

RESPONSE TO CONSULTATION EXERCISE ON MINOR BENEFITS EXEMPTION

INTRODUCTION

This report analyses consultation replies received on draft regulations to exempt minor benefits from income tax. It summarises general reactions to the proposals and provides commentary on particular aspects that have provoked detailed comment. Revenue responses to these points are set out.

The report is in two parts. The first part looks at the responses about cyclists' breakfasts, the second, lunchtime use of works buses.

2. RESPONSES

In total 18 response were received. A full list of respondents is contained in Part 4.

Cyclists breakfasts

- 2.1 There were 13 responses to the draft regulations to exempt cyclists' breakfasts, on 6 designated cycle to work days, per year.
- 2.2 Five respondents welcomed the draft regulations. For example Vodafone said

“While..., cyclists' breakfasts, is small in scale it does promote a platform from which to encourage commuting by bicycle and is an idea which we will certainly be considering.”

However some respondents, while not against the principle of exempting cyclists' breakfasts, thought that employers would have to keep extensive records to comply with the regulations.

Revenue response

The purpose of the regulations is to be helpful and deregulatory, making it absolutely clear that employers providing this minor benefit will not be creating a tax charge. Ministers hope that will underline the repeated environmental messages given in bigger tax changes such as company car tax. Employers will be expected to keep sufficient records only to show that a day was a designated cycle to work day.

- 2.3 Some thought that limiting the exemption to six breakfasts would not encourage people to cycle to work habitually. However the Heathrow Airport Transport Forum said

“It is important from the point of view of maintaining interest in a truly sustainable mode that employers are able to bring together their cycling groups to discuss ways in which to improve

conditions for them. Breakfasts are a quick and easy way of achieving this at minimum disruption to the organisation.”

- 2.4 Four respondents said that it would be more appropriate to make this exemption through an Extra Statutory Concession (ESC), particularly by the extension of ESC A74.

Revenue response

We believe that regulations are the better route for permanent exemptions. The empowering legislation was specifically designed for minor exemptions of this kind. ESCs are more appropriate for temporary exemptions or reliefs.

- 2.5 Three respondents thought that this exemption would be covered by Section 155 (5) ICTA 1988, or by ESC A74.

Revenue response

It is possible that the s.155(5) exemption (which applies to free or subsidised meals provided by an employer on the employer’s business premises, as long as the benefit is generally available to all employees) or ESC A74 could apply in certain circumstances. But not all employers will necessarily have subsidised canteens to meet the conditions of the concession. [And breakfasts provided only to those choosing to cycle that day would not be available to all staff.] Our aim is to support all employers who operate such `green travel` initiatives.

Lunchtime use of works buses

- 3.1 We had 14 responses to the consultation on draft regulations to exempt lunchtime use of vehicles already used as works buses. All respondents warmly welcomed the proposed exemption.

The Chartered Institute of Taxation said
“We welcome the exemption for the non-commuter use of the works bus. This is a thoroughly practical and sensible use of the legislation and will be of great use.”

- 3.2 Four respondents required clarification of the 10 mile limit as they interpreted the legislation to mean a 10 mile round trip.

Revenue response

The intention of the legislation is to exempt trips of up to 10 miles each way. The legislation has been reworded to make this clear.

- 3.3 One respondent also noted that the provisions in S197AA (6) specifically exempt a charge under S141 (non-cash vouchers) where the draft regulations do not specifically exempt a charge.

Revenue response

The power to exempt minor benefits extends only to exempting a charge under s.154 ICTA. The charge on vouchers is under separate legislation. Taking a power to make exemptions for minor benefits where vouchers are used would require primary legislation. We therefore intend, for the time being, to exempt such a charge under Care and Management.

- 3.4 One respondent would like to see lunchtime use recognised as incidental and no restriction by reference to relevant journeys.

Revenue response

We consider this would be too loose a definition.

- 3.5 The Institute of Chartered Accountants of Scotland would like the regulations drafted to include definitions of bus and minibus rather than a cross-reference to definitions.

Revenue response

We believe the cross-reference to section 197AA ICTA 1988 is necessary to refer only to buses and minibuses which are works buses for the purposes of that section. Defining bus/minibus afresh without a cross-reference would not achieve this

- 3.6 One respondent would like us to clarify S197AA, which states journeys between home and workplace. Some employers run works buses from a central pick up point.

Revenue response

We will consider making clearer our guidance on what constitutes journeys between home and workplace. Any amendment to s.197AA would require primary legislation.

- 3.7 The Heathrow Airport Transport Forum and the Association for Commuter Transport have both welcomed the reduction to 9 passenger seats in a works bus that was introduced by Finance Act 2001. The Association for Commuter Transport said

“It is particularly important that the seating capacity is reduced to 9 next year as this will harmonise vehicles with the standard definition of a PSV. There will an increasing number of small vehicles being used by employers as part of busing staff to work. We may expect to see over time the extension of the American practice of vanning, typically 9 to 12 seaters, that is proving to be highly efficient where circumstances permit.”

- 3.8 Three respondents, Camelot, Blue Arrow and Shoosmiths, who do not run a works bus service for employees, asked whether the exemption could be extended to allow provision of a lunchtime only bus.

“We operate from an out of town site, but due to the nature of our business it is not practical to provide a bus service to enable them to travel to and from work, due to the diversity of the area that this would have to cover. We do however provide a bus service, 3 days a week, at lunchtime to enable staff to travel to and from the town centre, which removes the environmental impact of the staff taking their cars to town. This bus service is used by between 50 – 100 employees a day.”

