

TAXREP 25/99

TAX LAW REWRITE: EMPLOYMENT INCOME

Memorandum submitted in September 1999 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales to the Inland Revenue in response to exposure draft 6 entitled: Employment Income: Part 1 issued in May 1999

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TAX LAW REWRITE EMPLOYMENT INCOME

A. General comments

The rewrite itself

1. As with previous exposure drafts, the rewrite of this topic improves the structure and clarity of the law. It is therefore easier and quicker to understand. The rewrite team is to be congratulated on its achievement.
2. We have a large number of comments to make on this rewrite, both on matters of principle and structure as well as on the details. This reflects as much as anything else two factors which make the rewrite particularly difficult. The first factor is the long history behind the existing rules and continuous patch and mend alterations made to them. The resulting legislation consists of rules the end product of which has often been lost sight of. The second factor is that the taxation of employment income directly affects more people than any other tax, and that small changes applied to this broad base tend to have a disproportionate effect on government revenues.

Benefits code

3. We find that the new structure of the benefits code in Chapter 4.4 is a major step forward. It is very much easier to find one's way around it, as well as follow what is being said. Clarifying the relationship between the charging provisions and the benefits code is also helpful. (This also answers the questions under para 12 of the Commentary on page 60 and under para 9 on the Commentary on p 66).
4. We are particularly impressed by the structure of the opening sections for car benefits. The Overview of Chapter 4.8 is a useful 'roadmap' of a sprawling set of rules. Introductory sections 4.8.1 to 5 are more simply laid out than the original, as is 4.8.6 (how to calculate the cash equivalent).

Receipts basis and remittance basis

5. We are also impressed by the way the receipts basis and remittance basis have been clearly distinguished and the remittance basis restructured. The meaning of the three Cases of Schedule E, their overlap, and the extent to which tax could be charged under Schedule E separately from those Cases has always been a stumbling block (an instance of the latter only recently resolved in the courts). Although we have reservations on certain of the principles adopted (see under heading C below at 4.4), we anticipate that the rewritten version will be much easier to understand.

Regulations

6. We have expressed the view elsewhere that it is unfortunate that the PAYE code is not being rewritten. It is as much in need of restructuring and rewriting in plain English as the primary Schedule E legislation. We understand of course that the rewrite team has no

remit and no budget to do this. Nevertheless, it is also unfortunate that even the Regulations that impact on the primary Schedule E legislation are not being rewritten.

7. Generally, the Regulations often contain material that should be in the primary legislation because it deals with the basis on which tax is charged, not with matters of mere administration. The provisions for appeals and for interest on late-paid tax are examples. We see the rewrite project as an opportunity to look hard at the line dividing the two, and employment income is a good example of where certain of the Regulations should be brought into the legislation.

Shared vans

8. In contrast with what we have said above, the rewrite of the provisions dealing with shared vans in 4.8.32 - 36 can scarcely be called an improvement. This is no criticism of the rewrite team but reflects the complicated and intractable nature of the provisions themselves. The number of misdirections under the Origins (see under E below) indicates that the project team struggled as much as we did over these rules. It is unfortunate that so difficult a piece of legislation applies to a large number of relatively low-paid employees and their employers (through P11Ds), which is liable to compound the problems of comprehension. We recommend that priority should be given to completely overhauling these provisions outside the rewrite to make them simple and sensible. We consider that this is an area where the Treasury should, if necessary, be prepared to forgo a small amount of revenue.

Relationship between charging provisions, pooled vehicles and shared household use

9. We have to admit that we struggled also with sections 4.8.39 - 42. The subject matter did not seem to us so difficult that it could not be satisfactorily rewritten. Indeed, we found the original of 4.8.41 easier to follow than the rewritten version. We trust that the drafting of these sections can be improved in the final version.

Mobile telephones

10. We have not reviewed Chapter 4.10 in view of the fact that the abolition of the original legislation with effect from 1999/00 is now a fact rather than an intention, as a result of the passing of section 44 Finance Act 1999.

Need for radical policy review

11. The rewrite of the current block of legislation on employment income reveals that there are rules that if written today would either not have been drawn up in anything like the same way or not be drawn up at all. They remain as historic relics that interfere with the cohesiveness of the tax code and make it more difficult for all parties - taxpayer, employer and revenue authorities - to operate it at a practical level. They are also a significant obstacle to achieving success in the rewrite project because their anomalous and complex requirements are difficult both to redraft clearly and to fit into a sensible structure.
12. Many of the difficulties arise from the practice of identifying a loophole, introducing a specific charge to patch it, finding that the patch is larger than the hole, legislating to deal with the resulting overlaps and so on.

