178(5)

17.15

There's no chargeable benefit on some qualifying loans. Exemption applies if the whole of any interest on the loan (or any interest which would be payable if the loan were interest-bearing) qualifies for tax relief under any of the categories in Appendix 5. Don't report such loans on the P11D.

The exemption doesn't apply if only part of the interest on the loan qualifies for tax relief. In that case the full cash equivalent of the loan should be reported on form P11D. Any tax relief due to the employee should be claimed by the employee, usually on his or her Self Assessment tax return.

Example

Mr A had 2 interest-free loans from his employer as follows.

Nature of loan	Amount of loan
Loan to purchase an interest in a partnership	£60,000
Loan to buy land	£20,000

The loan to purchase the interest in the partnership is exempt (if it were interest-bearing all the interest would qualify for relief) and shouldn't be reported on the P11D. The loan to buy the land isn't exempt. So the full cash equivalent of the land loan must be reported on form P11D.

Exemptions for small loans

Section 180(1)

17.16

No tax is chargeable if the total balance outstanding on all beneficial loans doesn't exceed £10,000 throughout the year of assessment in question.

This exemption doesn't apply where the loan is provided through optional remuneration arrangements (see Appendix 12). This means that, in strictness, where this exemption could be applicable it will be necessary to calculate and consider the total balance outstanding on all an individual's beneficial loans on a day-to-day basis. However, in practice, many loans will decrease steadily from the time they're taken out. As regards such loans the maximum balance in any year can't exceed the balance at the beginning of that year (or in the case of a loan taken out in the year at the time when it was taken out). So it will be possible in such cases to know whether the exemption applies without knowing the maximum total balance outstanding day by day. Interest accrued isn't added to the balance of a loan outstanding until the interest falls due for payment.

Section 180(3)

17.17

Where exemption under paragraph 17.16 isn't due but would have been but for the existence of one or more qualifying loans (see paragraph 17.14) only the qualifying loans are taken into account for the purposes of the beneficial loan rules.

Example

Ms B had 3 interest-free loans from her employer as follows.

Nature of loan	Maximum outstanding balance
Qualifying	£50,000
Non-qualifying	£6,000
Non-qualifying	£4,000

Total £60,000

Since the maximum total balance outstanding in the year exceeds £10,000, exemption under Section 180(1) isn't due. But apart from the qualifying loan the maximum total balance outstanding in the year would be £10,000. Since this doesn't exceed £10,000, exemption under Section 180(3) is due in respect of the non-qualifying loans. The qualifying loan will be charged as if it were the only beneficial loan.

Exemption where no benefit is derived from a loan to a relative

Section 174(5)

17.18

There's no chargeable benefit if a director or employee who isn't in an excluded employment shows he or she got no benefit from a loan made to a relative of his or hers. This exemption protects an employee from a charge

where there's a genuine arm's length transaction between the employer and the employee's relative. It also applies where a debt is released or written off.

Exemption for loans for fixed periods at a fixed rate of interest

Section 177

17.19

There's no chargeable benefit in any year of assessment on a loan made to a director or employee if the loan:

- is for a fixed and invariable period, and
- is at a fixed and invariable rate of interest, and
- when the loan was first made, the interest paid on it in the year it was made wasn't less than the interest calculated at the appropriate official rate(s) for that year

The tests to be satisfied for this exemption are stringent. The loan must be for a specific period which can't be varied under any circumstances and the rate of interest must be fixed and incapable of alteration.

Exemption for 'commercial loans'

Section 176

17.20

There's no chargeable benefit on a loan made to a director or employee if:

- the loan was made by a person in the ordinary course of a business carried on by that person which includes the lending of money
- at the time when the employee loan was made the lender was making comparable loans (see paragraph 17.21) available to all his or her potential borrowers
- the comparable loans made by the lender at or about the time (see paragraph 17.23) as the employee loan was made, a substantial proportion (see paragraph 17.22) was made to members of the public at large with whom the lender was trading at arm's length (see paragraph 17.24)
- the same terms apply to all comparable loans (including the employee loan), and
- where the terms of the comparable loans (including the employee loan) are different from the original terms, the new terms were imposed in the ordinary course of the lender's business

Note that the exemption is due only if all those conditions are satisfied.

This exemption also applies, on the same conditions regarding the giving of credit for making a loan, to the giving of credit to a director or employee by a person whose business includes the supply of goods or services on credit.

Comparable loans

Sections 176(3) and (4)

17.21

A loan is comparable with another if both are made:

- for the same or similar purposes, and
- on the same terms and conditions

The words 'the same or similar purposes' have their ordinary common-sense meaning. A loan to buy shares in 1 company is made for a similar purpose to a loan to buy shares in another company. A loan to buy a holiday isn't made for a similar purpose to a loan to buy a house.

The words 'on the same terms and conditions' mean just what they say.

If 2 loans are:

- made on the basis of different lending criteria, or
- carry interest at different rates, or
- have different terms as to repayment or security

they're not made on the same terms and conditions.

Similarly, since any fees charged in connection with the making of a loan (for example, valuation fees, administration or arrangement fees, reservation or booking fees) are part of the terms and conditions of the loan, a loan where no such fees are charged can't, by definition, have been made on the same terms and conditions as one where such fees are charged.

Substantial proportion

17.22

The substantial proportion test operates by reference to numbers of loans and not by reference to total amounts lent. So if 50% or more of the comparable loans made at, or about, the same time when the employee loan was made, were made to members of the public at large, this test will be satisfied. Whether a proportion below 50% would be enough will be a matter of fact or degree.

At or about the time the employee loan was made

17.23

The law doesn't specify the period within which the loans to be taken into account in applying the substantial proportion test have to be made. This allows the application of common sense. If a public offer for loans for the same or similar purposes and on particular terms and conditions is open from 1 April to 31 December all such loans made in that period will have been made at or about the same time for the purposes of the substantial proportion test.

Members of the public at large

17.24

The public at large means, in this context, the public in general as distinct from a particular section of the public. The essential difference is between ordinary customers with whom the lender deals on an arm's length basis and other borrowers with whom the lender has a special relationship – for example, employees, former employees or suppliers. This doesn't mean that loans made by specialised lenders such as merchant banks which don't lend to the general public are automatically excluded from the exemption. The criterion isn't whether a substantial proportion of the comparable loans was made to all and sundry but whether such a proportion of those loans was made to ordinary customers with whom the lender was dealing at arm's length.

Exemption for loans varied onto 'commercial' terms

17.25

There's no chargeable benefit on a loan, made to a director or employee, which has been varied onto the same terms as apply to loans made to members of the public, if:

- a substantial proportion of relevant loans (see paragraph 17.26) is held by members of the public (see paragraph 17.24), and
- at the time of variation of the employee loan, members of the public with

- existing loans from the lender had a right to vary their loans on the same terms and conditions as applied to the variation of the employee loan, and
- any such loans to members of the public so varied are held on the same terms as the employee loan, and
 - where the terms of the relevant loans (including the employee loan) are different from those immediately after the time of variation, the new terms were imposed in the ordinary course of the lender's business

In deciding whether rights to vary loans are on the same terms and conditions, and whether loans are held on the same terms:

- penalties, interest and similar amounts incurred by the borrower as a result or varying the loan, and
- fees, commission or other incidental expenses incurred by the borrower for the purpose of obtaining the loan, are disregarded

Relevant loans

17.26

For the purpose of the exemption for varied loans, the relevant loans are:

- the employee loan in question, and
- any existing loans which were varied at, or about, the time of the variation of the employee loan, so as to be held on the same terms as the employee loan, and
- any new loans made by the lender at, or about, the time of the employee loans which are held on the same terms as the employee loan

Calculation of chargeable benefit from a beneficial loan

Aggregation of loans between the same borrower and lender

17.27

Where there's more than one loan owing to a close company by one of its directors, the company may elect to treat certain loans as a single loan for the purposes of calculating the chargeable benefit for a year.

The loans which can be dealt with in this way (aggregated) are those which are:

- not qualifying loans (see paragraph 17.14)
- in the same currency, and
- beneficial (see paragraph 17.1)

Loans which are exempt from charge can't be aggregated. They include:

- commercial loans (see paragraph 17.20), and
- loans falling within any of the exemptions mentioned in paragraphs 17.12 and 17.16 to 17.19

The fact that a particular director has one or more loans which can't be aggregated doesn't mean that his or her other loans can't be aggregated but an election must cover all loans which can be aggregated.

Example

A director of a close company has 5 cheap loans in sterling from his employer outstanding on a given day in a tax year. One of these loans is a qualifying loan which isn't exempt because the interest only partly qualifies for relief. The other 4 loans are non-qualifying loans but one of them is a 'commercial' loan.

The company may elect to aggregate the 3 remaining loans for the year but it can't elect to aggregate 2 of them and deal with the third separately.

The company election can't be reversed by the director.

An election is effective only if the company gives HMRC written notice of it within 91 days of the end of the tax year concerned. An election is effective only for one tax year.

Calculation of the chargeable benefit – ‘the cash equivalent’

17.28

There are 2 alternative ways of working out the chargeable benefit from a cheap or interest-free loan or loans.

The normal averaging method (see paragraph 17.29) applies automatically unless:

- the director or employee elects for the other (the ‘alternative precise method’), or
- HMRC gives notice that it intends to use the ‘alternative precise method’

17.29

The normal averaging method of calculation is based on the average:

- amount of the loan (or aggregated loan – paragraph 17.27) calculated by reference to its maximum opening and closing balances at the beginning and end of the tax year – if the loan wasn’t in existence throughout the whole year, the average is based on the maximum balances on the dates the loan was made or discharged
- appropriate ‘official rate’ of interest for the tax year – or for such shorter period as the loan was in existence

The step-by-step calculation is as follows:

- 1 . Find the maximum amount of the loan outstanding on
 - 5 April preceding the year of assessment, or
 - if the loan was made during the year, the date on which it was made.
- 2 . Find the maximum amount of the loan outstanding on
 - 5 April within the year of assessment, or
 - if the loan was discharged during the year, the date on which it was discharged.
3. Add together the maximum amounts found at Steps 1 and 2, and divide the result by 2. This is the average loan.
- 4 . Multiply the average loan found at Step 3 by the number of whole months for which the loan was outstanding in the year and divide the result by 12. For the purpose of this calculation months begin on the sixth day of the calendar month.
- 5 . Multiply the result by the appropriate average official rate of interest in force during the period that the loan was outstanding in the year.
- 6 . Deduct any interest which was paid by the director or employee in respect of the loan for that year.

For an example, see Appendix 6.

‘Alternative precise method’ of calculating the chargeable benefit

17.30

Broadly, the alternative method of calculation involves:

- dividing the appropriate official rate by 365, and
- applying that to the total of the maximum amounts of the loan (or loans) outstanding on each day in the tax year

In effect the total amounts of the maximum balances on the loan (or aggregated loan) for each day are converted into the equivalent balance for one day to which one day’s interest charge at the appropriate official rate is then applied.

Section 182

Section 183

Any interest paid on the loan for the tax year is then deducted to arrive at the chargeable benefit for that year. For an example, see Appendix 6.

Election for the alternative precise method of calculating the benefit

17.31

Either the employee or the officer of HMRC can elect for the alternative precise method of calculating the cash equivalent. An election covers all beneficial loans which the director or employee has outstanding at any time in the year of assessment concerned. It's not possible to elect to have some dealt with by the alternative precise method and others by the normal averaging method.

Time limit for elections made by directors and employees for the alternative precise method of calculating the benefit

Section 183(2)

17.32

The time limit for making an election for the alternative method of calculation is 31 January in the next tax year but one after the relevant year of assessment. So an election for 2012 to 2013 must be made by 31 January 2015 if it's to be valid.

What interest paid is to be taken into account in calculating the chargeable benefit

Section 175(3)

17.33

When calculating the chargeable benefit from a beneficial loan for any year it's necessary to deduct interest paid on it which satisfies the following conditions it must have:

- actually been paid
- been paid for the year of assessment

It doesn't have to be paid in the year of assessment to qualify.

Meaning of 'interest'

17.34

Interest has a special technical meaning. In particular, a payment which a person makes voluntarily or agrees voluntarily to make can't be interest. So a payment can't be interest for a year unless an obligation to pay interest existed in that year.

Recalculation of the chargeable benefit where interest is due but not paid until after the assessment has become final

Section 191

17.35

When interest, which a director or employee has to pay for a particular year, is paid after the assessment on the benefit for that year has become final, the law allows him or her to make a claim for the assessment to be recalculated to take the belated interest payment into account.

A claim to this relief can be made at any time up to the end of the general time limits that are applicable to individuals making claims for repayment of Income Tax.

'Cash equivalent' to be treated as interest paid

17.36

An amount equal to the cash equivalent of the benefit of any loan will be treated as paid by the director or employee as interest in respect of that loan.

Treatment of notional interest paid

17.37

The amount treated under the beneficial loan rules as interest paid is so treated for all the purposes of ITEPA 2003 (other than those rules themselves). The notional interest is treated as accruing during the year and paid on 5 April in the year unless the director or employee ceases to be in employment to which the benefits code applies, in which case the interest is treated as paid on the last day in the year on which the employee is in such employment. (See Appendix 6.)

Directors' current or loan accounts with a close company

17.38

If the directors own all the share capital of the company and either formally or informally decide that sums withdrawn by them from the company are remuneration, or on account of remuneration, the withdrawals aren't loans. PAYE should be applied at the time of each withdrawal. If the directors make withdrawals which aren't remuneration or on account of remuneration, the withdrawals may put the directors in debt to the company. If they do, charges on beneficial loans may arise unless they fall within one of the exemptions (see paragraphs 17.12 and 17.16 to 17.20). Interest paid on a debt incurred by overdrawing an account, or under similar arrangements, doesn't qualify for relief under the interest relief rules. Whilst this restriction is more commonly applied to bank overdrafts, it applies equally to a director's overdrawn current account with his or her company. It follows that no part of the interest or notional interest on an overdrawn current account will be eligible for relief irrespective of the use to which the money is put.

Joint and several loans

17.39

If a loan is made jointly and severally to 2 or more directors or employees who are chargeable to tax in respect of the loan, the cash equivalent of the benefit of the loan is apportioned between them in a just and reasonable way.

Optional remuneration arrangements

17.40

From 6 April 2017 where a taxable cheap loan is provided as part of optional remuneration arrangements the amount of the benefit which is treated as earnings from the employment is the amount of any salary or cash pay foregone less any interest paid on the loan for the tax year. There's further guidance about optional remuneration arrangements in Appendix 12.

Section 185

Section 175A

Chapter 18 Scholarships

Section 776 ITTOIA

18.1

Although the income from a scholarship is exempt from a tax charge in the scholar's hands, scholarships awarded to students by reason of their parents' employment will normally give rise to a tax charge on the parent unless the parent is in an excluded employment (see paragraph 1.19).

Section 215

'By reason of the employment'

Section 212

18.2

For the purpose of taxing a director or employee with the value of a scholarship provided by reason of his or her employment for a member of his or her family or household the phrase 'by reason of the employment' is given an extended meaning. As well as covering the situations described in paragraphs 1.23 to 1.25, a scholarship is treated as having been awarded 'by reason of' the parent's employment if it's awarded under 'arrangements entered into' by the employer or any person connected with the employer. This applies whether or not expense is directly incurred by the employer and thus covers situations where, for example, the expense is met by an educational trust set up by the employer or anyone else under arrangements made with the employer or someone connected with the employer.

As to the meaning of connected person see paragraph 18.6 below.

'Fortuitous' awards

Section 213

18.3

The legislation excludes from a tax charge any scholarship provided from a trust fund or under a scheme for full-time education or instruction where:

- in the relevant tax year not more than 25% by value of the awards go to members of the families or households of the employees whether or not the employee
 - (a) is in an excluded employment (see paragraph 1.19)
 - (b) is resident or ordinarily resident in the UK, or
 - (c) the duties of the individual's employment are performed outside the UK, and
- the award wasn't provided by reason of the parent's employment (disregarding for this purpose only the extended meaning given to this phrase in paragraph 18.2)

18.4

Thus scholarships awarded to the children of all employees – whether or not the employees are within the special rules described in this booklet or are working overseas – are taken into account for the purpose of the 25% test mentioned above. Furthermore, the 25% test can't operate to prevent a tax charge unless the connection between the award and the parent's employment is purely fortuitous.

Cost of the benefit

Section 214

18.5

If the provision of a scholarship from a trust fund is taxable as an employment-related benefit the cost of the benefit (that's, the amount treated as the employee's income) is the total of the payments made from the fund to the person holding the scholarship.

