



# Finance Act 2016

## 2016 CHAPTER 24

### PART 1

#### INCOME TAX

##### *Employment income: taxable benefits*

### **13 Exemption for trivial benefits provided by employers**

- (1) ITEPA 2003 is amended as follows.
- (2) After section 323 insert—

#### **“323A Trivial benefits provided by employers**

- (1) No liability to income tax arises in respect of a benefit provided by, or on behalf of, an employer to an employee or a member of the employee's family or household if—
  - (a) conditions A to D are met, or
  - (b) in a case where subsection (2) applies, conditions A to E are met.
- (2) This subsection applies where—
  - (a) the employer is a close company, and
  - (b) the employee is—
    - (i) a person who is a director or other office-holder of the employer, or
    - (ii) a member of the family or household of such a person.
- (3) Condition A is that the benefit is not cash or a cash voucher within the meaning of section 75.
- (4) Condition B is that the benefit cost of the benefit does not exceed £50.
- (5) In this section “benefit cost”, in relation to a benefit, means—

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- (a) the cost of providing the benefit, or
  - (b) if the benefit is provided to more than one person and the nature of the benefit or the scale of its provision means it is impracticable to calculate the cost of providing it to each person to whom it is provided, the average cost per person of providing the benefit.
- (6) For the purposes of subsection (5)(b), the average cost per person of providing a benefit is found by dividing the total cost of providing the benefit by the number of persons to whom the benefit is provided.
- (7) Condition C is that the benefit is not provided pursuant to relevant salary sacrifice arrangements or any other contractual obligation.
- (8) “Relevant salary sacrifice arrangements”, in relation to the provision of a benefit to an employee or to a member of an employee's family or household, means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit.
- (9) Condition D is that the benefit is not provided in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.
- (10) Condition E is that—
- (a) the benefit cost of the benefit provided to the employee, or
  - (b) in a case where the benefit is provided to a member of the employee's family or household who is not an employee of the employer, the amount of the benefit cost allocated to the employee in accordance with section 323B(4),
- does not exceed the employee's available exempt amount (see section 323B).

### **323B Section 323A: calculation of available exempt amount**

- (1) The “available exempt amount”, in relation to an employee of an employer, is the amount found by deducting from the annual exempt amount the aggregate of—
- (a) the benefit cost of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to the employee, and
  - (b) any amounts allocated to the employee in accordance with subsection (4) in respect of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to a member of the employee's family or household who was not at that time an employee of the employer.
- (2) The annual exempt amount is £300.
- (3) For the purposes of subsection (1) “eligible benefits” means benefits in respect of which conditions A to D in section 323A are met.
- (4) The amount allocated to an employee of an employer in respect of a benefit provided to a person (“P”) who—
- (a) is a member of the employee's family or household, and
  - (b) is not an employee of the employer,

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is the benefit cost of that benefit divided by the number of persons who meet the condition in subsection (5) and are members of P's family or household.

- (5) This condition is met if the person is—
- (a) a director or other office-holder of the employer,
  - (b) an employee of the employer who is a member of the family or household of a person within paragraph (a), or
  - (c) a former employee of the employer who—
    - (i) was a director or other office-holder at any time when the employer was a close company, or
    - (ii) is a member of the family or household of such a person.
- (6) In this section “benefit cost” has the same meaning as in section 323A.

### **323C Power to amend sections 323A and 323B**

- (1) The Treasury may by regulations amend section 323A so as to alter the conditions which must be met for the exemption conferred by section 323A(1) to apply.
- (2) Regulations under subsection (1) may include any amendment of section 323B that is appropriate in consequence of an amendment made under subsection (1).
- (3) The Treasury must not make regulations under subsection (1) unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons.”
- (3) In section 716 (alteration of amounts by Treasury order) in subsection (2), after paragraph (f) insert—
- “(fa) section 323A(4) (trivial benefits provided by employers: cost of providing benefit),
  - (fb) section 323B(2) (trivial benefits provided by employers: annual exempt amount),”.
- (4) In section 717(4) (negative procedure not to apply to certain statutory instruments) after “other care: meaning of “eligible employee”),” insert “ section 323C(1) (trivial benefits provided by employers), ”.
- (5) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)