Revenue response

This proposal fits in with the environmental policy of reducing car journeys, but would need to be drafted in a different way where vehicles, not already used as works buses, were undertaking the journeys. Further consideration will be given to this proposal.

- 3.9 Most of the respondents mentioned other forms of travelling to work, for example walking. Could the cyclists breakfast exemption be considered to be discriminatory?

Revenue response

The aim of the exemption is to help employers encourage employees who would usually drive to work to try using bikes. Such employees may well live too far away to consider walking.

But we would like to hear from any employers who make other arrangements not already covered by tax exemptions.

4. Revised draft regulations are attached. These will come into force on 6 April 2002.

List of respondents

	Number
Accountancy bodies and accountants	6
Employers	5
Transport groups	3
Individuals	3
Anonymous	1
Total	18

Of the 18 respondents:

Accountancy bodies and accountants
Institute of Chartered Accountants of Scotland
Chartered Institute of Taxation
Institute of Chartered Accountants in England and Wales
Baker Tilley
Deloitte & Touche
Carter Backer Winter

Employers
Blue Arrow
Shoosmiths (Solicitors)
Camelot
Vodafone
Pfizer

Transport Groups
Heathrow Airport Transport Forum
Association for Commuter Transport
Gear- Change

Individuals
Adrian Hobbs
Paul Bromley
Rhiannon Churchill

STATUTORY INSTRUMENTS

2001 No.

INCOME TAX

**The Income Tax (Exemption of Minor Benefits) Regulations
2001**

<i>Made</i> - - - -	<i>2001</i>
<i>Laid before the House of Commons</i>	<i>2001</i>
<i>Coming into force</i> - -	<i>2001</i>

The Treasury, in exercise of the powers conferred upon them by section 155ZB of the Income and Corporation Taxes Act 1988⁽¹⁾, hereby make the following Regulations:

Citation, commencement and effect

- —1. These Regulations may be cited as the Income Tax (Exemption of Minor Benefits) Regulations 2001 and shall come into force on 2001.

(1) These Regulations have effect for the year 2002-03 and subsequent years of assessment.

Interpretation

- In these Regulations—
- “bus” and “minibus” mean a bus, or a minibus, by means of which is provided a works bus service to which section 197AA of the Taxes Act⁽²⁾ applies;
- “cycle” has the meaning given by section 192(1) of the Road Traffic Act 1988⁽³⁾;
- “employment” includes an office and related expressions have a corresponding meaning;
- “the Taxes Act” means the Income and Corporation Taxes Act 1988;
- “working day”, in relation to an employee, means a day on which his attendance at a workplace is necessary in the performance of the duties of the employment;
- “workplace”, in relation to an employee, means a place at which his attendance is necessary in the performance of the duties of employment.

⁽¹⁾ 1988 c. 1; section 155ZB was inserted by paragraph 3(1) of Schedule 10 to the Finance Act 2000 (c. 17).

⁽²⁾ Section 197AA was inserted by section 48 of the Finance Act 1999 (c. 16) and amended by section 60 of the Finance Act 2001 (c. 9).

⁽³⁾ 1988 c. 52.

Exemption in respect of the provision of qualifying meals

➤ —(2) Subject to paragraph (2), there is no charge to tax under section 154 of the Taxes Act (taxable benefits: general charging provision)⁽⁴⁾ in respect of the provision for employees of qualifying meals.

(3) In relation to an employee, the exemption conferred by paragraph (1) is limited to the first six qualifying meals provided for him in any year of assessment.

(4) For the purposes of this regulation—

- (a) a “qualifying meal” is any food or drink which—
 - (i) is provided by an employer to an employee in recognition of the employee having used a cycle on a designated day to make the journey between his home and a workplace for his necessary attendance at the workplace in the performance of the duties of employment, and
 - (ii) is provided for consumption by the employee on his arrival at the workplace on that day; and
- (b) a “designated day” is a day designated by the employer as a day on which a qualifying meal will be provided to any employee who uses a cycle for the purpose mentioned in subparagraph (a)(i).

Exemption in respect of the provision of bus or minibus

➤ —(c) There is no charge to tax under section 154 of the Taxes Act (taxable benefits: general charging provision) in respect of the provision for employees of a bus, or a minibus, for conveying employees of one or more employers on relevant journeys.

(5) For the purposes of this regulation, a “relevant journey”, in relation to an employee, is a journey which—

- (a) is a single journey of a distance of not more than 10 miles;
- (b) is between his workplace and shops or other amenities; and
- (c) is made on a working day.

⁽⁴⁾ Section 154 was amended by section 53(2)(b) of the Finance Act 1989 (c. 26), section 21(2) of the Finance Act 1990 (c. 29), paragraph 2 of Schedule 4 to the Finance Act 1993 (c. 34), sections 44(3) and 45(2) of, and Part III(9) of Schedule 20 to, the Finance Act 1999 and paragraphs 2(2) and 3(2) of Schedule 10 to the Finance Act 2000.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 155ZB of the Income and Corporation Taxes Act 1988 so as to exempt from section 154 of that Act (taxable benefits: general charging provision) certain minor benefits. The Regulations have effect for the year 2002-03 and subsequent years of assessment.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 provides for an exemption in respect of certain food or drink provided to employees in recognition of them cycling to work.

Regulation 4 provides for an exemption in respect of the provision to employees of a bus or a minibus for the purpose of making certain journeys on working days.