13. We would like serious consideration to be given to abolishing these rules. To the extent that it may be appropriate, something simple could be put in their place as broad compensation, such as an adjustment to tax thresholds. We do not put this forward as a necessary part of the rewrite, though it would substantially cut down the work involved and improve the end product. Rather, we regard the rewrite as an opportunity to take these radical steps now. After all, most of them are almost certain to be taken sooner or later.
14. This is partly because the pressure for real simplification of the tax system is bound to build up further following (a) self assessment, (b) resistance to the increasingly onerous compliance demands being placed on employers and (c) more and more pressure being placed on the revenue authorities to make more efficient use of their resources. We also expect the rewrite project itself to feed demands that the tax system should be simplified at the same time as its rules are rewritten. In any case, as inflation and rising real earnings take effect, the impact of a number of the anomalous rules will continue to decline, almost to vanishing point, affecting fewer and fewer people.
15. We believe the first step should be to start from scratch by defining what benefits are meant to be taxed and what (if any) are not, hopefully as a single proposition rather than the present patchwork built up over the years.
16. The following are examples of what is produced by the patchwork approach.

Rateable value of accommodation under £75,000

17. With the end of domestic rating, it is plainly anomalous to base the benefit of living in employer-provided accommodation costing less than £75,000 on a 'notional' annual value (see 4.7.15). This is based upon a revaluation that last took place in 1973 in England and Wales, in 1977 in Northern Ireland and in 1985 in Scotland (requiring the value to be scaled back by 73%). The rateable values themselves are artificial constructs. For controlled rents, a lower value is taken. For properties built after 1990, a hypothetical rateable value has to be estimated. For overseas properties, a totally different measure is used, one that is arguably unfair by contrast: current market rent (see 4.7.16 and 22). The £75,000 threshold itself, of course, continues to fall in real terms from the level set in 1977.
18. We suggest that consideration be given to basing the benefit for all properties on an interest factor applied to their cost, or on the rent payable by the employer if higher, as for the excess over £75,000 of more expensive UK properties (see 4.7.11).

Luncheon vouchers

19. Freedom from tax on 15p of luncheon vouchers each working day could be described as a much-loved anomaly but surely has no place in today's legislation. Furthermore, having to check that the employee is actually at work on the day concerned is a compliance burden on the employer.

Shared vans

20. We have already referred to these.

Vouchers and tokens

21. Another area where the patch has outgrown the hole is in the 20 sections of chapter 4.6, dealing with vouchers and tokens. They complicate any change to the Schedule E rules, as the change has to be translated through all the voucher and token provisions. They only apply to those earning less than £8,500, since for everyone else the benefit is taxable under the general rule. Since the separate code for lower earners is now of limited application and there is a case for abolishing it (see below), the special rules for vouchers and tokens are becoming a needless burden.

Employees earning under £8,500

22. Finally, and no doubt most controversially, consideration needs to be given to whether the separate code for those earning less than £8,500 should be abolished entirely. The additional layer of complication produced by it is enormous, both in legislative terms and in operating it at a practical level, for instance: it is necessary to measure earnings (taking in certain benefits) to see if they exceed £8,500, and then decide which benefits are included and which excluded. Pages 387 to 401 of the rewrite give a fairly good idea of the scale of the problem. There is often an overlap between the general charging provisions and the specific one for the lower paid, giving rise to theoretical double taxation.
23. The national minimum wage of £3.60 an hour produces an annual rate of pay of almost £7,500 for someone working 40 hours a week. Before long, therefore, the exemption from tax on (selected) benefits will apply not even to the very low paid but just to the very low paid who work part time. This undermines the purpose of the expenses code. Initially it was targeted at those who were earning really large sums (the real value of the original threshold of £7,500 was very high). Whilst it might appear to be a de minimis below which there is no compliance burden, employers have to provide the Revenue with details of benefits provided to all employees whatever their earnings. With continued inflation, and now the national minimum wage, it relieves a rather small tax burden at a disproportionately high compliance cost. Dispensations appear to be a better way of dealing with the problem.

