



## PRACTICE NOTE

**PN 28/90**

**Date: 26<sup>th</sup> February 1990**

### **BENEFITS IN KIND ETC TO EMPLOYEES**

#### **1. INTRODUCTION**

Section 57(1) Income Tax Act 1989 provides for the charging to tax of expenses payment and benefits in kind to employees by reason of their employment. The legislation is set out in Part 1 of Schedule 1 which inserts Sections 2F-2K into the 1970 Act. The legislation takes effect from the 1989/90 year of assessment.

The margin notes in paras 3-6 below, refer to the particular area of legislation within 2F-2K which is relevant to the text appearing alongside.

Section 57(2) Income Tax Act 1989 refers to Part 2 of Schedule 1 which inserts Schedule 1B into Section 21 of the 1970 Act. Schedule 1B sets out the tables of flat rate car benefit cash equivalents and explains how the tables should be applied - see Appendix 1.

Section 2J sets out the tables of car fuel cash equivalents and explains how the tables should be applied - see Appendix 2.

Definition - Members of the employee's family or household fall within the term "employee".

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Appendix 1 (2 Pages) Tables Of Car Scale Rates And Circumstarces Under Which Rates May Be Increased Or Decreased

Appendix 2 (1 Page) Tables Of Fuel Scale Rates And Circumstarces Under Which Rates May Be Decreased

### 3. Expenses Payments/Dispensations

Section 2F	<p>An expense payment to an employee by reason of employment is chargeable to tax as income. The charge does not prejudice a claim to have the expense, in respect of which the payment has been made, treated as a qualifying deduction under Section 31 or 31A of the 1970 Act. Section 31 provides for expenditure being allowed as a deduction from income but only that expenditure which has been incurred wholly and exclusively in acquiring the income upon which income tax is payable. Section 31A (as inserted by Section 60(1) ITA 1989) refers to prescribed deductions for interest, maintenance and covenanted payments under the Income Tax (Deductions) (Prescribed Cases) Order 1989 - Government Circular No. 321/89.</p>
	<p>Note that Section 60(2) ITA 1989 repeals the proviso to Section 31 of the 1970 Act.</p> <p>For certain reimbursed expenses it is proposed to grant dispensations so that the employer need not deduct ITIP from the expense payment (which is treated as remuneration.) For example, subsistence payments to cover the living expenses of an employee whilst off the Island on a business trip, or round sum expenses paid to cover incidental business expenses.</p> <p>When applying for a dispensation the employer will need to provide details of the nature of the payment concerned and the circumstances under which the payment is made in order that the Assessor may be satisfied that the payment represents no more than the actual expenditure incurred. All applications should be forwarded to the Technical Officer at the Income Tax Division.</p>

### 4. Benefits In Kind (Other Than Cars) Provided To Employees

Section 2G	The "CASH EQUIVALENT" of any benefit is chargeable to tax as income.
Section 2H	(a) Meaning Of "Cash Equivalent"
Subsection (1) & (2)	The cash equivalent chargeable as income is the "COST OF THE BENEFIT" to the person providing the benefit less any payments that person may

	<p>receive from the employee towards the cost. The cost also includes any expense incurred in or in connection with its provision and includes a proper proportion of any expense which relates partly to the benefit and partly to other matters.</p> <p>The employee is entitled to deduct from the cash equivalent any amounts of qualifying expenditure under Section 31 as would have been deductible if the cost of the benefit had been incurred out of the employee's income from employment.</p>
	(b) Meaning Of "Cost Of Benefit"
Subsection (5)	Where the benefit is an asset being placed at the employee's disposal the cost of the benefit in any year is deemed to be the "ANNUAL VALUE" of the use of the asset plus any expense incurred in or in connection with its provision; but excluding the owner's costs of acquisition and any rent or hire purchase charges. See also "TRANSFER OF ASSETS."
	(c) Meaning Of "Annual Value" Of The Use Of The Asset
Subsection (9)	If the asset is land the annual value is deemed to be the rent which might reasonably be expected to be obtained on an annual letting if the landlord were responsible for all repairs and outgoings necessary to command the rent charged (other than the usual tenant's expenses of rates and taxes).
Subsection 6(b)	For all other assets the annual value is 20 per cent of its market value at the time it is first provided to an employee.
Subsection (7)	Where the person providing the benefit pays an annual amount of rent or hire charge for the asset which is greater than the annual value as determined in either of the cases above, then the higher amount is substituted for the annual value.