Section 211(3)
Section 839
ICTA 1988

Definitions

18.6

The word 'scholarship' as used in this Chapter is defined as including an exhibition, bursary or other similar educational endowment. The term 'connected person' covers most family relationships, the trustee of a settlement where the trustee is connected with any person who's a settlor or with a body corporate connected with the settlement, and partners except as regards certain commercial transactions. Similarly, companies are connected with other companies if they're controlled either directly or indirectly by the same person or by a person connected with him or her. There are special definitions for these purposes of 'settlement', 'settlor', 'company', 'control' and 'relative'.

Chapter 19 Tax not deducted from remuneration paid to directors

Section 223

19.1

A tax charge arises if an employer bears the tax which should have been deducted from a director's remuneration. These rules only apply to company directors (see paragraph 19.3 below).

They ensure that a tax charge will arise where both the following conditions are satisfied:

- the employer, on paying remuneration to a director, (or otherwise making it available to the director) fails to deduct the full amount of Income Tax due under the PAYE regulations, and
- someone other than the director pays to HMRC the tax the employer has failed to deduct and the director doesn't make good all the tax paid

Example

A company votes remuneration of £10,000 to a director and then pays this or otherwise makes it available to the director without deducting tax of £4,000 under PAYE.

At a later date, the company pays the £4,000 tax. The legislation ensures that in addition to the voted remuneration of £10,000, the director will be assessed upon remuneration equal to the tax accounted for by the company, that's £4,000, minus any amount made good by the director.

Limitation to directors

Sections 216(3), 223(7) and (8)

19.2

The tax charge described above doesn't apply to company directors who are:

- full-time working directors who don't hold a 'material interest' in the company (see paragraphs 1.10, 1.11 and 1.16), or
- directors of charities or non profit-making concerns (see paragraphs 1.12 to 1.16)

Year of assessment

Section 223(4)

19.3

Subject to paragraph 19.5 below, the tax charge upon the director will arise for the tax year in which the employer pays to HMRC the tax that wasn't deducted when remuneration was paid or otherwise made available to the director.

Payment of tax by the company after cessation of employment

Section 223(5)

19.4

Where, after the directorship has ceased, the company pays the tax properly deductible from the remuneration paid to the director, the tax charge will arise in the tax year in which the directorship ceased. This prevents the avoidance of a tax charge until a time when the director is no longer employed or, if still employed, is no longer a director.

Section 223(6)(a)

19.5

No tax charge arises if the company pays the tax after the director's death. The director's estate doesn't have to make good on the director's behalf any tax accounted for by the company after his or her death.

Chapter 20 Entertaining expenses

20.1

This chapter applies to all employees and directors. In the context of this chapter, references to a trade include references to any business, profession or vocation.

Employees of concerns carrying on a trade

20.2

Where an individual is employed by a trading organisation (including a nationalised industry) the broad effect of the Taxes Acts is to prohibit a tax deduction for entertaining expenditure.

The disallowance for tax purposes of entertaining expenses may be made in one of 2 ways, in computing the tax liability of the employer, or in computing that of the employee. The course followed will depend upon the circumstances in which entertaining expenses are incurred.

20.3

Where an employee receives an allowance which is specifically earmarked for entertaining, and the employer isn't a tonnage tax company, the payment is disallowed in calculating the employer's tax liability. This is also the case for any other kind of payment which is specifically made by the employer for entertaining, for example, where the employer meets the employee's bills for entertaining or reimburses the employee for expenditure on entertaining.

20.4

Where a payment is disallowed to the employer, or if the employer is a tonnage tax company, the employee isn't affected by the special provisions about entertaining mentioned in paragraph 20.2. Reasonable entertaining expenses incurred at genuine business occasions will be covered by the exemption detailed in Chapter 2.

The expenses of a particular occasion will normally be exempted if the purpose was to discuss a particular business project. They may also be exempted if the purpose was to maintain an existing business connection or to form a new one, even though no business was actually done.

20.5

Where the entertaining expenses incurred on a particular occasion are exempted no restriction is made for the cost of the employee's own meal.

20.6

If the entertainment expenses aren't exempted under the ordinary expenses rule the employee is taxable on amounts reimbursed by the employer even though those amounts may have been disallowed to the employer. Thus no allowance can be given for entertaining personal friends or business acquaintances where there's no business obligation to entertain them. Reciprocal entertaining between business acquaintances, even though some business topic happens to be discussed, may be really for social and not business reasons and, if so, this expense isn't allowable.

20.7

It's for this reason that the expense of entertaining colleagues, that's, other employees of the same organisation, isn't normally allowed. Furthermore, a PAYE Settlement Agreement should be completed to account for any tax and NICs due.

Section 577 ICTA
and Section 45
ITTOIA

Section 577 ICTA
Section 45(2)
ITTOIA

Section 357

Section 356

20.8

Where an employee meets entertaining expenses from an inclusive salary or from a round sum allowance paid by the employer to cover expenditure besides entertaining, the disallowance is made in calculating the employee's tax liability.

20.9

Where entertaining expenditure isn't allowable the disallowance extends also to expenditure incidental to the entertainment. Thus, the cost of the employee's own meal, of a taxi to and from a restaurant, or the cost of hiring a room for entertaining, would all be treated for tax purposes in the same way as the cost of the entertaining itself.

Business entertaining and gifts

Section 356(3)

20.10

Entertaining includes hospitality of any kind and also expenditure on business gifts other than free samples of the trader's own products distributed with the aim of advertising to the general public. There's, however, a limited exception for gifts which incorporate a conspicuous advertisement for the donor. This exception doesn't extend to gifts of food, drink, tobacco, or vouchers exchangeable for goods. Further, it's subject to the condition that the aggregate cost to the donor of the gifts doesn't exceed £50 a year in the case of any one recipient.

Section 358(3)

Employees of concerns not carrying on a trade

Section 336

20.11

Employees of non-trading concerns such as the Civil service and the Armed Forces are entitled to an exemption for entertainment expenses which are incurred wholly, exclusively and necessarily in the performance of their duties.

Keeping records

20.12

Employees who believe they're entitled to an exemption for entertaining expenses should be able to support the exemption with reasonable records of the amounts spent on particular occasions, the nature of the entertainment, the persons entertained and the reason for the entertaining.

Chapter 21 Provision of living accommodation

Basis of liability

Section 102

21.1

Subject to paragraphs 21.2 and 21.3 below, where an employee is provided with living accommodation by his or her employer (or by another person where the provision is by reason of the employment) the employee is liable to tax on the value of the accommodation provided. This also applies where, by reason of an individual's employment, accommodation is provided for members of his or her family or household as defined in paragraph 1.22

Exemption

21.2

Sections 99 and 100

Subject to paragraph 21.3 below, no tax charges in respect of the provision of living accommodation will arise where:

- (a) it's necessary for the proper performance of the employee's duties that he or she should reside in the accommodation, or
- (b) the accommodation is provided for the better performance of the employee's duties and the employment is one of the kinds for which it's customary for employers to provide accommodation for the employee, or
- (c) there's a special threat to the employee's security, special security arrangements are in force and the employee resides in the accommodation as part of those arrangements

Where exemption is due in any of the above circumstances it also extends to any tax charge that might arise in respect of Council Tax, water charges or rates reimbursed to, or paid on behalf of, the employee concerned.

Section 314

21.3

Section 99(3)

Where accommodation is provided by a company for a director of the company or an associated company, the exemption provided by (a) or (b) in paragraph 21.2 above isn't given unless the director:

- (a) has no 'material interest' (see paragraph 1.11) in the company, and
- (b) is a 'full-time working director' (see paragraph 1.10) or the company is non-profit making or is a charity (see paragraphs 1.14 and 1.15)

Provision of living accommodation 'by reason of employment'

21.4

Sections 97(2) and 98

Where living accommodation is provided for an employee or for members of his or her family or household by the employer it's deemed to have been provided by reason of that employment.

There are 2 exceptions to this. The first is where the employer is an individual and it can be shown that the provision was made in the normal course of domestic, family or personal relationships. The second exception is where the accommodation is provided by a local authority for one of its employees and the terms of the employee's occupation are no more favourable than those on which similar premises are made available by the local authority to persons who aren't employed by it, but whose circumstances are similar to those of the employee concerned.

The cost of providing living accommodation

21.5

The cost of the property is calculated by adding its purchase price to the cost of improvements. The purchase price includes expenditure incurred in acquiring an estate or interest in the property. For example, a premium paid under a lease is part of the cost of the property. From the total of the purchase price and improvements is deducted any reimbursements made by the employee and any sums paid by the employee for the grant of a tenancy. For example, if the cost to an employer of a property and an extension was £130,000 and the employee reimburses £10,000 to the employer, the cash equivalent of the benefit will be based on the net cost to the employer of £120,000. In some circumstances the market value of the property will be substituted for its cost (see paragraphs 21.6 to 21.8).

Substitution of market value for cost

21.6

Where, on or after 31 March 1983, an employee occupies provided living accommodation for the first time and any interest in the property was held by the person providing the accommodation (or by a person connected with the provider of the accommodation) throughout a period beginning 6 years before the date of the employee's first occupation, the market value of the property at that date (plus the actual cost of subsequent improvements) is substituted for the actual cost of providing the accommodation. This market value rule applies only if the actual cost of providing the accommodation (including improvements) exceeds £75,000.

21.7

For the purposes of paragraph 21.6 above, the market value of the property is to be estimated on the basis of the price it might reasonably be expected to fetch in the open market assuming vacant possession and disregarding any option in respect of the property held by the employer, the provider of the accommodation or by the employee or anyone connected with those persons.

21.8

For living accommodation whose provision (including improvements) cost more than £75,000 the effect of paragraphs 21.6 and 21.7 above is for:

- all occupancies which began before 31 March 1983 the cash equivalent of the benefit is based on the actual cost
- occupancies which began after 30 March 1983 the market value basis will apply if the provider of the accommodation had held any interest in it throughout the period of the 6 years ending with the date when the employee first occupied the property – otherwise the actual cost basis applies

Where the market value basis applies the market value as at the date of first occupation by the employee will remain the basis of calculating the benefit for so long as the employee remains in residence, subject to the addition of the cost of any subsequent improvements.

Calculation of cash equivalent: accommodation costs £75,000 or less

Section 105

21.9

- (a) The cash equivalent of the benefit of the accommodation is the annual value of the property occupied (or, if greater, the total of any rent payable and any amount attributed in respect of a lease premium – see paragraph 21.11) less any rent paid by the employee. Note that from the 2017 to 2018 tax year any amount paid as rent must be paid by 6 July following the tax year when the accommodation was provided in order for it to be classed as a making good payment when calculating the cash equivalent. Annual value for this purpose is defined in the same way as the annual value which was formerly used for rating purposes. Annual value is the rent the property would fetch if it were let on the open market. The figure taken for Income Tax purposes is usually the same as the gross value for rating purposes which applied before the introduction of the Community Charge.
- (b) The annual value of property situated in the UK is taken as follows:
- England and Wales: 1973 gross rating value
 - Northern Ireland: 1976 gross rating value
 - Scotland: 1985 gross rating value divided by 2.7. Thus a 1985 gross rating value of £270 in Scotland is reduced to £100.
- (c) Following the introduction of Council Tax, new properties will not appear on the rating lists. Estimated gross annual values are used for new properties as the basis of the Income Tax charge. In Scotland where the estimate is of a 1985 gross rating value that figure is divided by 2.7 in accordance with the concession outlined above.
- (d) If the accommodation is provided for less than a year, then the annual value is proportionally reduced. The same principle applies to any rent payable by the provider or to any amount attributed in respect of a lease premium.
- (e) See paragraph 21.13 onwards for advice on calculating the cash equivalent of the benefit where the living accommodation costs over £75,000.

ESC A56

Section 106

21.10

The employee is also liable to tax in respect of any occupier's liabilities borne by the employer.

Calculation of cash equivalent: accommodation costs £75,000 or less: lease premiums

Section 105A

21.11

- (a) Where a lease premium is payable and the property is subject to a lease for a term of 10 years or less which was entered into or extended on or after 22 April 2009, in addition to any rent payable, an amount is to be attributed in respect of the lease premium.
- (b) But an attribution isn't required if the property consists of premises or a part of premises that are mainly used for purposes other than the provision of living accommodation. For example, where the premises are mainly used as a shop and the living accommodation consists of a flat above the shop.

Section 105B

- (c) If an attribution is required, the lease premium is treated as rent paid and spread over the duration of the lease. The amount to be attributed in respect of a lease premium is given by the formula $(A \div B) \times C$ where:
- A is the taxable period (in days). This will generally be the period in the tax year for which the accommodation is provided.
 - B is the term of the lease (in days).
 - C is the total amount of lease premium that has been paid or will be payable by the provider.

An example of how the formula applies in a simple case is given on page 79.

- (d) There are special rules for attributing the lease premium for leases with break clauses. For this purpose a break clause is a provision of a lease that gives a person a right to terminate the lease which can be exercised in such a way that the term of the original lease will be 10 years or less. The Employment Income Manual has guidance including a worked example on the application of these rules.

21.12

Example

On 1 October 2012, an employer enters into a lease of living accommodation with a gross rating value of £1,000 that it provides rent-free to an employee from that date.

The lease is for a term of 5 years and doesn't contain a break clause. Under the lease, the employer pays rent of £120 per calendar year and a premium of £70,000 payable in 2 instalments, £30,000 on 1 October 2012 and £40,000 on 1 October 2013.

For 2012-13:

A is 187 days (1 October 2012 to 5 April 2013)

B is 1,826 days

C is £70,000

The amount of lease premium to be attributed will be $(A \div B) \times C = £7,168$.

The total of the rent payable for the taxable period (£60) and the amount of lease premium attributed (£7,168) less any rent paid by the employee (nil) is greater than the gross rating value so the cash equivalent of the benefit will be £7,228.

Calculation of cash equivalent: accommodation costs over £75,000

Section 106

21.13

Where the cost of the property is over £75,000 (see paragraph 21.5) then the cash equivalent of the benefit is:

- The cash equivalent as calculated for property costing £75,000 or less (see paragraphs 21.9 and 21.11).
- Plus the excess of the cost (or deemed cost, see paragraphs 21.6 to 21.8) of the property, including the cost of any improvements over £75,000 multiplied by the 'official rate' of interest (see paragraph 17.4) in force at the beginning of the tax year. This figure is called the 'additional yearly rent'.
- Minus any rent payable by the employee to the extent that it exceeds the annual value or the total of any rent payable and any amount attributed in respect of a lease premium, (see paragraph 21.9(a)).

From the 2017 to 2018 tax year any amount paid as rent must be paid by 6 July following the tax year when the accommodation was provided in order for it to be classed as making good payment when calculating the cash equivalent.

If the accommodation is provided for less than a year, then the cash equivalent is proportionally reduced.

21.14

Example

By reason of his employment a senior executive is provided by his employer with a house which cost the employer £175,000 in June 1998. The gross rating value of the property is £1,000 and the executive is required to pay his employer a rental of £1,500 per annum. Assuming that the executive occupied the property throughout the tax year and that the 'official rate' in force at 6 April (the beginning of the tax year) was 7.25%, the tax charges upon the employee for the year will be:

(a) benefit under Section 105 (paragraph 21.9)

(No charge arises because the rental of £1,500 payable by the employee is more than the gross rating value of £1,000) NIL

(b) the additional yearly rent

• cost of providing accommodation	£175,000	
minus	£75,000	
excess is	£100,000	
• £100,000 × 7.25% =		£7,250

(c) Excess of rental payable over gross rating value

• rental payable by employee	£1,500	
minus		
gross rating value	£1,000	
unused excess rent		minus £500
The cash equivalent of the benefit is		£6,750

Annual value equal to open market rental value of the accommodation

21.15

In some circumstances the annual value (see paragraph 21.9(a)) may be the full open market rental value of the accommodation. In these circumstances the cash equivalent of the benefit will be calculated as if the property cost £75,000 or less, regardless of its actual cost.

Accommodation provided to more than one employee

21.16

Where a property consisting of living accommodation is provided to 2 or more directors or employees in the same period, the cash equivalent of the living accommodation to each director or employee will be reduced. Reductions will be made having regard to all the relevant facts so that the total cash equivalent for all the directors and employees concerned isn't more than the cash equivalent had the property been provided as living accommodation to a single director or employee.

Provision of benefits or facilities connected with living accommodation

21.17

If the employee concerned isn't in an excluded employment (see paragraph 1.19) he or she is also liable to tax on the expense incurred by the provider of the accommodation on benefits or facilities connected with the accommodation. Such expenses would include heating, lighting, garden maintenance, domestic or other services, and repairs and decorations except those within paragraph 21.20.