Other desirable policy changes highlighted by the rewrite

24. In the course of reviewing this exposure draft we have identified a number of occasions where we regard the underlying policy in the existing legislation as inappropriate, unintended and/or unfair. Whilst it would probably go beyond the scope of the rewrite project to alter the policy, in most cases, the changes we suggest below would make the rewritten rules simpler. We suggest therefore that the rewrite team should draw these to the attention of the policy specialists within the Revenue in the hope that remedial clauses can be put forward in next year's Finance Bill and changes be made in time to be reflected in the relevant Rewrite Bill.
25. The issues are all brought out in our comments under D below. They can be summarised as follows:
- | | |
|-------|--|
| 4.1.3 | The possibility of doing away with the separate concept of an office (see our comments under B1(3) below). |
| 4.4.4 | The test for a material interest where directors earn less than £8,500 |

- (more than 5%) to be brought into line with that for a personal company for CGT purposes (5% or more).
- 4.6.16 Power for the Revenue by Statutory Instrument to raise the £150 threshold for the exemption for small gifts.
- 4.7.2 The exemption for accommodation benefits provided by local authorities to their staff to be extended to housing associations, particularly where there has been a Large Scale Voluntary Transfer.
- 4.8.20 The exemption from a strict double charge on the benefit of the private use of a company car where the car is temporarily unavailable and is replaced by an inferior one.
- 4.9.2 Giving a steer on what is a material interest in a partnership. (This is in the context of loan to an employee of a close company by a person who has a material interest in a partnership that controls the company.)
- 4.9.20 Using the narrower term ‘family’ rather than the broader one ‘relative’ in the context of beneficial loans to employees, so that the same test can be used throughout the Schedule E legislation.
- 4.50.7 Exempting from Schedule E all foreign staff employed overseas by the Crown.

B. Proposed rewrite changes

B1 Changes to statute but not underlying law (page 14)

- (1) We approve of the labels ‘employment income’ and ‘earnings’ and the way this part has been restructured.

- (2) We find the definition of ‘employment’ to be of limited help. Given the volume of case law on the question it would clearly be impossible to provide an exhaustive definition, as the Commentary concedes.

Subs(1)(a) merely states the universally recognised starting point from which the problems begin. It adds nothing, and may be positively unhelpful to the man in the street, who tends to be unclear as to whether he has a contract or not. ‘Contract of service’ has an archaic ring anyway.

No reason is given for including apprenticeships as subs(1)(b), and we are not aware of any problems with the status. Is it that case law suggests that it is not employment? If so, the better approach might be to treat apprentices as employees.

Subs(1)(c) (Crown service) deals with a question which causes no difficulty in practice, and in fact appears to arise here only because of the limitation of paragraph (1)(a) to employments under contract.

- (3) We agree, if the separate concept of an office is still required, that there should be guidance within the legislation itself on the meaning of the term. It potentially affects a large number of people directly, and makes it easier for them to know if their income is included. So far as we can tell, the definition itself reflects case law reasonably accurately.

It is possible, however, that ‘office’ has no separate meaning under employment legislation, and if so perhaps the concept can be abolished and tax based on a person’s status under employment legislation.

Considerations such as whether an auditor whose fees are normally taxed under Schedule D should be subject to tax under Schedule E when receiving compensation for loss of office (eg in *Ellis v Lucas*, (1966) 43 TC 276) would not then arise. Such a change is of course likely to be greater than is permitted in the rewrite project.

- (4) We agree that it is useful to have it stated upfront that employment income cannot be charged other than under ‘Schedule E’. We are not sure that the origin you have quoted for 4.1.5 is right, though.

- (5) It would be useful to provide a definition of money’s worth, if there was sufficient consensus on its meaning under existing case law. The definition adopted is of limited help, since it is far from clear what sorts of thing are of ‘direct monetary value’ to the employee apart from those which are convertible into money. The definition does not appear to have any statutory or case-law authority. It appears that the only actual example that the rewrite team has in mind is the *Hartland v Diggines*, (1926) 10 TC 247 situation. The case law could therefore be adequately covered by a definition including simply:

- something which is capable of being converted into money; or

- the discharge of a monetary liability of the employee, whether present or contingent.

Anything wider would run the risk of going beyond the present case-law meaning.

