

Clause 3: Exemptions relating to emergency vehicles

Summary

1. This clause introduces three revisions to the tax treatment of emergency vehicles. Firstly, an extension to the current 'on-call' exemption to allow for ordinary commuting in an emergency vehicle when not on-call. Secondly, provisions to ignore fuel as an 'additional expense' in working out the tax charge if certain conditions are met. Finally, transitional arrangements for the taxation of emergency vehicles for the period 6 April 2017 to 5 April 2020. This ensures that a small number of employees in the emergency services avoid an immediate significantly increased tax charge for having their emergency vehicle available for private use following changes to the 'use of assets' legislation in Finance Act 2017.

Details of the clause

2. Subsection (1) introduces amendments to section 248A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Subsections (2) and (3) amend sections 248A(1) and (8) to clarify and extend the scope of the existing exemption for emergency vehicles in section 248A ITEPA. It clarifies it by amending the existing wording of subsection 248A(1)(a) ITEPA so that it is clear that the emergency vehicle has to be provided mainly for the person's business travel. It then extends the scope of the exemption by amending subsection 248A(1)(b) to cover all commuting.
3. Subsection (4) introduces new subsections (5) and (6) into section 205 ITEPA which relate specifically to fuel provided for emergency vehicles.
4. New subsection 205(5) ITEPA sets out the circumstances under which the cost of fuel provided for an emergency vehicle can be ignored as an additional expense in determining the cost of the benefit where –
 - a. the employer provides no fuel for private use;
 - b. the employer reimburses an employee only for fuel for business use; or
 - c. the cost of fuel provided by the employer for private use is made good in full by the employee on or before 6 July following the tax year.
5. New subsection 205(6) ITEPA sets out a number of related definitions.
6. Subsection (5) provides that the amendments made to ITEPA have effect for the tax year 2017-18 and subsequent years.
7. Subsection (6) introduces provisions for the tax years 2017-18 to 2019-20 to alter the

way in which the cost of the taxable benefit of an asset made available without transfer is calculated, if that asset is an emergency vehicle.

8. Subsection (7) provides for the cost of the taxable benefit set out in section 205(1C) ITEPA to be calculated as the private use proportion of the annual cost of the benefit. The “private use proportion” is the proportion of annual mileage that is private mileage. This ensures that the calculation for users of emergency vehicles reverts broadly to previous practice for the transitional period. Following the end of that period, the new rules for calculating the benefit of an asset apply.
9. Subsection (8) disapplies some of the rules in section 205A(2) ITEPA that determine when an asset is treated as unavailable for private use for the purposes of the deduction rule. Adjustments may still be made for periods in the tax year before the day on which the asset is first available to the employee or after the day on which the emergency vehicle is last available to the employee. Adjustments may also be made if the emergency vehicle is shared with another employee during the tax year according to the provisions in s205B ITEPA.

Background note

10. Typically, where a car is provided to an employee by an employer and is available for private use (including home to work commuting), the car benefit charge applies. However, these rules do not apply if the car is of a type not commonly used as a private vehicle and is unsuitable for private use. This definition applies to emergency vehicles with fixed flashing blue lights. This includes concealed lights as deployed in unmarked police cars.
11. An emergency services employee is defined in legislation as working in the provision of the following services: police, fire, fire and rescue, ambulance, and paramedic.
12. There is an existing exemption in Chapter 3 Part 4 of ITEPA for emergency vehicles if the only private use is for on-call commuting or for private journeys made while on-call. Emergency vehicles with more extended private use are not covered by that exemption. They fall within, and are taxed under, the use of assets legislation in Chapter 10 of Part 3 of ITEPA. These rules tax assets, of any kind, made available for private use by an employer. These typically include a wide range of assets such as: helicopters, TVs, washing machines, yachts.
13. HMRC had a long-standing practice of calculating the value of the benefit on these assets on the basis of time apportionment. However, this was later identified as an unlawful extra statutory concession on the basis of the *Wilkinson* rules. As a result, the use of assets legislation was amended by section 8 of the Finance Act 2017 with the intention of broadly reflecting long-standing practice in statute.
14. Draft legislation was published in December 2016 for technical consultation. However, there were no responses and no indication that a number of emergency service staff were using emergency vehicles for private use in a way that meant the relevant exemption did not apply. As a result of the changes to the use of assets

legislation, some individuals faced a significant increase in the taxable value of the benefit.

15. Although ordinary commuting is typically considered a private expense, extending the 'on-call' exemption to allow for ordinary commuting in an emergency vehicle is designed to aid the provision of vital public services.
16. The government recognises that the emergency services require flexibility to maintain fast response times to perform a vital public service. The changes to legislation being introduced should ensure that a tax charge will not discourage employees from taking vehicles home. Extending the scope of the emergency vehicles exemption should mean that more employees in the emergency services have no liability to a benefit charge.
17. If the level of their current personal use means that employees are still taxable under the use of assets legislation, the transitional provisions will allow them, if they wish to do so, to review and possibly vary their contractual arrangements which might otherwise have significantly increased the tax charge for the private use of their emergency vehicle. Employees and employers will have time to consider whether or not to reduce the level of the private use of an emergency vehicle that is allowed in the knowledge that the new rules on use of assets will apply from 6 April 2020.
18. If you have any questions about this change, or comments on the legislation, please contact the Employment Income Policy Team by email:
employmentincome.policy@hmrc.gsi.gov.uk