ESC A91

Section 108

Section 201

Sections 205(2) and (3)

21.18

Similarly, if the provider of the accommodation also equips the accommodation with furniture and this remains the provider's property, the director or employee is taxable on the annual value of the use of this as described in paragraph 6.5 whilst, if furniture is given or transferred to a director or employee a taxable benefit will normally arise (see paragraph 6.9).

Section 206(2)

Section 206(3)

Section 315

21.19

The sums assessable upon a director or employee in respect of benefits or facilities connected with the accommodation may be restricted if the individual concerned is entitled to the exemption described in paragraph 21.2. More information regarding this possible restriction of the tax charge relating to such ancillary services is given below.

21.20

Where a director or employee is entitled to the exemption described in paragraph 21.2 and expenditure is reimbursed to him or her, or is incurred in respect of any of the following:

- heating, lighting or cleaning the premises concerned
- repairs to the premises, their maintenance or decoration
- the provision in the premises of furniture, and so on, which is normal for domestic occupation, the sum assessable in respect of this expenditure isn't to exceed the limit specified in paragraph 21.19

21.21

The limit mentioned above is 10% of the net earnings of the employment and associated employments minus any contribution made by the employee to the expenditure set out in paragraph 21.20. For this purpose net earnings means the total remuneration as described in paragraph 1.21 (excluding the expenditure in paragraph 21.20 above) after deducting any capital allowances, pension contributions, retirement annuity payments and expenses allowable for tax purposes. If the accommodation is provided for less than a year the percentage of the net earnings referred to above is proportionately reduced.

Section 313

21.22

Expenditure on the following items in connection with living accommodation provided for a director or employee or for members of his or her family or household isn't treated as giving rise to benefits assessable under the special rules:

- structural alterations and additions to the premises, and
- expenditure which would normally be the landlord's responsibility, for example, repairs to the structure and the outside of the property (including drains and gutters, and so on) and repairs to installations in the property for the supply of water, gas and electricity and for sanitation (including sinks, baths and lavatories) and for heating

Deduction for business expenses

Sections 364 and 336

21.23

Where the accommodation provided is simply a home for the employee and his or her family, the question of any deduction under the expenses rule described in Chapter 7 doesn't arise. Where the employee is necessarily obliged to use part of the property exclusively for business, the expense of

such use may be deducted in arriving at the tax charge. For example, there may be circumstances in which part of the accommodation has to be reserved for business purposes, such as a showroom. In these cases, an appropriate deduction may be given for tax purposes.

21.24

If accommodation is provided for an employee, for example, in a flat or hotel, while the employee is on business duties away from his or her home and normal place of work, the cost of this may be allowable as a deduction under the expenses rule. For example, a company in Yorkshire may rent a London flat for an employee who has to make frequent business trips to London. The extent of any deduction will depend upon the circumstances. If the accommodation is no more than an alternative to hotel accommodation and isn't available for private occupation, the whole cost of renting and running the flat may be allowed as a deduction. On the other hand, if the employee or his or her family also had the use of the flat as a private residence any allowance would be restricted.

Provided living accommodation will never be included in a dispensation and so even if there's a potential deduction under the expenses rules, the provision of the accommodation must be reported on form P11D each year.

21.25

If, however, a London flat is provided for an employee whose job is in London and the flat is used by the employee as a pied-à-terre, no allowance would be due. Equally, if the flat is used by the employee or the employee's family as their only or second home, no deduction for tax purposes would be due.

Optional remuneration arrangements

21.26

From 6 April 2017 where the living accommodation benefit is provided as part of optional remuneration arrangements the amount of the benefit treated as earnings from the employment is the greater value of the:

- benefit worked out under the normal rules, and
- amount of any salary or cash pay foregone

Where the benefit is provided as part of optional remuneration arrangements the Income Tax exceptions don't apply.

There's further guidance about optional remuneration arrangements in Appendix 12.

Section 102(1B)

Chapter 22 Mobile phones and BlackBerrys

Section 319

22.1

There's no charge to tax on:

- one mobile phone provided to an employee, or
- any line rental or the cost of any private calls for that phone paid for by the employer

unless they can be converted into money by the employee.

22.2

One mobile phone may consist of 2 connections (for example, 2 SIM cards) to the same number, one in a handset and another in a hands-free phone in a car. However, 2 connections to 2 different numbers represents 2 mobile phones.

22.3

A mobile phone provided to a member of an employee's family or household is taxable in all circumstances, unless the family or household member is provided with the phone as an employee in their own right. Money an employer pays to an employee to use their own mobile phone is taxable.

Section 316

22.4

If an employer provides a mobile phone to an employee solely for business use, and private use isn't significant, there's no charge to tax. Consequently, it's possible for an employer to provide 2, or more, mobile phones to an employee, without creating a tax charge, if one (or more) is provided solely for business use (and private use isn't significant) and only one is provided for private use. But if 2 mobile phones are provided for private use, or for mixed private and business use, only one is exempt. It's up to the employee and the employer to decide which one is exempt and which one is chargeable as a benefit.

Section 319

22.5

Where apparatus is clearly designed or adapted for the primary purpose of transmitting and receiving spoken messages and is used in connection with a public communications service, the fact that it can also be used for other functions will not prevent it from falling within the meaning of mobile phone.

This means that smartphones will fall within the meaning of mobile phone. Certain devices that were primarily designed and adapted as Personal Digital Assistants (PDAs) in the past have evolved over time so that many modern consumer PDAs are likely to be smartphones. This is an area of rapidly changing technology and it isn't possible to be certain about the application of the definition of mobile phone to future or new forms of smartphone.

It's important to note that there are many types of devices that have phone functionality which don't qualify as mobile phones. The definition doesn't cover apparatus that's designed or adapted for a primary purpose other than transmitting or receiving spoken messages, even if that apparatus is also capable of being used in this way.

Examples of apparatus that doesn't fall within the definition of a mobile phone include satellite navigation devices, devices that are solely PDAs and tablet and laptop computers.

In general, devices that use Voice Over Internet Protocol (VOIP) systems to make and receive phone calls will not satisfy the primary purpose test.

Optional remuneration arrangements

22.6

From 6 April 2017 where the benefit is provided as part of optional remuneration arrangements the Income Tax exemption doesn't apply. There's further guidance about optional remuneration arrangements in Appendix 12.

Section 228A

Chapter 23 Employment related securities and arrangements

Annual returns

23.1

Companies which operate employment related securities (ERS) schemes and arrangements must make annual returns online. For more information on how to complete the ERS returns online, go to www.gov.uk/government/collections/employment-related-securities

Securities and securities options without tax and NIC advantages

23.2

Where employees receive securities (including shares) or options over securities (including share options) without tax and NIC advantages, the rules in Chapters 1 to 5 of Part 7 ITEPA 2003 apply. These extend to a range of chargeable events following the acquisition of securities. The meaning of 'securities' is at Section 420.

Operation of PAYE/NICs

23.3

If the securities are Readily Convertible Assets (RCA), there may be an obligation to operate PAYE and NIC on employment income from those securities. Employment-related securities are RCAs if they're readily convertible into cash. Securities may also be deemed to be RCAs if they don't qualify for a Corporation Tax deduction in accordance with S1006 to S1012 CTA 2009. For more information about RCAs see CWG2 Employer Further Guide to PAYE and NICs.

What information should be provided to HMRC

23.4

Information about the following events must be provided:

- the acquisition of interests in securities by reason of an employee's employment (whether or not any tax charge arises from their acquisition), including acquisitions giving rise to benefits chargeable under the 'notional loan' provisions of Chapter 3C, Part 7
- the grant of securities options, the acquisition of securities following the exercise of the option, the assignment or release of securities options and the receipt of benefits in money or money's worth in connection with the securities options (Section 477)
- any chargeable event in relation to restricted securities (Section 426)
- any chargeable event in relation to convertible securities (Section 438)
- doing anything which gives rise to a taxable amount (counting as employment income) by reason of an artificial enhancement or reduction of the market value of securities (Section 446L)
- any event discharging a notional loan relating to securities acquired for less than market value (Section 446U)
- a disposal of securities for more than market value (Chapter 3D of Part 7)
- the receipt of a benefit which gives rise to a taxable income counting as employment income under Section 447

Chapters 1 to 5 of
Part 7

Section 698
Section 700

Section 421J
Section 222
ITEPA 2003

Paragraph 23
Schedule 4,
SS(C)R 2001

If a joint NIC agreement or NIC election between the employee and employer has been operated to meet the cost of the employer's secondary NICs arising from securities option gains chargeable under Section 476 or an amount that counts as employment income under either Section 426 or Section 438, then you need to tell us on the online return.

Where there's a chargeable event and PAYE is applicable, but the employer is unable to deduct the necessary sum from the employee, the employer has to pay over the shortfall to HMRC. If the employee doesn't reimburse the employer the amount of the shortfall within 90 days after the end of the tax year in which the notional payment is treated as made by the employer, see Chapter 26 of this booklet.

Section 421J(10)

23.5

Where the acquisition of shares gives rise to benefits chargeable under the 'notional loan' provisions of Section 446S, the 'notional loan' should be returned on forms P11D each year (as a beneficial loan) until discharged, paid off or the shares are sold.

When should the information be provided

Section 421J(3)

23.6

Information relating to a reportable event must be provided to HMRC before 7 July following the tax year in which the reportable event takes place.

Section 421J(5)

In addition to this 7 July deadline, if a notice is issued by HMRC requiring information about employment-related securities then it must be provided by the date shown in the notice.

Who should provide the information

Section 421L

23.7

Each of the following has an obligation to ensure that the information is provided:

- the employer
- any host employer (the person treated as the employer for PAYE purposes) of the employee
- the person from whom the securities, interests in securities or options were acquired
- the person issuing the securities (with certain exceptions, see Section 421L(6))

Once one of them provides the information this will be sufficient to satisfy the obligations of the others.

Employees

23.8

Employees may need to provide details of taxable amounts arising from employment-related securities to HMRC for self-assessment purposes. Please see self-assessment guidance notes available on GOV.UK.

Securities and securities options provided through third parties

Section 554A

23.9

There are special rules which may apply where arrangements use third parties to reward employees, including by way of securities and securities options. See paragraphs 1.16 to 1.23.

More information

23.10

For more information about tax advantaged share schemes, go to www.gov.uk/government/collections/employee-share-schemes-user-manual
Detailed guidance on the tax rules applying to employment-related securities is in the Employment-Related Securities Manual, go to www.gov.uk/government/collections/employment-related-securities-manual

Chapter 24 Procedures to be followed by employer and employee

SI 2682 2003
(Regulation 85)

Employer

24.1

At the end of each tax year the employer is required to give particulars of the non-exempt expenses payments, benefits and facilities provided for each of his or her employees who isn't in an excluded employment as set out in paragraph 1.19. Form P11D provided by HMRC is used for the purpose. If the employer is registered to payroll benefits through Real Time Information (RTI) the taxable amounts will be reported in a Full Payment Submission.

24.2

A person providing benefits for the employees of another will also be required to submit information in respect of the individuals for whom he or she has provided benefits.

24.3

Where an employer has a number of employees within the scope of the special rules mentioned in this booklet but to whom he or she hasn't paid any expenses or provided any benefits, the employer need not complete separate forms P11D for these individuals.

24.4

The individual forms P11D for those employees who have received expenses and benefits, together with any form P11D(b), 'Return of Class 1A National Insurance contributions' certifying that all the required forms P11D have been sent, should be submitted to HMRC by 6 July each year. More detailed advice is given in form P11D (Guide) which is available from the Employer Orderline.

24.5

Employers are also required to provide, for each employee for whom a form P11D is due, a statement of the information shown on the employee's form. The statement should be provided by 6 July. If the employer has registered to payroll benefits, the employer should ensure that payslips or a statement sets out the amounts which have been taxed through PAYE deductions.

Employee

24.6

An employee is required to include any non-exempt expenses payments and the taxable value of any benefits provided for him or her, and members of his or her family or household, in an annual tax return. In general the gross amounts are to be shown even though a deduction is claimed under the expenses rule described in Chapter 7. Where a net benefit figure has been agreed with HMRC it's sufficient to enter the net figure in the return. Where an expense is covered by the expenses exemption (see Chapter 2) the payments or the cost of benefits covered by the exemption shouldn't be included.

24.7

Where you're unable to agree with us whether an item is taxable or whether relief is due under the Employment Income expenses rule (see Chapter 7), you'll need to make a Self Assessment tax return if you don't already do so. If we don't agree with the figures you use in your tax return we'll make an amendment to your self-assessment. You may then appeal against our amendment.

24.8

If you want to appeal against the amendment to your self-assessment you should write to HMRC within 30 days of the amendment, giving your reasons why you disagree with the amendment, sending any further information that you want HMRC to consider as well. You can also ask for payment of all or part of the tax in dispute to be postponed until the matter is resolved.

We'll consider any further information you send us and try to reach agreement with you. If we can't agree, you can:

- ask for the amendment to be reviewed by an HMRC officer not previously involved in the matter, or
- notify your appeal to an independent tribunal

If you opt for a review you can still notify your appeal to the tribunal after the review has finished.

24.9

For more information about appeals and reviews, go to www.gov.uk/tax-appeals

You can find out more about tribunals on the Tribunals Service website, go to www.tribunals.gov.uk/tax or you can phone them on 0300 123 1024.

Chapter 25 Guidance on completion of forms P11D

25.1

A separate form P11D should be used for each employee who isn't in an excluded employment (paragraph 1.19). Apart from the information given in this booklet reference should also be made to the P11D(Guide), booklet CWG5 Class 1A National Insurance contributions on benefits in kind and the booklet CWG2 Employer Further Guide to PAYE and NICs. Copies of these may be obtained from the Employer Orderline or our website.

25.2

A form P11D should be completed by the employer or by the person making the expenses payments to, or providing benefits for, the employee where the payment or provision is by reason of the individual's employment (see paragraphs 1.23 to 1.25). Employees should send their Section 336 claims for deduction against expenses to HMRC.

25.3

Each form P11D should contain details of all non-exempt expenses payments and benefits provided for the employee concerned (whether the payment is made to the director or employee personally or to a third party including a credit card company) except those items for which an exemption applies or are covered by a PAYE Settlement Agreement (see booklet CWG2 Employer Further Guide to PAYE and NICs). Expenses payments from which tax has been deducted under PAYE should also be included.

Where an employer has registered to payroll benefits and/or expenses and has deducted tax under PAYE and sent these details by Real Time Information (RTI), a P11D isn't required.

25.4

Any benefits provided for the employee's spouse, family or household member must be treated as though they had been provided for the employee personally. See paragraph 1.22.

25.5

Employers pay Class 1A National Insurance contributions on a number of benefits. These are identified on the form P11D by a brown box with a 1A indicator. Employers who are registered to payroll benefits must also pay Class 1A NICs. More detailed advice is given in booklet CWG5 Class 1A National Insurance contributions on benefits in kind and form P11D (Guide).

However, it's important to note the employer must pay the Class 1A NICs due by 19 July after the end of the tax year if paying by post or cash and by 22 July if paying electronically. If the employer pays late, or doesn't pay enough, interest will be charged on the amount outstanding after 19 July.

Information in list form

25.6

Some employers find it convenient to provide the information in list form. HMRC may allow you to use a list in place of P11D returns provided that the list:

- is easily readable and in font size not less than Arial 11 when printed
- is organised by employee, not by benefit type
- includes each employee's name, gender and National Insurance number or date of birth
- includes all the expenses and benefits provided to an employee on the same list (not separate lists for each benefit type)
- shows the benefits code letters as on form P11D (example, 'F' = car and car fuel benefit)

Where an employer has permission from HMRC to informally payroll some or all expenses and benefits and they wish to return this information in list form, they must also:

- provide a separate list for payrolled expenses and benefits (we can't accept a list that contains a mixture of payrolled and non-payrolled benefits)
- clearly mark the list containing the payrolled expenses and benefits 'PAYROLLED' on the front and at the top of each page

You'll still have to provide a covering certificate saying that to the best of your knowledge or belief the details provided are fully and truly stated. You must still send a P11D(b) Return of Class 1A NICs due even if you have received permission to send P11D information in list format. HMRC may still ask you to complete individual P11D forms for directors and certain employees.