- (6) We agree that 'period' should become 'whole or part of a year'.
- (7) Subject to points we make under heading D below, we find the structure and method statement dealing with UK accommodation costing over £75,000 helpful.
- (8) We agree that the Regulations on replacement cars and accessories should be included in the legislation itself.
- (9) It is a useful improvement to bring the contribution provisions for classic cars into line with those for other cars.
- (10) We agree with the changes that (a) charge the benefit itself rather than the cost of providing it, (b) no longer list specific benefits and (c) prevent a residual charge where the benefit falls within the ambit of a specific charge (even if exempt).

We are not sure, however, whether the words 'if or to the extent that' achieve the intended result. If a benefit is (for some reason) taxed under Schedule D on its market value of £100, but the cost to the provider is £120, it seems equally arguable either:

- (i) that the benefit is fully taxable under Schedule D so there is no charge under the benefits code; or
- (ii) that since it is taxed under Schedule D only to the extent of £100 there is still a Schedule E charge of £20.

The Commentary suggests that 4.4.2 resolves the question in the latter sense, but as far as we can see that section only applies where the alternative charge is under Chapter 4.2.

Subsection (3) seems unnecessary, since section 4.4.2 is dealing with a different situation, unless it is meant to cover the possibility of a triple overlap.

- (11) We welcome the change that makes it explicit that foreign emoluments (now foreign earnings) are taxed on the remittance basis, instead of the reader having to refer separately to the sweep-up provisions of old Case III. However, there needs to be a statement that the earnings are only chargeable if the individual is resident in the UK.
- (12) Distinguishing between earnings 'received' and 'received in the UK' is a considerable improvement.

B2 Changes to law and policy (page 15)

- (1) We agree that the benefits code should first apply generally and then be excluded, where appropriate, for employees earning less than £8,500.
- (2) We agree that the limitation on accommodation-related expenses should be extended to those who earn less than £8,500 and that it is best placed in this

chapter.

- (3) We agree with the new definitions relating to cars, car fuel and vans, except that it would be useful to have some guidance on what taxes are chargeable as if they were customs duty.
- (4) We are not sure that any monetary limit is needed, so long as the other conditions in the Statement of Practice are satisfied. However if the choice is between legislation with a fixed £1,000 limit and leaving the practice (which really seems to be a concession) in its present form, we would prefer the latter. If a £1,000 limit is inserted, we would like to be assured that the part of the Statement of Practice allowing certain loans of above £1,000 is retained.
- (5) We agree that relief should be given here where an employment-related loan that has been written off is repaid (though if 'released or written off' were amended as we have suggested in part D below under 4.9.15, it might be unnecessary). The change is clearly appropriate. As matters stand we doubt if an error or mistake claim would, strictly, provide an answer.

If the wording is not otherwise changed, then since 4.9.15 and the following sections are drafted in terms of releasing as well as writing off a debt, 4.9.19(b) should have 'released or' inserted in front of 'written off'.
- (6) We agree that the time when earnings are treated as having been received should be dealt with separately for money and non-money earnings.

B3 Changes to law but not policy (page 15)

- (1) We agree to the use of the word 'emoluments'.
- (2) We agree that it is proper to legislate so as to avoid the potential double charge.
- (3) We agree to the regularising of the position on vouchers.
- (4) We agree that the 15p concession for luncheon vouchers should be made statutory, unless it is ripe for a political decision to remove it.
- (5) We agree that ESC A70 should be legislated.
- (6) It is potentially against the taxpayer to tax the use of (say) a credit card by a relative of the employee when the card was given to the relative. Nevertheless, the present loophole is unintended and no doubt rarely taken advantage of. In the interest of consistency with the benefits legislation generally, we support this rewrite change.
- (7) Although the first point is against the taxpayer, we agree in the interest of clarity that the exception should apply only in years when the car benefit is chargeable. The second point is also against the taxpayer, but for the same reasons as in (8) below we support the change.
- (8) It is potentially against the taxpayer now to tax the use of (say) a credit card by a relative of the employee when the card was given to the relative in the first place. Nevertheless the loophole is clearly unintended and probably little noticed, so in the interests of consistency with the benefits provisions

generally, we agree with the change.

