

## **TAXREP 15/02**

### **TAX LAW REWRITE: MINOR BENEFITS**

*Memorandum submitted in April 2002 by the Tax Faculty of the Institute of  
Chartered Accountants in England and Wales in response to draft  
legislation issued in April 2002 by the Revenue*

#### **CONTENTS**

	<b>Paragraph</b>
<b>Introduction</b>	<b>1-2</b>
<b>Mileage allowance payments and mileage allowance relief</b>	<b>3-16</b>
<b>The extension of the exemption for works bus services to minibuses</b>	<b>17-21</b>

# **TAX LAW REWRITE: MINOR BENEFITS**

## **INTRODUCTION**

1. We welcome the opportunity to comment on the draft legislation posted on 2 April onto the Revenue website.
2. This is essentially a rewrite of FA 2001 legislation, and the rewrite changes are therefore more stylistic rather than substantive and nothing arises to cause concern. A practical difficulty was that the Revenue seem to have re-ordered the material within the proposed Bill since they published ED12, and seem to have split the material now into more Parts and re-numbered the clauses; this amounts to no more than an inconvenience in carrying out the review rather than creating any new technical problems.

## **MILEAGE ALLOWANCE PAYMENTS AND MILEAGE ALLOWANCE RELIEF**

### **Part 4: Employment income: exemptions, Chapter 1: Mileage allowances**

#### **Clauses 193-199**

##### **General**

3. It appears from the Commentary that Part 2 of ED12 has now been split into a number of separate Parts, with the employment income exemptions now being in Part 4 and the deductions in Part 5.
4. We do not readily understand the clause numbering (192 – 199) in the context of ED12, but for the purposes of our review of the draft clauses we have taken this as read.
5. The legislation rewritten is of very recent origin (FA 2001) and we are generally happy with the extent to which it is rewritten. The following comments only arise.

##### **Overview**

6. We agree the inclusion of the provisions relating to mileage allowance relief within Part 4 rather than in Chapter 2 of Part 5, for the reasons given in Commentary 3 and 4. We also agree bringing the Schedule 12AA provisions into the rewritten clauses, in line with the rewrite policy referred to in Commentary 6.

##### **Specific comments**

#### **Clause 193 (*The approved amount for mileage allowance payments*)**

7. Re Commentary 12, this clause derives from paragraph 4 of Schedule 12AA which is contained in Part 1 of Schedule 12 of FA 2001 rather than from paragraph 4 of Part 1 of Schedule 12AA.

#### **Clause 195 (*Giving effect to mileage allowance relief*)**

8. In Commentary 14, as regards the definition of the new term ‘accountable earnings’, we have taken the references to Chapters 4 and 5 and to sections 15 and 20 as read, as it is not apparent how these relate to the provisional contents of the Draft Income Tax (Earnings and Pensions) Bill at the front of ED12 Volume 2.
9. We note that the consequences of your recent review of how to handle the disappearance of Schedule E are still being considered, and that you might yet change how you organise the material involved and /or the labels used.

**Clause 196 (*Passenger payments*)**

10. We have taken as read the references in clause 196(1)(b) to sections 87 and 119 and in clause 196(5) the reference to sections 84 and 85(1) on the assumption that the clause numbering in the provisional contents of the Draft Income Tax (Earnings and Pensions) Bill at the front of ED12 Volume 2 has been changed since its publication.

**Clause 197 (*The approved amount for passenger payments*)**

11. Re Commentary 21, this clause derives from paragraph 5 of Schedule 12AA which is contained in Part 1 of Schedule 12 of FA 2001 rather than from paragraph 5 of Part 1 of Schedule 12AA.
12. We agree with the dispensing with the internal definitions of ‘qualifying passenger’ in clauses 196 and 197.

**Clause 198 (*Vehicles to which this Chapter applies*)**

13. We agree that it is more user-friendly to include the expanded definitions of ‘motor cycle’ and ‘cycle’.

**Clause 199 (*Interpretation of this Chapter*)**

14. We have taken the section references in the ‘business travel’ definition in clause 198(1) and in clause 198(2) and (3) as read, on the basis of the assumption set out under clause 196 above.
15. We note that the consequential amendments in Part 2 of Schedule 12 to FA 2001 have now been incorporated into the rewritten clauses as relevant, and that one consequence of these is that it is now unnecessary to rewrite section 578A(1)(c) which had appeared as clause 4.16.9 of ED11.
16. How is it proposed to deal with section 58 FA 2001 (Mileage allowances: nil liability notices), as regards the cessation of effect of nil liability notices in force immediately before 6 April 2002?

## **THE EXTENSION OF THE EXEMPTION FOR WORKS BUS SERVICES TO MINIBUSES**

### **Clause 205 (*Works Transport Services*)**

#### **General**

17. We agree the change in title from ‘Works bus services’ in ED11 clause 4.30.6 to ‘Works transport services’, following the section 60 FA 2001 amendments to extend the exemption to the provision of a works minibus service. We are happy with the rewrite of clause 4.30.6 of ED11 in consequence of these amendments.
18. We note that this clause is now numbered 205, whereas it was 268 in ED12. We have also taken the references in clause 205(1) to Chapters 6 and 11 of Part 3 as read, on the basis that Part 3 has now been created out of Part 2 in ED12 (see General comments under Chapter 1 of Part 4 above). Our underlying assumption here, and elsewhere as comments above, is that the proposed Bill’s contents have been substantially re-ordered since ED12 was published.

#### **Specific comments**

19. The subdivision of clause 205(1)(c) into (i) and (ii) is apparently more cumbersome than clause 4.30.6(1)(c); but we agree that it does make it clearer that (i) and (ii) each apply both to employees or their children.
20. The reference in clause 205(3)(b) to ‘a seating capacity of 9, 10 or 11’ looks a little odd; but it does make sense in the context.
21. In clause 205(4)(b) we question whether the word ‘discounting’ is the most appropriate. We suggest that perhaps the word ‘excluding’ would convey the intention more clearly.

14-13-36  
TJH/PCB  
19.4.02