Electronic filing of expenses and benefits returns

25.7

Filing expenses and benefit returns (forms P11D, P11D(b)) and returns under the Mileage Allowance Relief Optional Reporting Scheme (MARORS) electronically can offer several benefits to employers including:

- speedier information flow with less paper and clerical handling
- accuracy of data reporting with reduced errors

The electronic filing options are as follows:

- HMRC's PAYE online service
- commercial payroll software
- HMRC's Online End of Year Expenses and Benefits service

PAYE online filing for employers

25.8

This service is available to any PAYE employer and enables secure submission of expenses and benefits return forms P11D and Class 1A National Insurance contributions form P11D(b) through HMRC's Government Gateway using the internet.

You can submit your returns using the free HMRC software provided or by using commercial software provided by a third party. In either case you must first enrol with HMRC to use the PAYE Online Filing service before you can submit your returns using this option.

We can't accept the submission of returns under the Mileage Allowance Relief Optional Reporting Scheme (MARORS) or amended P11D/P11D(b) returns using this filing option.

For more information on the PAYE Online Filing for Employers service, go to www.gov.uk/employer-reporting-expenses-benefits/reporting-and-paying

HMRC's Online End of Year Expenses and Benefits service

25.9

These online forms enable small to medium sized employers (up to 150 employees) to create and send P11D and P11D(b) forms electronically.

They'll also provide the following facility to:

- submit a nil P11D(b) return form
- create amended forms P11D/P11D(b) for printing and posting to HMRC

For more information on the Online End of Year Expenses and Benefits forms, go to www.gov.uk/employer-reporting-expenses-benefits/reporting-and-paying

How to find out more

For more information about the online services we provide to employers (and contractors in the construction industry) go to www.gov.uk/government/organisations/hm-revenue-customs and select 'employers' or contact Online Services Helpdesk:

Email	helpdesk@ir-efile.gov.uk
Phone	0300 200 3600
Fax	0300 200 3602
Minicom	0300 200 3603

Effects of VAT

25.10

The amount to be included on forms P11D should include the full amount of VAT paid whether or not it may be recovered in whole or in part by the employer from HMRC.

Entertaining expenses

25.11

Chapter 20 explains that entertaining expenses will often be disallowed when calculating the tax liability of the business. However, the full amount of all sums paid out in relation to entertainment should still be shown on forms P11D.

Use of assets

25.12

When you're entering an amount in the section 'use of assets' you must show the gross figure. There's no deduction for expenses.

Subscriptions

25.13

In addition to subscriptions to professional and learned societies related to the employment (see paragraph 7.5) entries at the section for 'Other items' on form P11D should include initial and annual subscriptions to clubs catering for leisure or sporting activities and to other societies, where the expense of the subscription is borne by, or on behalf of, the employee. Initial and annual subscriptions relating to credit cards provided for an employee by reason of his or her employment are exempt from a tax charge and should not be included on form P11D.

Penalties

25.14

An employer who fails to make a return on form P11D within the appropriate time limit may incur a penalty not exceeding £300, with a further penalty not exceeding £60 a day if the failure continues.

An employer who's registered to payroll benefits and omits to send them through Real Time Information (RTI) will be subject to penalties for failure to report on or before the payment was made.

25.15

There's also a penalty for making an incorrect return on form P11D. The penalty is a maximum of £3,000 per form.

An employer who's registered to payroll benefits and submits an incorrect RTI return will be subject to a penalty based on details contained in Schedule 24 Finance Act 2007.

25.16

There are also penalties for:

- late filing of form P11D(b), 'Return of Class 1A NICs due'
- making incorrect returns on form P11D(b), 'Return of Class 1A NICs due'.

For more information on P11D(b) penalties see booklet CWG5, 'Class 1A National Insurance contributions on benefits in kind'.

More information

25.17

If you've any difficulties completing forms P11D or the P11D(b) you can:

- go to www.gov.uk/government/organisations/hm-revenue-customs/contact/employer-enquiries
- phone the Employer Helpline on 0300 200 3200
- for opening hours, go to www.gov.uk/government/organisations/hm-revenue-customs/contact

Chapter 26 Remuneration in non-cash form, for example, payments by intermediaries

PAYE tax not borne by the employee

Part 11 Chapters 3 and 4

26.1

In some circumstances the PAYE rules deem an employer (or other person providing income to an employee) to have made a payment of income on which PAYE must be accounted.

These include:

- payments made by an intermediary of the employer
- payments made to an employee of a non-UK employer
- some payments to non-resident employees
- some payments in respect of a mobile UK workforce
- income provided in the form of a readily convertible asset (such as shares or securities)
- the provision of certain vouchers and some occasions when an employee uses a credit card or other token
- the provision of certain employment income through third parties – see paragraphs 1.16 to 1.23

Section 687

Section 689

Section 690

Section 691

Section 696

Sections 693 to 695

Sections 687A and 695A

| The PAYE must be paid to HMRC whether or not the ‘employer’ has recouped that amount from the employee by deduction from cash wages or otherwise.

Section 222

ITEPA 2003

26.2

If any part of the PAYE tax isn’t recovered from the employee within 90 days after the end of the tax year in which the payment of income is treated as having been made (for example, 6 July), the amount of PAYE which could not physically be deducted from the employee’s pay in the relevant Income Tax period (for example, weekly or monthly) is treated as additional income.

Regulation 22(4) SS(C)R 2001

26.3

The amount of PAYE that hasn’t physically been deducted from cash earnings and which hasn’t been recovered by the employer within 90 days after the end of the tax year in which the relevant payment of income is treated as having been made (for example, 6 July) will also be liable to Class 1 NICs in the earnings period containing the 6 July.

Chapter 27 Non-cash benefits in connection with termination of employment or from employer-financed retirement benefit schemes

Chapter 2 Part 7A

27.1

Settlements made on termination of employment may include the provision of benefits in non-cash form. Non-cash benefits may also be provided under an employer-financed retirement benefits scheme.

For example, a former employee is allowed to use a company car for a period after the termination. Another example is where instead of paying cash in settlement, property is transferred.

This chapter may tax sums funded through or provided under a 'third-party' employer-financed retirement benefit scheme – see paragraphs 1.16 to 1.23. Part 7A also contains provisions to avoid double charging of tax.

Both Part 7A and Section 394 can lead to tax on relevant benefits provided under an employer-financed retirement benefit scheme. The legislation first looks to charge such benefits via Part 7A, but if excluded there, then Section 394 may sweep up. If tax is charged on the benefit under Section 394 ITEPA 2003 then there's no charge to tax on the benefit under any other provision of ITEPA 2003, providing the 394 charge arose as a fall-back from any other charges under general earnings of Chapter 2 of Part 7A. 'Relevant benefits' are defined in Section 393B ITEPA 2003. If the benefit provided isn't a relevant benefit and wasn't charged under Chapter 2 of Part 7A it isn't taxable under Section 394 but may be taxed elsewhere.

Section 401

This section taxes benefits made in connection with termination of employment – but only if they're not taxed under any other section.

For example, where it's part of the employment contract that property is transferred on termination, that's taxed elsewhere and so not under this section.

This section applies to benefits made available by anyone in connection with termination of an employment.

Sections 401(1) and 401(4)

Where such benefits are made to the employee's spouse, relative or dependant, their value is taxed on the employee. Any such benefits made on the employee's behalf or instructed by the employee are also taxed on the employee.

Section 58 Finance Act 1998

27.2

Finance Act 1998 introduced new rules for valuing such non-cash benefits received on or after 6 April 1998.

Section 398 ITPA 2003

27.3

Similar rules apply to non-cash relevant benefits received from an employer-financed retirement benefits scheme (see EIM15120, EIM15025 and EIM45710).

The basic rule for valuing non-cash relevant benefits under Sections 401 and 393 ITEPA 2003

Sections 415 and 398 27.4

The taxable value of the non-cash benefit is the greater of its:

- convertible value
- cash equivalent

In practice, convertible value only needs to be considered if the benefit has grown in value since being acquired by the person providing it – for example, if a former employer transfers to the former employee property worth £75,000 at termination (its convertible value) which cost £30,000. Otherwise, the employee need only consider the ‘cash equivalent’ of the benefit. The ‘cash equivalent’ of the benefit is found by applying rules in the benefits code (Part 3 ITEPA 2003).

If you’ve ‘made good’ some of the cost of the benefit, this is deducted in arriving at the taxable value.

Trivial benefits aren’t charged the same way as at 5.24.

Cash equivalent of benefits (excluding provided accommodation)

Part 3 27.5

The cash equivalent is found by applying the appropriate rules from Part 3 ITEPA 2003 which are relevant to the type of benefit provided.

For example, where the benefit is the use of a car the rules in Chapter 11 of this booklet ‘Cars and vans available for private use’ would be appropriate.

But some adjustment to those rules is necessary. For example:

- the rules here apply to all taxpayers
- some provisions in Part 3 ITEPA 2003 will not apply because they deal specifically with circumstances during employment
- for ‘employee’ read ‘former employee’ as necessary
- only those rules in Part 3 ITEPA 2003 which deal with determining the ‘cash equivalent’ of benefits apply - other rules aren’t relevant

These adjustments must be borne in mind when using rules elsewhere in this booklet.

The appropriate rules in this booklet for some particular benefits are:

- | | |
|-------------------|----------------------|
| • other benefits | Chapter 6 (page 24) |
| • use of a car | Chapter 11 (page 33) |
| • car fuel | Chapter 13 (page 49) |
| • beneficial loan | Chapter 17 (page 60) |
| • mobile phone | Chapter 22 (page 83) |

Cash equivalent of provided accommodation

Sections 398(6) and 415(7) 27.6

The rules in Chapter 21 of this booklet apply – with one modification.

If the ‘cost of providing the accommodation’ (as defined in 21.5) is £75,000 or less, the tax charge is the same as in 21.9. If the ‘cost of providing the accommodation’ (as defined in 21.5) is more than £75,000, and the ‘sum made good’ by the employee exceeds the greater of (1) the ‘annual value’ (as defined in 21.9) and (2) the rent paid (by 6 July following the tax year from 2017 to 2018 onwards) by the employee, then, the amount to be subtracted in 21.11(c) is that excess.

Reporting: termination benefits

Section 684 and
Regulations 91/93
and 96 Income Tax
(PAYE) Regulations
2003 (S12003/2682)

27.7

Under regulations brought in by the Finance Act 1998, the former employer reports to HMRC all the termination settlement details within 92 days of the end of the tax year.

The former employer must give you a copy of that report within the same time limit.

27.8

Any figures for benefit values in the report will be based on those in force for the year of the termination. These may need to be updated to those in force for the year in which you actually receive or enjoy the benefit; follow the guidance above to do this.

Reporting: employer-financed retirement benefits schemes

Sections 251(1) to (2)
(e)–(f) FA2004
(S12005/3453)

27.9

Under regulations brought in by Finance Act 2004 the person appointed to deal with the scheme tax liabilities must:

- notify HMRC when a scheme comes into operation by 31 January following the end of the year of assessment in which it first comes into operation
- report details of relevant benefits provided by 7 July following the end of the tax year in which they're provided

Exemptions and reliefs

27.10

The main exceptions and reliefs from tax in respect of charges within Section 401 ITEPA 2003 are for:

Section 403(1)

Section 406(a)
Section 406(b)
Section 413-414

- the first £30,000 of any payment or benefit, excluding post-employment notice pay (note that all charges within the section for that employment, and for any other employment with the same or an associated employer, must be added together before applying the exception)
 - payments and benefits made on death
 - payments and benefits made on account of injury or disability
- HMRC can advise.

27.11

The main exceptions and reliefs from tax for charges under Section 394 ITEPA 2003 are for benefits:

Section 393B (2)-(3)
ITEPA 2003 Paragraphs
53 and 54 Schedule 36
Finance Act 2004
Section 395 ITEPA 2003

- given by reason of ill-health or disablement whilst an employee
- given by reason of death by accident whilst an employee
- chargeable under Part 9 ITEPA 2003 (pension income)
- resulting from employer contributions made before 6 April 2006 provided that those contributions have been taxed on the employee and the scheme's income and gains are all taxed in the UK
- of a description set down in regulations

Appendix 1 Car benefit - examples of calculations

All examples relate to 2015 to 2016.

Steps 1 and 2 (Chapter 12 paragraphs 12.4 to 12.15)

Example 1

A car with a list price (including standard accessories, VAT, number plates and delivery) of £17,960 is made available to an employee. It's supplied with optional metallic paint costing £245, the price for which is published by the car's manufacturer. Before being made available to the employee it's also fitted with an electrically-operated radio aerial from an independent manufacturer costing £95 (including fitting).

All the optional accessories are qualifying accessories. The radio aerial has a price of less than £100 but it was made available at the time the car was made available and so the 'de minimis' limit of £100 doesn't apply.

Calculation

Section 123	Step 1: Car	£17,960
	Step 2:	
Section 127(1)(a)	plus Initial extra accessories in the car manufacturer's price list	
	• Metallic paint	£245
Section 127(1)(b)	plus Initial extra accessories not in the car manufacturer's price list (use price of accessory manufacturer)	
	• Radio aerial	£95
Section 121(1) Step 2	Price of the car after Step 2	£18,300

Example 2

Employee and car as in Example 1. In September of the same tax year, 2 extra accessories are fitted:

- a Bluetooth device with a list price of £360 (including fitting and others); the employee contributes £100
- roof rails with a list price of £80; the employee contributes £50

Calculation

Sections 126(3) and 127(2)	As above	£18,300
	plus Later accessory (Bluetooth device)	£360
		£18,660
Section 121(1) Step 2	minus capital contributions	
	Bluetooth device	£100
	Price of the car after Step 2	£18,560

The price of the roof rails isn't added because they're below the 'de minimis' limit of £100 and therefore the capital contribution towards them isn't deducted.

The figure at Step 2 is increased for the whole year because the Bluetooth device was added in the year. There's no time-apportionment.

Examples continued

Steps 4 to 6 (Chapter 12 paragraphs 12.21 to 12.37)

Example 3 – Petrol car

Price of the car is £15,000. Approved figure of CO₂ emissions is 173g/km

Round down 173 to 170

Look up appropriate percentage in Appendix 2 – 29%

No adjustments are required in paragraph 12.29 so this is the appropriate percentage

The figure at Step 5 is £15,000 x 29% = £4,350

Example 4 – Diesel car

Price of the car is £15,000. Approved figure of CO₂ emissions is 166g/km

Round down 166 to 165

Look up appropriate percentage in Appendix 2 – 28%

Add 3% diesel supplement (see paragraph 12.29), so appropriate percentage is 31%

The figure at Step 5 is £15,000 x 31% = £4,650

Example 5 – Hybrid electric car with petrol

Price of the car is £18,000. Approved figure of CO₂ emissions is 104g/km

Round down 104 to 100

Appropriate percentage for a petrol-powered hybrid with CO₂ emissions of 100g/km is 15% (Appendix 2)

No adjustment from paragraph 12.29 is required

The figure at Step 5 is £18,000 x 15% = £2,700

Appendix 2 Car benefit - the appropriate percentage

Ready reckoner for petrol-powered cars, see Chapter 12, paragraph 12.37

CO ₂ emissions (g/km)	2015 to 2016	2016 to 2017	2017 to 2018	2018 to 2019
Zero	5%	7%	9%	13%
1 to 50	5%	7%	9%	13%
51 to 75	9%	11%	13%	16%
76 to 94	13%	15%	17%	19%
95	14%	16%	18%	20%
100	15%	17%	19%	21%
105	16%	18%	20%	22%
110	17%	19%	21%	23%
115	18%	20%	22%	24%
120	19%	21%	23%	25%
125	20%	22%	24%	26%
130	21%	23%	25%	27%
135	22%	24%	26%	28%
140	23%	25%	27%	29%
145	24%	26%	28%	30%
150	25%	27%	29%	31%
155	26%	28%	30%	32%
160	27%	29%	31%	33%
165	28%	30%	32%	34%
170	29%	31%	33%	35%
175	30%	32%	34%	36%
180	31%	33%	35%	37%
185	32%	34%	36%	37%
190	33%	35%	37%	37%
195	34%	36%	37%	37%
200	35%	37%	37%	37%
205	36%	37%	37%	37%
210	37%	37%	37%	37%
215	37%	37%	37%	37%
220 and above	37%	37%	37%	37%

Except where noted in the table, the exact CO₂ figure is always rounded down to the nearest 5 grams per kilometre (g/km). For example, CO₂ emissions of 188g/km are treated as 185g/km.

Paragraph 12.29 contains details of any adjustments for cars powered by other fuels.