## **5. Transfer Of Assets (Other Than Cars) Meaning Of "Cost Of The Benefit" Where Ownership Transferred To Employee**

Meaning Of "Cost Of The Benefit" Where Ownership Transferred To Employee

Subsection (3)	(a) Where the benefit consists in the transfer of an asset by any person, and since the transferor acquired the asset it had been used or depreciated, the cost of the benefit is deemed to be the market value of the asset at the time of transfer.
Section 2H(cont.) Subsection (4)	(b) Where the transferred asset has previously been provided to an employee and thus charged to tax, as explained at para 4 (b) and (c) above, the cost of the benefit (if apart from this subsection it would be less) is deemed to be the market value of the asset at the time it was first provided, less the aggregate of the amounts charged as a benefit as aforesaid, for the year(s) up to and including the year of transfer.

## **6. Car Benefits**

(a) Benefit Chargeable On The Employee/Increases Or Reductions To The Charge

Section 2 I(1)	The cash equivalent of a car made available to an employee and available for private use is chargeable to tax as income.
Subsection (2)	The flat rate cash equivalent of the benefit is in accordance with tables which are reproduced at APPENDIX 1. The circumstances under which the flat rate equivalents may be either increased or reduced are also explained.
	(b) LIABILITIES INCURRED IN CONNECTION WITH THE CAR
(3) (a)&(b)	Private motoring expenses paid directly on behalf of the employee or reimbursed to him will not give rise to a tax liability in addition to the "scale charges."
	(c) Provision Of Fuel Benefit/Reductions To The Charge
Section 2 J(1)	The cash equivalent of the fuel provided is chargeable to tax in addition to the benefit at Section 2I.
Subsection (2)	The cash equivalent of the fuel benefit is in accordance with Tables which are reproduced at APPENDIX 2. The circumstances under which the cash equivalent figure may be reduced are also explained.
Section 2K	(d) Pooled Cars
	Where the Assessor is satisfied that a car is a pooled car, the car will not be treated as being available for the private use of any of the employees.  The section defines a pooled car and gives details of the appeals procedure in the event that the Assessor is unable to agree a claim for a car to be determined a pooled car.
	(e) Transferred Cars - Ownership Transferred To Employee

	Where the employer transfers the ownership of the car to the employee, the employee is charged on the market value of the asset in the same manner as for all other transferred assets as explained at para 5(a) above.
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## **7. Employer Meeting The Tax Charge**

Employers can provide for their employees to receive benefits tax-free by meeting the tax charge on the employee's behalf. This arrangement can also apply to a specific type of benefit (where more than one type of taxable benefit is paid) provided that prior agreement has been sought from this office.

In such cases, when submitting the annual return form T37, employers must also provide a list stating employee's names and the types and amounts of benefit each employee was paid. The tax chargeable on the total sum (@ 20%) will be shown as an under-assessment on the employer's income tax assessment notice. The under-assessment will represent a separate charge which means that the employer cannot add-back the benefits sum at his trading computation to reduce trading losses.

The benefits for which the employer is meeting the tax charge need not of course be reported on the form T9.

## **8. Benefits Specifically Exempt**

The following benefits provided by employers to employees by reason of employment are exempt -

- a. Accommodation and services or supplies used by the employee solely in performing the duties of employment. Any such items provided to the employee's family or household who are not employees will remain taxable;
- b. the benefit of the cost of improvements or renovations and normal landlord repairs incurred by the employer, to living accommodation provided to the employee. However, any enhanced rental value will reflect in the general charge on the employee as determined at para 4 (c) above;
- c. benefits payable to the employee or the employee's dependants in the event of the employee's retirement or death;
- d. meals in works canteens;
- e. medical insurance covering diagnosing and/or hospitalisation;
- f. a free or subsidised car park (used principally for business purposes) at or near the employee's place of work or any payments made to the employee to cover car parking charges;
- g. expenses of certain nursery or crèche facilities necessary to enable the employee to attend work;
- h. a Christmas Party costed to each employee up to an amount of £50 per head; and
- i. any other benefits received by an employee not exceeding £100 in the aggregate in any one year. The whole of the benefit is charged if the £100 limit is exceeded.

The exemptions are contained in the Income Tax (Benefits in Kind) (Exemptions) Order 1989 Government Circular No. 448/90.

## **9. Further Queries**

Any matters arising from this practice note should be referred to the Technical Officer at the Income Tax Division.