Appendix 3 Mileage Allowance Payments (see Chapter 16)

Mileage Allowance Payments for vehicles owned by employees, and passenger payments

Section 230 (2)

Mileage Allowance Payments for 2011 to 2012 onwards

Kind of vehicle	Rate
Car or van	45p per mile for the first 10,000 miles 25p per mile after that
Motorcycle	24p per mile
Cycle	20p per mile

Section 234 (1)

Passenger payments

Car or van only, per passenger	5p per mile
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Mileage Allowance Payments from 2002 to 2011

Kind of vehicle	Rate
Car or van	40p per mile for the first 10,000 miles 25p per mile after that
Motorcycle	24p per mile
Cycle	20p per mile

Passenger payments

Car or van only, per passenger	5p per mile
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Appendix 4 Beneficial loan arrangements

Official rates

1. Table of average official rates.

Use the table below to find the average official rate of interest for years when:

- the loan was outstanding throughout the Income Tax year, and
- you're using the normal averaging method of calculation (paragraph 17.29)

Year	Average official rate
2002 to 2003	5.00%
2003 to 2004	5.00%
2004 to 2005	5.00%
2005 to 2006	5.00%
2006 to 2007	5.00%
2007 to 2008	6.25%
2008 to 2009	6.10%
2009 to 2010	4.75%
2010 to 2011	4.00%
2011 to 2012	4.00%
2012 to 2013	4.00%
2013 to 2014	4.00%
2014 to 2015	3.25%
2015 to 2016	3.00%
2016 to 2017	3.00%

For the 2017 to 2018 average official rate, go to www.gov.uk/government/publications/rates-and-allowances-beneficial-loan-arrangements-hmrc-official-rates after the end of the 2017 to 2018 tax year.

2. Table of actual official rates.

Use the table below in cases not within 1 above.

From	To	Rate
06.03.99	05.01.02	6.25%
06.01.02	05.04.07	5.00%
06.04.07	28.02.09	6.25%
01.03.09	05.04.10	4.75%
06.04.10	05.04.14	4.00%
06.04.14	05.04.15	3.25%
06.04.15	05.04.17	3.00%
06.04.17	current	2.50%

3. Official rates for foreign currencies.

Loans within paragraph 17.5 made in Japanese Yen.

From	To	Rate
06.06.94		3.9%

Loans within paragraph 17.5 made in Swiss Francs.

From	To	Rate
06.06.94	5.07.94	5.7%
06.07.94		5.5%

The P11D (Int) is available through the Employer Orderline.

Internet www.gov.uk/topic/business-tax/payee

Phone 0300 123 1074

For opening hours, go to www.gov.uk/government/organisations/hm-revenue-customs/contact

Appendix 5 'Qualifying loans'

The following is a brief summary of loans which count as qualifying loans (see Chapter 17, paragraph 17.14).

- 1 Any loan or form of credit interest which is (or would be if any were paid) deductible in whole or part in computing the profits of a trade, profession or vocation carried on in the UK by the borrower.
- 2 Any loan the interest on which is (or would be if any were paid) deductible in whole or in part in computing the profits of a property income business carried on in the UK by the borrower.
- 3 Any loan (other than an overdraft or credit card account) made to the personal representatives of a deceased person before the grant of representation to pay Capital Transfer Tax or Inheritance Tax on the personal property of the deceased. Such a loan will cease to be 'qualifying' one year after it's taken out.
- 4 Any loan (other than an overdraft or credit card account) to an individual used for purchase of:
 - (a) an interest in a partnership, or contribution of capital or advance to a trading or professional partnership, in which (in either case) the borrower is an active participant, or
 - (b) ordinary share capital in a close company or making a loan of money to such a company for use in its business, or in an associated company's business, provided the borrower either owns more than 5% of the ordinary share capital or owns some share capital and works in the management of the company for the greater part of his or her time, or
 - (c) shares in an employee controlled company, that's, a company in which at least 50% of the issued ordinary share capital and voting power is beneficially owned by full-time employees. The company must be a trading company or the holding company of a trading group and must be unquoted and resident in the UK.
- 5 Any loan (other than an overdraft or credit card account) used to pay off a loan within 2, 3 or 4 above.
- 6 Any loan (other than an overdraft or credit card account) used by the holder of an office or employment to buy machinery used in his work. Such a loan will cease to be 'qualifying' on the third anniversary of the end of the year of assessment in which it's taken out.
- 7 Any loan (other than an overdraft or credit card account) made before 9 March 1999 and used by an annuitant who's 65 years of age or older to purchase a life annuity, provided the loan is secured on property which is the borrower's main residence.

Appendix 6 Taxation of beneficial loan arrangements

Example showing the calculation of benefits chargeable

Chapter 17, paragraphs 17.27 to 17.30 cover the main points.

The facts on which this example is based are stated below.

Example

A close company has for some years advanced funds to a director at 3% interest payable quarterly on 31 March, 30 June, 30 September and 31 December by deduction from salary. The balance on the loan account on 5 April preceding the year of assessment was £29,000. The director repaid £1,000 on 30 June in the year of assessment so that the balance at the end of that year was £28,000.

Part of the loan balance was a loan of £3,000 made in the preceding year to help him buy a share in a partnership.

£20,000 was a loan used to buy his only residence. This loan was taken out immediately after and to top up an endowment mortgage of £20,000 with a building society. Of the remainder of the loan, £2,000 was used to buy a season ticket and the other £4,000 outstanding at the beginning of the year represented the balance of a loan to pay for a holiday.

Of the total repayment of £1,000, £200 was set against the partnership loan, £500 against the house loan, £200 against the season ticket loan and the other £100 against the holiday loan. The appropriate official rate was 10% throughout the year in question.

All the loans are between the same borrower and lender, and all require a 'cash equivalent' to be ascertained. The company elects that the loans which can be treated as a single loan are to be so treated. Consequently the house loan, the season ticket loan and the holiday loan which are 'non-qualifying' (see paragraph 17.14) are aggregated (see paragraph 17.27). So for the purposes of calculating the total chargeable benefit there are 2 loans as follows:

Type	Balance at start	Balance at end
Qualifying	£3,000	£2,800
Non-qualifying	£26,000	£25,200

As the total balance outstanding exceeded £10,000 in the year, exemption under S180(1) isn't due (see paragraph 17.16). Since the total balance outstanding on the non-qualifying loans exceeded £5,000 in the year, exemption under S180(3) isn't due for those loans (see paragraph 17.17).

Interest paid on the partnership loan for the year was

Date paid	Interest at 3%		Paid
30 June	One quarter on £3,000	=	£22.50
30 September	One quarter on £2,800	=	£21.00
31 December	One quarter on £2,800	=	£21.00
31 March	One quarter on £2,800	=	£21.00

Total paid £85.50

Interest paid on the aggregated loan for the year was

Date paid	Interest at 3%		Paid
30 June	One quarter on £26,000	=	£195.00
30 September	One quarter on £25,200	=	£189.00
31 December	One quarter on £25,200	=	£189.00
31 March	One quarter on £25,200	=	£189.00

Total paid £762.00

Continued

Example continued

Liability on the normal 'averaging' method (see paragraph 17.29)

A. Partnership loan

$$\frac{£3,000 + £2,800}{2} \times \frac{12}{12} \times \frac{10}{100} = £290.00$$

Minus interest actually paid in respect of the partnership loan = £85.50

Chargeable benefit **£204.50**

B. Aggregated loans

$$\frac{£26,000 + £25,200}{2} \times \frac{12}{12} \times \frac{10}{100} = £2,560.00$$

Minus interest actually paid in respect of the aggregated loan = £762.00

Chargeable benefit **£1,798.00**

Total cash equivalent = £204.50 + £1,798.00 = £2,002.50

Continued

Example continued

Liability on the alternative precise method (see paragraph 17.30)

A. Partnership loan

Period

6 April to 30 June (86 days)	£3,000 for 86 days at 10%	=	£70.68
1 July to 5 April (279 days)	£2,800 for 279 days at 10%	=	£214.02
		Total	£284.70
Minus interest actually paid in respect of the partnership loan			£85.50
Chargeable benefit			£199.20

B. Aggregated loan

Period

6 April to 30 June (86 days)	£26,000 for 86 days at 10%	=	£612.60
1 July to 5 April (279 days)	£25,200 for 279 days at 10%	=	£1,926.24
		Total	£2,538.84
Minus interest actually paid in respect of the aggregated loan			£762.00
Chargeable benefit			£1,776.84

Total cash equivalent – £199.20 + £1,776.84 – £1,976.04

Note that, although the director repaid £1,000 on 30 June, the maximum balances of the non-aggregated and aggregated loans outstanding on that day were £3,000 and £26,000 and these amounts have been taken into account in the alternative precise method of calculation.

The 'normal averaging method' of calculation, which would be applied automatically (see paragraph 17.28), operates marginally to the director's disadvantage. If he considers it worthwhile he could make an election for the 'alternative precise method' of calculation (see paragraphs 17.31 and 17.32).

The director will be treated as having paid £2,003 (or £1,977 if an election for the 'alternative precise method' is made) interest on the loans in addition to the £847.50 actually paid (see paragraphs 17.36 and 17.37).

Appendix 7 Relocation expenses

1. Removal expenses and benefits which qualify for exemption (see Chapter 5)

Expenses and benefits which qualify for exemption can be grouped into 6 categories:

- disposal or intended disposal of old residence
- acquisition or intended acquisition of new residence
- transporting belongings
- travelling and subsistence
- domestic goods for the new residence
- bridging loans

2. Disposal expenses and benefits

The property must be owned by, or a tenancy or other interest held by:

- the employee
- the employee and one or more members of his or her family or household (see Chapter 1, paragraph 1.22); or
- one or more members of the employee's family or household

- 2.1 The property, or the interest in it, must be disposed of, or be intended to be disposed of, in consequence of a change of residence to which the removals relief applies (see Chapter 5).
- 2.2 Disposal also includes intended disposal. The expenses of a sale that falls through will still be expenses which qualify provided that the employee does still change his or her residence.
- 2.3 The specific expenses and benefits covered are:
 - legal fees or services connected with the disposal
 - legal fees or services connected with the redemption of a loan relating to the property. A loan relates to a property if it was raised to acquire the property, or if it was secured on the property
 - penalties for redeeming a loan relating to the property
 - estate agent's or auctioneer's fees or services
 - advertising
 - disconnection of electricity, gas, water or phone services
 - if the property is left empty awaiting disposal
 - any rent paid for the period when the property is empty
 - insurance for the period
 - maintenance of the property during the period
 - preserving the security of the property during the period

The Council Tax for the period isn't allowable.

3. Acquisition expenses and benefits

Acquisition covers both the purchase of a new residence and the acquisition of a tenancy or other interest.

- 3.1 The property must be acquired by, or the tenancy or other interest held by:
 - the employee, or
 - the employee and one or more members of the employee's family or household (see Chapter 1, paragraph 1.22), or
 - one or more members of the employee's family or household
- 3.2 Relief is also available where an intended acquisition doesn't take place, either for reasons outside the control of the person acquiring the interest, or because that person reasonably decides not to go ahead.

3.3 The specific expenses and benefits covered are:

- legal expenses and services connected with the acquisition
- legal expenses and services connected with any loan raised to acquire (the interest in) the property
- procurement or arrangement fees connected with such a loan
- mortgage indemnity premiums
- survey or inspection of the property
- Land Registry fees in England and Wales
- fees payable to the Keeper of the Registers of Scotland
- fees payable to the Land Registry in Northern Ireland or to the Registry of Deeds for Northern Ireland
- Stamp Duty
- connection of electricity, gas, water and phone services

4. Transport of belongings

This covers the physical removal of domestic belongings from the old residence to the new, and the costs of insuring them in transit.

4.1 Removal includes:

- packing and unpacking
- temporary storage if a direct move from the old residence to the new isn't made
- taking down domestic fittings in the old residence if they're to be taken to the new residence, and reattaching them on arrival there

The domestic belongings covered are those of the employee and members of the employee's family or household.

5. Travel and subsistence

The employee can have eligible travel and subsistence for:

- preliminary visits to the new location
- travelling between the old home and the new work location
- travelling between the new home and the old work location (where the house move takes place before the job transfer)
- temporary living accommodation (see 5.5 below)
- travelling between the old home and the temporary living accommodation
- travelling between the new home and the temporary living accommodation (where the house move takes place before the job transfer)
- travelling from the old home to the new home when the move takes place

5.1 Members of the employee's family or household (see paragraph 1.22) can have eligible travel and subsistence for:

- preliminary visits to the new location
- travelling from the old home to the new home when the move takes place

5.2 Where a child stays behind at the old location or is sent ahead to the new location in order to ensure continuity of education, relief may be available for the child's costs of travel and subsistence.

The conditions are that:

- the child must be a member of the employee's family or household, and
- must be under 19 at the beginning of the year of assessment in which the job move takes place

5.3 Relief is available for the cost of subsistence in the area where the child stays, and for the costs of travel between that area and the employee's old or new home.

International moves

5.4 Where a foreign national comes to the UK for employment his or her travelling costs and those of his or her spouse and family may be eligible for relief under Sections 373 and 374 ITEPA 2003. If the expenses do qualify for relief in this way they're not expenses which qualify for exemption for the purposes of the removals relief. The effect of this is that the foreign national will be able to get the travelling costs as well as £8,000 of removal expenses tax-free.

Where a person resident in the UK goes abroad to work the travel costs and those of that person's spouse and children may be eligible for relief under Sections 341 and 342 or 370 and 371 ITEPA 2003. If the expenses do qualify for relief they're not expenses which qualify for exemption for the purposes of the removals relief. The effect of this is that the employee will be able to get the travelling costs as well as £8,000 of removal expenses tax-free.

5.5 The relief for temporary living accommodation (see 5 on page 107) applies where the employee intends to move to permanent accommodation to complete the relocation. So for an employee who lives in a hotel until the old home is sold and a new home purchased, or who moves into a rented house at the new location for the same reason, the hotel and the rented property represent temporary living accommodation.

5.6 Where the employer provides temporary living accommodation in a hotel or similar, the measure of the benefit to be charged or counted against the £8,000 limit is the cost to the employer. Where the accommodation counts as living accommodation for the purposes of Section 97 ITEPA 2003 (see Chapter 21) the measure of the benefit is the amount that would otherwise be chargeable under Section 97.

5.7 Subsistence is defined for the purposes of the removals legislation as meaning 'food, drink and temporary living accommodation'.

6. Domestic goods for the new residence

Relief under this heading is available where:

- the employee, or
- the employee and 1 or more members of the employee's family or household, (see paragraph 1.22), or
- one or more members of the employee's family or household disposes of an interest in the old home and acquires an interest in the new home

The relief applies where domestic goods intended to replace items used at the old home which aren't suitable for use in the new home are purchased or provided by the employer.

7. Bridging loans

Relief is available where:

- bridging loan interest is reimbursed to the employee, or
- the employer 'makes' a cheap or interest-free loan (see paragraph 17.8) to the employee which meets the conditions below

- 7.1. The general conditions are that:
- the employee, or
 - the employee and one or more members of the employee's family or household (paragraph 1.22), or
 - one or more members of the employee's family or household
 - (a) disposes of an interest in the old home and acquires an interest in the new home
 - (b) has to take out a loan to bridge the gap between the date when the interest in the new property is acquired and the date when the sale proceeds of the old property are available
 - (c) uses the loan only to redeem loans relating to the old home or to acquire the new home. A loan relates to the old home if it was raised to acquire the property, or if it was secured on the property, and
 - (d) the loan doesn't exceed the market value of the old home at the time the new home is acquired
- 7.2 Where the bridging loan isn't provided or facilitated by the employer, and the conditions at (a), (b), (c) and (d) above are satisfied, the interest on the loan is an expense which qualifies for exemption. If either or both of the conditions at (c) and (d) aren't met the eligible interest is restricted to the amount that would be payable if the loan met both conditions.
- 7.3 Where the employer makes a loan (see 17.8) to the employee or to a member of the employee's family or household, and conditions (a) to (d) above are met, relief may be available if the total of all other qualifying expenses and benefits is less than £8,000.

Relief is calculated using the formula

$$\frac{A}{B \times C} \times 365$$

where:

- A** is the difference between the total of all other qualifying expenses and benefits and £8,000
- B** is the maximum amount of the loan outstanding between the date the loan is made and the date when the time limit expires, and
- C** is the official rate of interest (see Appendix 4) in force at the time when the loan is actually made

The result is rounded up to the nearest whole number. The answer is treated as a number of days. The charge to tax under Section 173 ITEPA 2003 is calculated on the basis that the loan was made that many days later than it was actually made.

If the loan is repaid before the end of the number of days calculated by using the formula there's no charge to tax under Section 173.

Appendix 8 Incidental overnight expenses

General rule for the treatment of employment expenses

Under general Income Tax law, a director or employee is taxable on the full amount of earnings received and this generally includes reimbursed expenses he or she may receive. The employee may, however, obtain a deduction from those earnings under Section 336 ITEPA 2003 for qualifying expenses. That's to say, the level of income is reduced by the qualifying expenditure in calculating the tax due.

To qualify under Section 336, the expenditure needs to be incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

For travelling expenses, there's a deduction under Section 337 or 338 ITEPA 2003 for the cost of journeys:

- an employee has to make in the performance of the duties of the employment, or
- to a workplace an employee has to attend to carry out the duties of the employment, but not if the journey is ordinary commuting or private travel

These tests have been interpreted very strictly by the courts over the years.

Where an expense is paid or reimbursed by an employer, and would be fully deductible, an exemption from charge to tax means that the payment need not be reported and employees will not need to make a claim for relief (see Chapter 2).

Sections 337
and 338

Deductible subsistence expenses

The expenses rule and the exemption for paid or reimbursed expenses which applies to travel costs also covers related subsistence costs. This type of expenditure qualifies for an exemption or a deduction where it's part of the cost of travel necessarily incurred in the performance of the duties, or for necessary attendance at a temporary workplace. So, in general, payments by an employer for an employee's accommodation and subsistence when staying away from home overnight on business aren't taxed.

Allowable expenses can include the cost of a meal, the cost of a reasonable level of refreshments (both alcoholic and non-alcoholic) with the meal and refreshments such as tea, coffee or soft drinks taken between meals.

Incidental overnight expenses

Employees staying away from home overnight on business often incur additional expenses of a personal nature. Examples include newspapers, laundry and home phone calls.

Section 240

Although the expenditure may arise as a consequence of working away from home, it isn't incurred necessarily nor in the performance of the employee's duties. Under the expenses rules that apply to travel costs this type of expenditure wouldn't be allowable as a deduction and wouldn't be covered by the exemption referred to in Chapter 2. If this expenditure was met either wholly or in part by the employer, tax would be due under the general rule for taxing income.

A special exemption provides that employers can pay for incidental overnight expenses relating to a qualifying period up to a tax-free limit, without any tax consequences for the employee.

Qualifying period

A qualifying period for this exemption is a continuous period throughout which an employee has to stay away from home, including at least one overnight stay away from home, and where the expense of travelling qualifies for tax relief under the normal rules.

Types of payments

The exemption covers all possible ways in which employers could pay these incidental overnight expenses including:

- payment by non-cash vouchers
- expenses paid by the employee by means of a credit card in the employer's name
- benefits in kind, for example, where the employer arranges directly with a hotel to pay the bill
- cash payments, such as allowances or reimbursed expenses

Tax-free limits

The maximum amounts of incidental overnight expenses an employer may pay tax-free are:

- £5 per night for overnight stays anywhere within the UK, and
- £10 per night for overnight stays outside the UK

In calculating the total amount of expenditure any VAT paid must be included.

If the employer exceeds these limits, the whole of the payment becomes taxable not just the excess.

Employee repays excess over limit

Employers are encouraged to introduce clear policies on the payments of incidental overnight expenses and the refunding of overpaid amounts. Where a policy requiring repayment of any amounts in excess of the tax-free limits is in force, an employee has no entitlement to the excess. In these circumstances, the employee wouldn't be taxed on the payment provided the excess was paid back. However, if the refund by the employee isn't made within a reasonable time of the overpayment (whether in the same tax year or soon after the end of the tax year), there may be reporting consequences. Details may need to be given on form P11D – ask HMRC if this applies.

Employee's unreimbursed incidental overnight expenses

The special exemption for incidental overnight expenses is designed to reduce the burden on employers of identifying and reporting to HMRC what would otherwise be taxable expenses.

So there's no relief for expenses which aren't reimbursed by the employer.

More than one night away

The total of the exemptions for each night is simply compared to the total of the payments for that period. For example, where an employee claims £20 for a 4 night stay away from home in the UK the exemption would apply even if the employee spent £5 on the first night, £5 on the second, £6 on the third and £4 on the fourth because the total doesn't exceed the total exemption limit (4 nights at £5 exemption per night).

This rule must be applied to an unbroken run of consecutive nights in its entirety. An employer may not choose to break up a period of say 5 nights into one consecutive period of 4 nights plus one stand-alone night.

National Insurance contributions

National Insurance contributions aren't payable on any payments of incidental overnight expenses qualifying for the Income Tax exemption.

Working Rule Agreements

Employees in the construction and allied industries in receipt of payments under a Working Rule Agreement, may not always be undertaking journeys qualifying within the terms of the expenses rules that apply to travel costs (see above). Employers wishing to make payments of incidental overnight expenses, in addition to tax-free lodging allowances under a Working Rule Agreement, will have to identify those journeys which qualify for tax relief. Only in such cases will the personal incidental expenses be exempt from tax.

More than one employee's incidental overnight expenses on the same bill

The payment of incidental overnight expenses should be made to individual employees within the limits of the individual exemptions. Sometimes a number of employees' hotel bills are aggregated and paid directly by the employer. If the individual expenditure can't be readily identified, a reasonable apportionment will be accepted.

Employer's checks

The employer should be satisfied that:

- the amounts paid don't exceed the maximum amounts payable tax-free
- there's no double payment of incidental overnight expenses – for example, by paying the standard allowance for incidental overnight expenses and reimbursing in full a hotel bill already including such charges as home phone calls

Form P11D

If there's no exemption, enter on the form P11D the amount excluding any exempt incidental overnight expenses for each employee who received expenses payments. For example, if the employer paid a hotel bill for £87, which included £4 of incidental overnight expenses, he or she would enter £83 on form P11D for that employee.

If any incidental overnight expenses aren't within the exemption, the employer must show the whole amount on form P11D.

For employers who are registered to payroll benefits/expenses, the amounts should be submitted through Real Time Information.

Appendix 9 Work-related training

Chapter 5 provides an outline of the rules, which exempt from tax the cost of work-related training provided for employees. No deduction is due for the costs of training which employees undertake at their own expense. Those rules, contained in Sections 250 to 254, operate by reference to a number of terms, each of which is defined in the rules. A general explanation of these defined terms follows.

Work-related training

Work-related training is training for an employee's current employment or a 'related employment'.

It's defined as any training course or other activity which is designed to impart, instil, improve or reinforce any knowledge, skills, or personal qualities which:

- are, or are likely to prove, useful to the employee when performing his or her duties, or
- will qualify or better qualify the employee to undertake the employment, or to participate in charitable or voluntary activities arising through the employment

The term includes a wide range of practical and theoretical skills, so long as those skills are relevant to the employee. Where leadership team skills are appropriate to the employee, participation in activities such as Outward Bound, Raleigh International, or Prince's Trust will qualify. The cost of an employee's participation in a genuine Employee Development Scheme, which seeks to improve the employee's attitude towards training by commencing with an enjoyable course as an introduction to more concentrated job-related training, will also qualify.

Related employment

Qualifying training is training which is undertaken with an employment or prospective employment in view.

A related employment is any:

- office or employment held with the employer or which is to be held with the employer or a connected person
- such office or employment to which the employee has or can realistically expect to have a serious opportunity of being appointed

The intention here is to include all genuine training, in a range of competencies, which the employee would need to advance his or her career, or to achieve a career move with his or her employer.

Training in leisure type activities, unless exceptionally an activity which has a genuine connection with that employee's work duties, is excluded. Tax charges then apply in the normal way.

Related costs

The exemption applies to expenditure upon the provision of 'work-related training' as defined above, or on certain costs related to such training.

Related costs, in connection with qualifying training, are costs:

- which are incidental to the employee's undertaking the training
- incurred in connection with an assessment of what the employee has gained from the training, which need not be by way of formal examination
- the cost of obtaining for the employee any qualification, registration or award where entitlement is as a result of the training or assessment in question. Awards which are made in recognition of, rather than as a reward for training achievement, such as a course scarf, tie or mascot would qualify as a 'related cost'

Expenditure excluded from Section 250

The rules provide that 3 main types of expenditure are excluded from the exemption:

- facilities or benefits which are provided for entertainment or recreational purposes unconnected with acquiring the knowledge, skills or personal qualities which satisfy the definitions of work-related training
- the cost of facilities or benefits which reward the employee for performing, or performing in a given way, the duties of his or her employment
- facilities or benefits which provide an employment inducement which is unconnected with acquiring, in any way, knowledge, skills or personal qualities which satisfy the definitions of work-related training

It follows that normal meals, refreshments and the leisure activities which are offered within a training course aren't brought into tax. Nor, for example, would the costs of safe-driver training offered to those driving significant business mileage. In contrast, if the same employer sent the same group of people to an evening at the go-kart track the expense would rank as excluded expenditure and so would be taxable.

Related costs – travel and subsistence

Exemption also applies to the employee's costs of travel and subsistence to the extent that those same expenses would be deductible under Section 336, or would qualify for mileage allowance relief, if the employee had undertaken the training in the performance of the duties of his or her office or employment, and had incurred and paid those expenses.

Provision of assets

Generally, the exemption doesn't apply to the cost of providing the employee with, or with the use of, any asset.

The general rule doesn't apply to:

- assets provided or available for use only in the course of training
- assets provided or available for use in the course of training and in the performance of the employee's duties, but not otherwise used
- assets consisting of training materials provided in the course of training
- an asset which is something made by the employee in the course of training, or is incorporated into something which is so made

Typically, a computer made available for training, or work and training, which isn't available for private use, will qualify. Training materials comprising audio/video tapes, course books or literature, stationery, CD and 'floppy' disks used for training may be retained by the employee tax-free.

Appendix 10 Self Assessment – expenses and benefits

This appendix contains:

- information about form P11D
- some additional tips for employers

Tips have been taken from material previously published in booklets issued to larger employers who provide benefits in kind and expenses payments.

Forms and working sheets

Forms P11D and P11D(b) and the P11D Guide are updated each year.

In addition, optional working sheets and form P11D(Int) are available:

Optional working sheets for employers to calculate the cash equivalent of the following benefits – the sheets are numbered as follows:

- 1 Living accommodation
- 2 Car benefit and car fuel benefit
- 2b Car benefit and car fuel benefit provided via optional remuneration arrangements
- 3 Vans available for private use
- 4 Interest-free and low interest loans
- 5 Relocation expenses payments and benefits
- 6 Mileage allowance payments

Working sheets are provided to help employers calculate the cash equivalent value of a benefit that should be returned on a P11D. The use of a working sheet is optional. Completed working sheets should be retained by the employer to help answer any questions from the employee, or from HMRC. You must not send working sheets with your P11D returns. It may also be useful when preparing forms P11D for the following year.

For employers who are registered to payroll benefits, the working sheets can be used to confirm the cash equivalent or relevant amount before calculating the relevant amount to add to pay in the pay period.

Form P11D(Int) contains details of official rates of interest and average official rates of interest for the year. This information is needed to calculate the benefit arising from interest-free and low interest loans. Form P11D is usually available in the March before the tax year ends

Substitute forms and lists

The Self Assessment tax return was changed in April 2008 and the order of the boxes on the P11D no longer matches the order of boxes on the Self Assessment tax return. However the P11D does still carry the same box numbers 9 to 16, alongside benefit or expense figures. We suggest that employers who supply P11D information on substitute forms or lists use the same order as on the P11D and use the same box numbers.

If P11D information is presented to HMRC and employees in this way:

- the same format will meet both obligations
- it'll be easier for employees to complete their tax return correctly, if they get one
- it'll reduce the number of questions from employees to employers and HMRC
- it'll help HMRC to process P11D information more quickly and efficiently

This doesn't mean that HMRC won't agree substitute forms or lists which aren't ordered in this way. We recognise that such a change could be costly or inconvenient for some employers.

Employers who are seeking approval to use substitute P11Ds which are copies, or very near copies of the official form or have already been given approval to use substitute forms or lists and want to make changes, can seek help and advice from the Employer Helpline on 0300 200 3200.

For opening hours, go to www.gov.uk/government/organisations/hm-revenue-customs/contact/employer-enquiries

How to get form P11D

You should download forms P11D, P11D Working Sheets, and P11D(b) from the links on the Expenses and Benefits pages of GOV.UK, go to www.gov.uk/employer-reporting-expenses-benefits/reporting-and-paying

If you can't download these forms, you can contact the Employer Orderline to place an order for any of the forms required.

The Employer Orderline contact details are as follows:

Internet	www.gov.uk/government/organisations/hm-revenue-customs/contact/employer-stationery-and-forms-ordering
Phone	0300 123 1074 For opening hours, go to www.gov.uk/government/organisations/hm-revenue-customs/contact/employer-enquiries
Textphone	18001 0300 123 1074

The form P11D(Int), which contains details of official rates of interest, is available online or from the Orderline from the end of March in the year this booklet was published.

Electronic filing of expenses and benefits

Employers can use any of the following to report expenses and benefits electronically:

- commercial payroll software
- HMRC's PAYE Online for Employers
- HMRC's Online End of Year Expenses and Benefits services

For more information, go to www.gov.uk/employer-reporting-expenses-benefits/reporting-and-paying

How to find out more

For more information about the electronic and online services, go to GOV.UK and search 'employers' or contact:

Online Services Helpdesk

Email	helpdesk@ir-efile.gov.uk
Phone	0300 200 3600
Fax	0300 200 3602
Minicom	0300 200 3603

Tips for employers

The tips given here are of particular interest to employers who provide benefits in kind and expenses.

Tips about expenses and benefits in kind

Some clear messages are that you should:

- look at all the expenses and benefits you provide to see whether you're following the proper procedures, for example, for operating PAYE and/or for reporting details to HMRC (P11D details, and so on)
- if in doubt about whether something is a benefit, get reliable advice - look in this booklet or contact the Employer Helpline on 0300 200 3200, for opening hours go to www.gov.uk/government/organisations/hm-revenue-customs/contact/employer-enquiries
- consider what items might be suitable for a PAYE Settlement Agreement (PSA)

Tips on completing P11Ds

Pay particular attention to the following when completing P11Ds.

This will make sure that they don't need to be returned to you for correction before they can be dealt with:

- the entries on the return must be clear and legible
- the font size should be not less than Arial 11
- use the employee's National Insurance number, or the date of birth and gender to allow HMRC to locate the employee or director
- when completing car details
 - an electronic car (fuel type E) doesn't have CO₂ emissions
 - the Dates car available from box should only be completed when the car was first provided in that tax year
 - the Dates car available to box should only be completed when the car was withdrawn in that tax year. Don't enter 5 April unless the car was withdrawn from the employee or director on 5 April
- when completing interest-free and low interest loans details
 - the Dates loan was made box should only be completed when the loan was first provided in that tax year
 - the Dates loan was discharged box should only be completed when the loan was discharged in that tax year. Don't enter 5 April unless the loan was discharged on 5 April

Exempt expenses and PAYE Settlement Agreements (PSAs)

There's no obligation on employers to tell employees about exemptions, and PSAs which affect them. But without it they might not understand why something wasn't shown on their P11D details (or why they did not get a form P11D at all), and might raise a query with their payroll office.

There's no ideal way to give the information to the employees involved. This depends on what was included in the PSA, which and how many employees received the item, and so on.

Alternative suggestions are:

- publish full details of all the exemptions/PSA items and give enough information so employees can identify which items apply to them (for example, in any in-house magazine or staff manual)
- provide each member of staff with a private notice of the items which apply to them

This could be done

- with the form P11D
- when starting their job or when the exemption/PSA was first applied

Details of expenses and benefits in kind for employees

Employers must provide details of expenses and benefits in kind ('P11D details') and Mileage Allowance Payments in excess of the exempt AMAPs (Approved Mileage Allowance Payments) amount (see Chapter 16) to relevant employees.

They can do this by:

- photocopying forms P11D and other information sent to HMRC
- copying an approved substitute P11D which they use for their return to HMRC
- designing their own format

For employers registered to payroll benefits, details could be on a payslip or statement after the final payment of wages.

Substitute forms

There's no need for employers to agree with HMRC the format of P11D (and other) information provided to employees.

The tips which follow are for employers who want to design their own form, probably produced by a computer system. We assume the aim is to give employees all their information about expenses and benefits in one go, probably on one sheet of paper.

We suggest you start from the official form P11D as this shows the details you need to provide to employees for each item of expenses and benefits. You don't have to give employees 'nil' details of items which they don't receive. This means that for most employees your form can be much shorter than the official form and this can free up space (on an A4 sheet) to include explanatory text or cross reference to guidance elsewhere (for example, in the staff manual).

A strong recommendation is that you include a message on the form saying keep it for tax record purposes. We also strongly recommend that you include on your form the tax return box numbers which are shown on the official P11D for each item, and explain this to staff. The official P11D gives some wording you could lift for these purposes.