APPENDIX 1

CARS MADE AVAILABLE TO EMPLOYEES FOR PRIVATE USE

TABLES OF FLAT RATE CASH EQUIVALENTS APPLICABLE FOR 1989/90

TABLE A

Cars with an original market value up to £19,250; having an internal combustion engine with one or more reciprocating pistons; and whose engine cylinder capacity is calculated as for the purposes of The Licensing and Registration of Vehicles Act 1985.

ORIGINAL MARKET VALUE	AGE OF CAR AT 5/4/90	
Under 4 Years	4 Years or more	
1400 or Less	£620	£405
1401 - 2000	£820	£555
More than 2000	£1290	£850

**TABLE B**

Cars with an original market value up to £19,250 and not having a cylinder capacity.

Original Market Value	Age Of Car At 5/4/90	
Under 4 Years	4 Years or more	
Less than £6000	£620	£405
£6000 - £8499	£820	£555
£8500 - £19250	£1290	£850

**TABLE C**

Cars with an original market value of more than £19,250.

ORIGINAL MARKET VALUE	AGE OF CAR AT 5/4/90	
	Under 4 Years	4 Years or more
£19251 - £29000	£1700	£1140

More Than £29000	£2695	£1795
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NOTE: The tables may be amended each year by Treasury order.

## **1. Increases To Flat Rate Cash Equivalents**

### **(A) Low Business Mileage**

Where a car is either not used at all for the employee's business travel or such travel does not exceed 2500 miles in the relevant year (proportionately reduced if 2(a) below applies) then the cash equivalent is to be increased by one-half.

### **(b) Additional Cars**

Without prejudice to (a) above, if in any year a person has two or more cars being made available concurrently then the cash equivalent for each of those cars (other than the one being most used for business purposes) shall be increased by one-half.

## **2. Reductions To Flat Rate Cash Equivalents**

### **(a) Cars Unavailable For Private Use**

Where a car is unavailable for any part of the tax year (for example when it is purchased part way through the year) the cash equivalent is reduced by the proportion that the number of unavailable days in the year bears to 365.

A car being unavailable is defined as being any day it was not available to the employee until after that day, or it had ceased to be available before that day. A car is also regarded as unavailable if it was incapable of being used at all for at least 30 consecutive days, e.g. if it was undergoing repairs at a garage and thus out of commission for not less than this period.

### **(b) Cars Used Chiefly For Business Purposes**

If the Assessor is satisfied that the employee was required by the nature of his employment to make use of the car chiefly for business travel which is defined as business mileage in excess of 18000 in the relevant year (proportionately reduced if 2(a) above applies) then the cash equivalents are to be reduced (or further reduced if 2(a) above applies) by one-half.

### **(c) Employee Paying For Use of Car**

If in the relevant year the employee was required, as a condition to the car being made available for private use to pay any amount of money (whether by way of deduction from his/her emoluments or otherwise) the cash equivalent is to be reduced (or further reduced if 2(a) and/or 2(b) above apply) by the amount paid by the employee. If the employee's payment exceeds the cash equivalent figure then the taxable amount is NIL.

NOTE Running expenses paid by the employee which are not conditional to the car being made available for private use, will not qualify as a reduction against the cash equivalent figure.

## Appendix 2

Fuel Provided For Cars Available To Employees For Private Use Tables Of Cash Equivalents

Applicable For 1989/90.

Table A

Cars with an internal combustion engine with one or more reciprocating pistons with a cylinder capacity calculated as for the purposes of The Licensing and Registration of Vehicles Act 1985.

CYLINDER CAPACITY (cc)	CASH EQUIVALENT
1400 OR LESS	£480
1401 - 2000	£600
More than 2000	£900

**Table B**

Cars other than described at Table A.

ORIGINAL MARKET VALUE	CASH EQUIVALENT
Less than £6000	£480
£6000 - £8499	£600
£8500 or more	£900

### **REDUCTIONS TO ABOVE CASH EQUIVALENTS**

#### (1) CARS UNAVAILABLE FOR PRIVATE USE/CARS USED CHIEFLY FOR BUSINESS

Reduction(s) to the full cash equivalents applies in the same manner as at 2(a) & (b) at Appendix 1.

#### (2) EMPLOYEE'S CONTRIBUTION

If the employee is required to make good to the person providing the fuel all expenses connected with the provision of fuel for private usage, then on making the payment the cash equivalent is NIL.



(3) FUEL FOR BUSINESS TRAVEL

If the fuel is only made available for business travel then the cash equivalent is NIL.

NOTE: The tables may be amended each year by Treasury order.