More information

If you've questions contact the Employer Helpline on 0300 200 3200. For opening hours, go to www.gov.uk/government/organisations/hm-revenue-customs/contact/employer-enquiries

Appendix 11 Employer Supported Childcare

From 6 April 2018 Employer Supported Childcare will close to new applicants. Employees already registered by this date will be able to continue using the scheme for as long as the employer offers it, or as long as they stay with the employer.

Employees may be able to get Tax-Free Childcare instead.

Employers' workplace nurseries won't be affected by the introduction of Tax-Free Childcare.

For more information, go to www.gov.uk/help-with-childcare-costs

What are the exemptions?

- 1 There are 3 exemptions from Income Tax and NICs for the benefit of childcare provided or supported by the employer. The rules are similar but each exemption works differently. In summary, no tax will apply in the following circumstances where the qualifying conditions are met.
 - a) The employee is provided with childcare in a nursery or playscheme on premises made available by the employer or for which the employer is at least partly responsible for financing and managing the scheme. Where the relevant conditions are met the whole cost of the benefit is exempt from tax and NICs – see Employer provided nursery or playscheme below.
 - b) Childcare vouchers are provided to employees up to the relevant exempt amount – see 'Childcare vouchers' below.
 - c) Other childcare made available to the employee up to the relevant exempt amount – see 'Other employer-supported childcare' below.

Where the value of the childcare voucher or other childcare provision exceeds the relevant exempt amount the excess is taxed and liable to NICs. If childcare is provided that doesn't comply with the qualifying conditions, it's taxed in full and liable to NICs.

For those employees who join an employer's scheme on or after 6 April 2011 the employer will have to make an estimate of the employee's earnings in order to work out the relevant exempt amount.

For more information about the estimation of earnings, go to www.gov.uk/government/publications/employer-supported-childcare

An employee is only entitled to one exempt amount in a tax week. For example, if the relevant exempt amount is £55 and an employer provides childcare vouchers of £55 in a week for use at a local nursery, and provides £55 of after-school care, the employee will only be entitled to receive one exempt amount of £55. All amounts in excess of the limit will be liable to tax and NICs.

Tax-Free Childcare voucher allowance

Pay and benefits	Maximum weekly voucher order	Maximum monthly voucher order
Less than £46,350	£55	£243
£46,350 to £150,000	£28	£124
£150,000 or more with effect from 6 April 2018	£25	£110

Pay and benefits	Maximum weekly voucher order	Maximum monthly voucher order
Pre-6 April 2011 scheme member	£55	£243

Employer-provided nursery or playscheme

- 2 Nursery or playscheme places, provided by the employer are exempt from tax and NICs if the:
 - employer alone makes premises available for the nursery or playscheme, or
 - employer, jointly with others, for example, voluntary bodies, local authorities or with other employers, makes premises available, and
 - nursery places are offered in a scheme open to either all of the employer's employees, or all of the employer's employees at the location where the scheme operates
- 3 For a jointly run nursery or playscheme to qualify:
 - it must be on premises made available by one or more of the participants in the joint scheme, and
 - the employer must be wholly or partly responsible for financing and managing the nursery or playscheme
- 4 Whether the nursery or playscheme is provided by one employer, or through a joint scheme, tax exemption will only apply if the facilities comply with any legal requirement for local authority registration.

Section 318(6)

Meaning of 'making the premises available'

- 5 The employer, or one of the participants in a joint scheme, must make the premises available by either:
 - using premises that are part of the employer's, or another participant's, existing freehold or leasehold property (or equivalent in Scotland), or
 - acquiring premises specially, by freehold or leasehold, or by hiring suitable premises on licence, for example, a local hall
- 6 Providing the employer, or one of the participants in a joint scheme, makes the premises available, the facilities can be anywhere but the nursery or playscheme can't be provided on premises that are wholly or mainly used as a private dwelling.

Section 318(7)

Meaning of 'wholly or partly responsible for finance and management' in a joint scheme

- 7 Overall, the employer's role in financing and managing the provision of childcare must be a real one. The employer must be accountable for the provision, and liable to be called to account if things go wrong.
 'Finance' requires a commitment to provide capital and funding for the nursery or playscheme. It requires more than buying in places from a commercial nursery and may be met where, for example, the employer:
 - agrees to meet a set proportion of the overall cost of providing the care, or
 - provides financial guarantees to a joint committee or joint company, or
 - gives a long-term undertaking to pay a fixed periodical contribution (for example, for the cost of a given number of places) which is calculated to ensure the overall financial viability of the care facility
 'Management' means more than being occasionally consulted about the broad policies that apply to a particular nursery or playscheme. It does

not necessarily mean day-to-day management or direct responsibility for care of the children. However, it does require close involvement by the employer in:

- appointing and monitoring the performance of those engaged to look after the children
- the extent of the care provided
- the allocation of places, and
- financial management

The management involvement can be through an in-house committee, or an associated company or partnership set up for the purpose.

- 8 Places will be exempt in nurseries and playschemes where subcontractors provide the day-to-day childcare, so long as the conditions governing the provision of premises or the responsibility for finance and management are met.

Provision of nursery or playscheme places to other employees

- 9 Spare places in a qualifying nursery or playscheme can be given to people who aren't the employer's employees without affecting the employees' tax position.
- 10 If places in a nursery on the employer's own premises are provided to another employer's employees who are working at that location, they'll also be exempt from tax on the value of the provision.

Section 270(A)

Childcare vouchers

- 11 Childcare vouchers up to the relevant exempt amount are exempt from tax, providing the:
- vouchers are used to pay for qualifying childcare
 - employee is a parent or has parental responsibility for a child, and
 - vouchers are offered in a scheme that's (subject to one exception) open to all employees

Section 318(A)

For the exception, please see the explanation of 'open to all' at paragraph 22.

- 12 If childcare vouchers are provided with a value in excess of the relevant exempt amount, only the excess is chargeable for tax.

Other employer-supported childcare

- 13 Other qualifying childcare up to the relevant exempt amount provided by the employer for the use of employees is exempt from tax and NICs where the provision is:
- provided for a qualifying child, and
 - offered in a scheme that's (subject to one exception) open to all employees - for the exception, please see the explanation of 'open to all' at paragraph 22
- 14 Other employer-supported childcare includes childcare purchased by the employer directly from the childcare provider for the use of the employer's employees. An example of this is a place in a commercial nursery contracted by the employer and made available to the employee for his/her child. It doesn't include the payment by an employer of an employee's own childcare bill or a cash allowance paid to the employee towards his or her childcare costs.
- 15 If the cost to the employer of providing the childcare exceeds the relevant exempt amount only the excess is chargeable for tax.

Section 318(B)

- 16 If the employer pays a retainer, but no care is provided, the exemption isn't due and the benefit is chargeable to Income Tax and NICs. An example of this might be if the child is away on holiday and the nursery requires a retainer. As no care has been provided, the exemption isn't due for that period.

Definitions

Meaning of child

Section 318(B)5

- 17 A qualifying child is:
- a child up to 1 September after their 15th birthday, or
 - a child up to 1 September after their 16th birthday if the child is on the blind register or came off it in the last 28 weeks, or a disability living allowance or Personal Independence Payment is payable in respect of the child, and
 - the child is the employee's child or is a child living with the employee for whom he or she has parental responsibility
- 18 Parental responsibility means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property.

Section 318C

Meaning of qualifying childcare

19 Qualifying childcare

The rules seek to ensure that only childcare which meets nationally recognised standards will attract the exemptions from Income Tax and NICs. In general terms, the childcare must be registered with or approved by the relevant authorities. The rules are complex because different statutory powers apply to England, Wales, Scotland and Northern Ireland.

20 Registered childcare

Childcare provided away from the child's home must be registered in:

- England and Wales for children up to and including 7 years
- Scotland for children up to and including 16 years
- Northern Ireland for children up to and including 12 years

Registered childcare within the United Kingdom consists of:

In England only

- A person registered under Part 3 of the Childcare Act 2006. This will include persons on the following registers operated by Ofsted
 - The Early Years Register
 - The General Childcare Register — compulsory part
 - The General Childcare Register — voluntary part
- Schools – care provided by the governing body of a school is approved if it takes place
 - outside normal school hours (this means the normal hours of compulsory education adopted by the school as appropriate for the age of the child)
 - on school premises, or
 - on premises that are covered by the inspection of the whole school activity by Ofsted or the equivalent inspection body for certain independent schools
- Other care providers – a domiciliary worker or nurse from an agency registered under the Domiciliary Care Agencies Regulations 2002 providing childcare in the child's home

In Wales only

- a childcare provider registered in accordance with Part 2 of the Children and Families (Wales) Measure 2010
- out-of-school hours childcare, provided by a school on the school premises, or by a local authority
- a person approved under the Approval of Child Care Providers (Wales) Scheme 2007 providing childcare in the child's home or if several children are being looked after, in the home of one of the children
- a domiciliary worker or nurse from an agency registered under the Domiciliary Care Agencies (Wales) Regulations 2004 providing childcare in the child's home
- a foster parent in relation to a child other than one whom the foster parent is fostering but only in those cases where due to the age of the child the care provided doesn't fall within the first and third bullet points in this section

In Scotland only

- a childcare provider registered by the Scottish Commission for the Regulation of Care
- out-of-school hours childcare clubs registered by the Scottish Commission for the Regulation of Care
- childcare provided in the child's home by, or introduced through, childcare agencies, sitter services and nanny agencies which are required to be registered

In Northern Ireland only

- child minding or day care in accordance with Part XI of the Children (Northern Ireland) Order 1995
- out-of-school hours childcare, provided by a school on the school premises, or by an Education and Library Board or
- a person approved under the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006 providing childcare in the child's home
- a foster parent in relation to a child other than one whom the foster parent is fostering but only in those cases where due to the age of the child the care provided doesn't fall within the first and third bullet points in this section

Outside the UK

Childcare provided outside of the UK can't generally be accepted as 'qualifying childcare' as it's outside of the jurisdiction of UK inspection and registration. The only exemption to this is childcare provided by a person approved under a Ministry of Defence accreditation scheme abroad.

Childcare that's not 'qualifying childcare'

'Qualifying childcare' doesn't include care provided by a relative of the child in the child's own home. This includes relatives who are registered or approved childcare providers. For these purposes a relative means:

- parent
- step-parent
- foster parent
- grandparent
- aunt or uncle
- brother or sister whether by blood, half-blood, marriage or civil partnership

Section 270A(5) and
318A(5)

Childcare provided by relatives can be qualifying childcare in the following circumstances the:

- relative is a registered or approved childcare provider
- care is provided away from the child's own home
- care is provided to non-related children in addition to the related child or children

Meaning of 'open to all'

21 Childcare should be offered under a scheme to which all employees are eligible to apply. The condition doesn't mean that every employee who wants a childcare place in a scheme must receive a place. Employers may need to prioritise places if more employees apply than the number of places available. How childcare places are prioritised is up to the employer but the scheme should not exclude members of your staff from applying for a place on the basis of:

- grade or position
- level of salary (subject to one exception)
- length of service
- gender

22 Similarly, childcare voucher schemes should be generally open (subject to one exception) to all employees. The condition isn't, however, breached if any of the employer's employees can't participate in the scheme due to:

- not having any eligible children
- not using eligible childcare
- no advantage being gained in accepting vouchers in place of cash pay

Section 318(8)

The exception is that the 'open to all' condition isn't breached where employees who earn on or near the National Minimum Wage (NMW) or National Living Wage (NLW) are unable to join an employer's scheme due to the requirement to safeguard payment of the NMW/NLW in full.

Section 270A(7) and
318A(7)

The exception doesn't apply if childcare is provided in a nursery or playscheme. For the workplace nursery exemption, the 'open to all' condition is breached if workers who earn on or near the NMW/NLW are prevented from joining the employer's scheme due to the requirement to safeguard payment of the NMW/NLW in full.

Meaning of 'tax week'

23 'Tax week' means 6 April to 12 April (inclusive) and each successive period of 7 days. Except that the final tax week in a tax year ('week 53') is just the last day of the tax year (or last 2 days in a leap year).

Record keeping

- 24 The employer should maintain a record of the childcare or childcare voucher scheme rules (for example, letter to all employees or staff handbook) as evidence of meeting the availability condition.
- 25 Employers are responsible for ensuring that the exemptions are only applied where the full conditions are met. Employers should be satisfied that the:
- child for whom the childcare costs arise is a qualifying child, and
 - childcare provided is registered or approved and that this has not expired

- 26 HMRC will accept that employers have done all they can to be satisfied that the conditions have been met if the employer follows these steps:
- made available the scheme rules and included in them that employees must notify the employer of any changes in their circumstances, including in their childcarer's registration or approval status
 - maintained a record of the child's name and date of birth for whom the childcare costs met by the vouchers arise*
 - maintained a record of the childcarer's registration or approval number/copy of current letter of approval along with a record of when the registration/approval is due to expire*
 - a process is in place to account for tax where registration or approval of the childcarer has lapsed
- *If a childcare voucher provider company administers the scheme on behalf of the employer they can, by arrangement with the employer, obtain and hold this information as long as the employer has access to it.

Employers can check whether a childcarer's registration or approval is valid

In England

Ofsted (Office for Standards in Education, Children's Services and Skills):

- go to www.ofsted.gov.uk
- phone 0300 123 1231

In Scotland

Social Care and Social Work Improvement Scotland:

- go to www.careinspectorate.com
- phone 0345 600 9527

In Northern Ireland

The Health and Social Services Trust, go to www.nidirect.gov.uk/childcare

In Wales

Care and Social Services Inspectorate Wales:

- go to www.wales.gov.uk
- phone 0845 010 3300 (English) or 0845 010 4400 (Welsh)

Appendix 12 Optional remuneration arrangements

Schedule 2 Finance Act 2017

Section 69A

From 6 April 2017 where a benefit is provided as part of optional remuneration arrangements, the rules for valuing the amount of the benefit treated as earnings from the employee's employment has changed. Optional remuneration arrangements are arrangements where the employee gives up the right, or the future right, to salary (commonly called salary sacrifice) or the right to some other form of salary or cash pay in return for the benefit. Where a benefit is provided under optional remuneration arrangements, the value of the benefit treated as earnings from the employment is the greater of the amount of:

- salary or cash pay given up by the employee in return for the benefit
- the benefit treated as earnings from the employment under the normal rules, ignoring any amount made good, as outlined in this guide

Sections 228A(1)

Except in certain limited circumstances, the normal exemptions from Income Tax don't apply when the benefit is provided under optional remuneration arrangements. Where the benefit would otherwise be exempt from tax under one of the exemptions in Part 4 of ITEPA, the value of the benefit to be compared with the amount foregone is deemed to be nil. The amount of the benefit treated as earnings is therefore equal to the amount foregone.

Paragraphs 62(3) to (15) Schedule 2 Finance Act 2017

Where the employee entered into the optional remuneration arrangements before 6 April 2017 transitional rules may apply. Subject to certain limited exceptions, arrangements entered into before 6 April 2017 are still covered by the normal benefit valuation rules until the earlier of:

- variation, renewal or modification of the arrangement
- 6 April 2018

Those exceptions are cars with emissions of more than 75g CO₂/km, living accommodation and school fees which are all protected until the earlier of:

- a variation, renewal, modification of the arrangements
- 6 April 2021

Special rules also apply for school fees (see paragraph 20).

Section 69A(2) to (4)

1 What are optional remuneration arrangements?

1.1 Optional remuneration arrangements are arrangements where the employee is provided with a benefit in return for giving up some form of salary, cash pay or allowance. A benefit is provided under optional remuneration arrangements if the employee is provided with that benefit under arrangements where the employee:

- gives up the right, or the future right, to receive an amount of salary (commonly called salary sacrifice)
- agrees to be provided with the benefit rather than an amount of cash pay

1.2 Where a benefit is provided under optional remuneration arrangements, the employee continues to be taxed on the benefit they have been provided with. However, the value of the benefit that's treated as earnings from the employment is the greater of:

- the cash amount foregone
- the value of the benefit treated as earnings under the normal benefit valuation rules.

This value is called the 'relevant amount'.

1.3 When making the comparison, ignore any amounts made good.

However, once you've determined the relevant amount, in most cases the taxable amount is reduced by any amount made good by 6 July following the end of the tax year in which the benefit was provided.

Example 1

An employer provides an employee with private medical insurance that costs it £500. The employee gives up her right to salary of £600. The relevant amount treated as earnings from the employment is £600, being the greater of the cost of providing the benefit (£500) and the amount foregone (£600). If the employee then makes good £50, this reduces the relevant amount by £50 to leave an amount treated as earnings from the employment of £550.

Different types of benefit

2 Vouchers and credit tokens

Where an employee is provided with a voucher under optional remuneration arrangements, the relevant amount treated as earnings from the employment is the greater of the:

- sum of money for which the voucher is capable of being exchanged
- amount of salary or cash pay the employee has foregone in relation to the voucher

Where a non-cash voucher or credit token is provided, the comparison with the amount foregone is with the cost of providing the voucher or credit-token.

Example 2

An employee is provided with a gift card which he can use to buy goods to the value of £500 from a high street retailer in return for giving up salary of £500. The employer receives a discount when it buys the voucher which costs it £450. The cost of providing the non-cash voucher of £450 is compared with the salary foregone of £500. The employee is taxed on a benefit of £500 which is equal to the amount foregone.

3 Living accommodation

Where an employee is provided with living accommodation under optional remuneration arrangements, the relevant amount treated as earnings from the employment is the greater of the:

- living accommodation benefit calculated under the normal rules
- amount of cash pay foregone by the employee in relation to the provision of the accommodation.

In working out the living accommodation benefit to be compared with the amount foregone, don't take into account any amount made good or rent paid by the employee.

Example 3

An employer rents a property for £12,000 a year which one of its employees occupies. The employee is required to pay rent of £3,000 per year to the employer and also sacrifices salary of £3,000. The rent of £12,000 paid by the employer is compared with the amount of £3,000 sacrificed by the employee. The relevant amount is the higher amount of £12,000. The employee is taxed on this amount less the rent paid of £3,000.

Where living accommodation is provided under optional remuneration arrangements, the living accommodation exemptions don't apply.

Cars available for private use

4 Cars with CO2 emissions of 75 grams or less

The optional remuneration arrangement rules don't apply to cars with CO2 emissions of 75 grams per kilometre (km) or less. Cars with CO2 emissions of 75 grams/km or less continue to be taxed on the cash equivalent of the benefit worked out under the normal rules without having to make a comparison with the salary foregone.

Example 4

An employee is provided with a low emission car which is available for their private use under an optional remuneration arrangement in which the employee gives up salary of £150 per month, or £1,800 per year. The car has CO2 emissions of 70g per kilometre. The car has a list price of £11,500 and a cash equivalent value of £1,495 ($£11,500 \times 13\%$). The relevant amount to be treated as earnings from the employment is £1,495 because its CO2 emissions are no more than 75 grams.

5 Cars with CO2 emissions of more than 75 grams

Cars made available for private use with emissions of more than 75 grams of CO2 per kilometre are covered by the optional remuneration arrangement rules. In order to determine the relevant amount to be treated as earnings from the employment, find the greater of the:

- modified cash equivalent of the benefit
- amount foregone in relation to the provision of the benefit

The modified cash equivalent is the amount which would be the cash equivalent under the normal benefit rules but ignoring any capital contributions made by the employee and any payments the employee is required to make for private use.

If the amount foregone by the employee is greater than the modified cash equivalent, then make a deduction for any capital contribution. The deduction is given by multiplying any capital contribution (up to the maximum of £5,000) by the appropriate percentage. A deduction is then given for any private use contribution. The result is the relevant amount which is treated as earnings from the employment.

Example 5

An employee is provided with a car in the 2017 to 2018 tax year in return for giving up £300 salary per month or £3,600 per year. The car has a list price of £20,000 and an appropriate percentage of 17%. The employee also makes a capital contribution of £1,500 for a higher specification vehicle. The cash equivalent value of the vehicle would normally be £3,145 ($£20,000$ less capital contribution $£1,500 = £18,500 \times 17\%$). The modified cash equivalent is, however, £3,400 as no account is taken of the capital contribution.

The modified cash equivalent is then compared with the amount foregone of £3,600. The amount foregone of £3,600 is greater, so this amount is used in determining the relevant amount.

The relevant amount to be treated as earnings is £3,600 less £255 (capital contribution of $£1,500 \times 17\%$) = £3,345.

5.1 Trading up

Employees may be provided with a car partly through optional remuneration arrangements and partly through a personal contribution out of net pay. When determining the relevant amount, only the amount

foregone under the optional remuneration arrangements should be taken into account.

Example 6

An employee has the option of a cash allowance of £5,000 which she gives up for a car with a modified cash equivalent of £3,000. However, the employee wants a higher specified model with leather seats costing a further £500. So, she makes a payment of £500 to the employer out of her taxed pay. The amount foregone is £5,000 which is compared with the modified cash equivalent of £3,000. The relevant amount is £5,000. A deduction of £85 ($£500 \times 17\%$) is then made for the capital contribution of £500.

6 Vans available for private use

Where a van is made available to an employee, the relevant amount to be treated as earnings from the employment is the greater of the:

- modified cash equivalent of the benefit of the van
- amount foregone with respect to the benefit of the van

The modified cash equivalent in relation to the benefit of a van means the amount which would be the cash equivalent under the normal rules, but ignoring any payments made by the employee for the private use of the van.

Once the relevant amount has been determined a deduction is then made for any private use contribution made by the employee that he or she was required to make as a condition of being able to use the van privately.

Example 7

An employee is provided with the use of a van that they can use privately under an optional remuneration arrangement. As part of the arrangement the employee has agreed to give up £300 salary each month. The employee makes no further payments for the private use of the van.

The modified cash equivalent of the benefit of the van is calculated under the normal method for the tax year 2017 to 2018 as £3,230.

The relevant amount to be treated as earnings is the higher of the modified cash equivalent of the benefit and the amount foregone, which in this case is £3,600 ($£300 \times 12$).

7 Car and van fuel

Where fuel is made available to an employee who's chargeable to tax in respect of a car or van, under an optional remuneration agreement, the relevant amount to be treated as earnings from the employment is the greater of the:

- cash equivalent of the benefit of the fuel
- amount foregone with respect to the benefit of the fuel

Example 8

An employee has a car with an appropriate percentage of 20% made available to him for the duration of the tax year 2017 to 18. The employee enters into an optional remuneration arrangement with their employer under which they give up a £400 per month cash allowance in return for car fuel. The cash equivalent of the benefit of the fuel is £4,520 (the fixed amount of £22,600 multiplied by the appropriate percentage). The cash allowance foregone of £4,800 ($£400 \times 12$) is the relevant amount to be treated as earnings.

No deduction is given from the relevant amount in respect of the fuel benefit for any private use payments.

8 Beneficial loans

Where a taxable cheap loan is made available to an employee under an optional remuneration arrangement and the amount of salary or cash pay foregone is greater than the interest that would have been payable on the loan at the official rate of interest, the relevant amount to treat as earnings from the employment for the tax year is the amount of:

- salary or cash pay foregone, less
- any interest paid on the loan for the tax year

If the amount foregone is less than the interest that would have been payable on the loan at the official rate of interest then apply the normal rules for determining the amount treated as earnings from the employment.

Example 9

An employee has an interest-free loan of £15,000 made available by their employer outstanding for the tax year 2017 to 2018, when the official rate of interest is 2.5%. The interest that would be payable on the loan at the official rate of interest is £375. The employee agrees under an optional remuneration arrangement to waive his bonus for the tax year of £400 in return for which he doesn't have to pay interest on the loan. The amount of £400 foregone is greater than the interest of £375 that would be payable at the official rate of interest. The amount treated as earnings from the employment is £400. This is the amount of £400 foregone less any interest paid (nil) on the loan for the tax year.

9 General employment-related benefits

Where an employment-related benefit, treated as earnings from the employment as a general benefit under Chapter 10 of Part 3 of ITEPA, is provided to an employee under an optional remuneration agreement, the relevant amount treated as earnings from the employment for the tax year is the greater of the:

- cost of providing the benefit
- amount foregone with respect to the benefit

When determining the taxable value of the benefit and whether to use the cost of providing the benefit or the amount foregone, any amount made good by the employee isn't taken into account. However, if any amount has been made good by 6 July following the end of the tax year in which the benefit was provided, this should be deducted from the relevant amount in determining the amount chargeable to tax.

Example 10

An employer provides an employee with medical insurance costing £500. The employee is required to sacrifice salary of £600. The relevant amount is £600, being the greater of the cost of providing the benefit and the amount foregone. If the employee then makes good an amount of £100 within the time permitted, the amount chargeable to tax is reduced to £500.

9.1 Payments where employee absent because of sickness or disability

Payments by an employer to provide an employee with the right to receive sickness or disability payments are normally excluded from being taxed. Where such benefits are provided under optional remuneration arrangements, the exclusion doesn't apply. The value of the benefit is the greater of the:

- cost of providing the benefit
- amount of salary or cash pay foregone by the employee

Example 11

An employer arranges sickness pay cover for its employees through an insurance policy to pay out an amount to them as sick pay. The employer arranges a basic level of cover for its employees without requiring its employees to contribute. However, the employer arranges a higher level of sick pay that costs it £40 for employees who salary sacrifice £50 to cover the additional premium. The basic level of cover is an excluded benefit and isn't treated as earnings from the employment. However, the employee will pay tax on £50 for the higher level of cover. Since that part of the benefit is provided under optional remuneration arrangements it's not covered by the exclusion.

9.2 Transfer of assets

The optional remuneration rules apply in the same way as for other employment-related benefits where an asset is made available for an employee's use or is transferred to an employee after having been provided for the employee's use as an employment-related benefit.

Paragraph 6.9 of Chapter 6 of this guide explains how to work out the value of the benefit where an asset is transferred to an employee. Where the calculation requires any sums already taken into account in taxing benefits derived from the use of that asset in an earlier year then use the amounts for those years as if the optional remuneration arrangement rules had not applied in those years.

Example 12

An employer provides its employee with the use of a computer for 3 years. The employee sacrifices £300 each year. The market value of the computer when first provided for the employee's private use was £1,200. The cost of the benefit is £240. The employee makes a payment of £300 under salary sacrifice and is given the computer at the start of year 4.

In years 1, 2 and 3, the amount foregone in each of those years (£300) is compared with the cost of the benefit (£240). The relevant amount is the greater of the 2: £300. The amount of £300 is treated as earnings from the employment for each of those years.

In year 4, when the asset has a market value of £300, the employee is given the asset in return for foregoing £300. To work out the benefit for year 4 take the higher of the market value at the date of transfer (£300) and compare with the market value when first applied as an employment-related benefit (£1,200) less the cost of the benefit in each of the tax years when provided as an employment-related benefit ($3 \times £240 = £720$). This gives the cost of the benefit as £480 (£1,200 - £720). This is higher than the amount foregone of £300 so the relevant amount treated as earnings from the employment in year 4 is £480.

10 Definition of benefit

The definition of benefit is widely drawn to include any benefit or facility within the benefits code, regardless of its form or the manner in which it is provided.

However, this doesn't include arrangements under which an employee reduces their working hours or becomes entitled to additional unpaid holidays. The employee is simply reducing their working hours and having their pay adjusted to take account of this. Similarly, where an employee's pay is reduced because of changes to their working pattern they're not being provided with a benefit. For example, where an employee gives up their shift allowance because they no longer work shifts.

11 Exemptions

Benefits provided under optional remuneration arrangements aren't covered by the existing exemptions within Part 4 of ITEPA 2003 except in certain limited circumstances. Where a benefit would otherwise be covered by one of the exemptions the value of the benefit to be compared with the amount foregone in determining the relevant amount is nil. The relevant amount, therefore, is the amount foregone.

Example 13

An employee is provided with the use of a workplace gym in return for sacrificing £300 per year. The benefit would otherwise be exempt from tax under section 261. The exemption doesn't apply because the benefit of the workplace gym is provided under optional remuneration arrangements. The cost of the benefit is treated as nil. The relevant amount is the salary foregone of £300. The employee is taxed on a benefit of £300.

11.1 AMAPs

Employees are sometimes provided with mileage allowance payments under optional remuneration arrangements. The exemption for mileage allowance payments doesn't apply when they're paid under such arrangements. The taxable amount is the amount foregone by the employee.

Example 14

An employer pays 20p per mile to its employees when they use their own cars for business journeys. The employees then sacrifice 25p per mile and the employer tops up the mileage allowance payment to make a total payment of 45p per mile. The amount of 25p paid to the employee under salary sacrifice is taxable.

12 Excluded exemptions

The exception to this is where an exemption is an 'excluded exemption'. Excluded exemptions apply as normal where the benefit is provided under optional remuneration arrangements. They cover payments by employers into registered pension schemes, childcare vouchers, workplace nurseries, and directly contracted employer provided childcare, bicycles and cyclist safety equipment (including Cycle to Work).

More specifically, the following are excluded exemptions:

- Section 239 – payments and benefits connected with taxable cars, vans and heavy goods vehicles
- Section 244 – cycles and cyclist's safety equipment
- Section 266(2)(c) – non-cash vouchers used in conjunction with the exemption for cycles and cyclist's safety equipment
- Section 270A – limited exemption for qualifying childcare vouchers

- Section 307 – only as far as the exemption applies to the provision of retirement benefits
- Section 308 – contributions to registered pension schemes
- Section 308C - contributions to overseas pension schemes
- Section 309 – statutory redundancy payments
- Section 310 – counselling and other outplacement services
- Section 311 - retraining courses
- Section 318 – employer provided childcare
- Section 318A – other childcare provision

The exemption under section 307 is only treated as an excluded exemption to the extent that the benefits provided are in respect of retirement benefits. Where the employee is provided with death benefits (for example, the employer takes out a life assurance policy to provide death in service benefits) then the exemption doesn't apply when provided under optional remuneration arrangements.

Apart from these excluded exemptions, the optional remuneration arrangement rules also don't apply where the benefit is a car with CO2 emissions of no more than 75g kilometre.

13 Transitional provisions

Subject to certain specific exceptions, optional remuneration arrangements entered into before 6 April 2017 aren't affected by the optional remuneration arrangement rules until the earlier of:

- Variation, renewal or modification of the arrangements
- 6 April 2018

Those exceptions are where the benefit provided is a car with emissions of more than 75g CO2/km, living accommodation and school fees which are protected until the earlier of:

- a variation, renewal, modification of the arrangements
- 6 April 2021

Special rules also apply for school fees (see paragraph 20).

- 13.1 An arrangement isn't regarded as being varied if the variation of the arrangement is for reasons beyond the control of the employer and employee. For example, because the employee is involved in an accident and their car has to be replaced as a result. Variation of an arrangement is also ignored if the variation is in connection with the employee's entitlement to statutory maternity pay, statutory adoption pay, statutory paternity pay or statutory shared parental pay.

Additionally, where a variation arises under a specific term of the arrangement then this isn't treated as a variation of the arrangement.

Example 15

An employee enters into an optional remuneration arrangement for the provision of a car where the amount of salary sacrificed is linked to the mileage driven by the employee. The employee exceeds a particular mileage threshold during the 2017 to 2018 tax year. As a result of this the amount the employee has to pay increases and an additional amount is deducted from his salary. Although the amount sacrificed has increased, this isn't a variation of the arrangement and the transitional rules can continue to apply.

- 13.2 Where an employee changes or renews their arrangement on or after 6 April 2017, the date of change or renewal is taken as the date the optional remuneration arrangement rules comes into effect with

respect to the benefit being provided.

- 13.3 For cars with CO2 emissions of more than 75g per kilometre, accommodation and school fees, where transitional arrangements apply, the new rules come into effect on the earlier of:
- change, renewal, or modification of the arrangement
 - 6 April 2021

Where the benefit is reduced school fees or a free school place in a fee paying school, provided the original arrangements were entered into before 6 April 2017, even where a new contract is entered into, the transitional provisions continue to apply until 5 April 2021 provided the new contract relates to the same:

- employment with the same employer
- school
- child

The overall identity of the school is important in determining whether the child is at the same school during the transitional period. For example, if the child moves from the junior to senior school, or senior school to sixth form within the same school, this is treated as being with the same school.

- 13.4 Arrangements entered into before 6 April 2017 may be covered by the transitional provisions even where those arrangements did not come into effect until on or after 6 April 2017.

Example 16

An employer and employee entered into a salary sacrifice agreement on 1 January 2017 under which the employee sacrifices part of their salary in return for being provided with a car. The car isn't delivered until 1 July 2017 at which point the employee's salary is reduced. The salary sacrifice arrangement was put into place before 6 April 2017 and may be covered by the transitional rules even though the arrangement wasn't put into effect until July 2017.

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Entries relate to Chapters 1 to 27 and Appendices 1 to 11. References are to the chapter (for example, 11), chapter and section (for example, 11.2) and appendix (for example, [App.2](#))

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