- (9) We approve of ESC A70 being legislated. However, the ESC makes it clear that 'cost' for the purpose of the £150 limit includes VAT whether recoverable or not. If this section is intended to reproduce that effect it needs to say so. It is not sufficient just to say 'the total cost (including VAT)', because recoverable VAT is not a cost.
- (10) Strictly, the last line of 4.6.18 should probably say something like 'are ignored in calculating earnings from the employment', since in most cases it is the cash equivalent of goods or services, rather than the goods or services themselves, which is chargeable to tax. Subject to that, the changes are acceptable.
- (11)-(13) We approve of the changes on vouchers.
- (14)-(16) We approve of the changes on living accommodation.
- (17) It is obviously only fair to limit the charge on overseas accommodation to the commercial rent (or actual rent paid by the employer if greater), without the additional charge for a property costing more than £75,000. (We do not understand paragraph 6 of the Commentary, since subs(2)(b) seems to be merely a rewrite of s145(2), and it is not obvious why it should be relevant that the commercial rent might fluctuate widely.)
- (18) The change seems reasonable, though we are not sure how one could in any event give effect to a deduction greater than the cash equivalent.
- (19) We approve of this change.
- (20) We agree that 'rates and taxes' should be changed, but to substitute 'taxes and charges' leaves open the meaning of 'charges'.
- (21) We agree that ESC A71 should be legislated. But see our comments in part D below under 4.8.42
- (22) We agree that excepted loans should not count towards the £5,000 limit. We imagine the point was overlooked by the original draftsman.
- (23) The changes seem appropriate, and we agree that the lay-out of the calculation is clearer (though not by very much, since the original is already in the form of a method statement).
- (24) Making it clear that accrued interest which is not yet payable should be not regarded as a cheap loan is fair and sensible.
- (25) We agree it is appropriate to avoid a double charge on the writing off of a loan to a participator in a close company, assuming that s161(5) does not do so already.
- (26) We think there is a case for exempting foreign staff employed overseas by the Crown totally. Failing that they should be exempt where they earn less than a given threshold that the Revenue have power to vary by Regulation.

B4 Removal of unnecessary material (page 18)

- (1) We agree that the word 'household' can be removed in the context of

payments equivalent to sick pay.

- (2) Although we agree that s164 is better situated under earnings than under benefits, is it not really a matter of misapplying PAYE so that it should be under the PAYE code?
- (3) We think it is probably true that the omitted words are unnecessary, but we would prefer to retain them for the avoidance of doubt.
- (4) Generally the changes seem appropriate, but we find the relationship between this section and 4.4.2 rather confusing. It seems that 4.4.2 deals with the overlap between the benefits code and the basic charge on emoluments while 4.12.1 deals with a number of other overlaps, which can only be identified by looking at the definition in 4.12.2. One unsatisfactory consequence of this approach is that there is a counter-intuitive definition of 'otherwise chargeable to tax' which excludes the case where as a matter of fact the benefit *is* otherwise chargeable, under Chapter 4.2. It would be much better if all the overlap provisions could be brought together in one place so that one could see more easily how they fit together.

C. Replies to other, specific questions

Subsidiary references in the left-hand column are to paragraphs of the Commentary.

4.1.1 *Income taxed as employment income*

10 Broadly, the selection of material to go in Part 4 looks sensible, though we would need also to see a version of the proposed material on social security income before coming to a firm view as to whether the dividing line has been drawn in the right place, or whether the separation into two blocks is actually necessary. The lay-out, with short chapters for each benefit or exemption looks good. As a minor matter, it might be better to change the order so as to deal with the charging provisions currently planned for Chapters 4.41 to 4.49 before moving on to the deductions and exemptions.

4.4 *The benefits code: overview*

10 The use of the term ‘employment income’ is sensible. We have reservations about the use of ‘earnings’, since the present practice of (broadly) using the word ‘emoluments’ in the context of income tax and ‘earnings’ for NIC purposes helps to avoid confusion between two things which are similar in concept but differently defined. However, we find it difficult to suggest anything better.

As for the structure of the Part, the rewrite team seem to have made a valiant effort to replicate the existing structure while making it as clear as they can. However we believe that the distinction between ‘emoluments’, which are taxed under one of the three cases, and other amounts within paragraph 5 of Schedule E, which are not, is a good example of the sort of unnecessary structural complexity which ought to be removed by Finance Bill legislation before a final version of the rewrite is attempted.

So long as that distinction remains, there is currently some uncertainty as to which of the two categories a number of types of payment fall into, where the relevant charging provision is similarly worded to s148 but not identical. Payments under s595 (retirement benefit schemes) are a case in point, and s313 (covenants for restrictive undertakings) possibly another. Although any legislation which leaves the question open is unsatisfactory on grounds of ambiguity, it would not be appropriate for resolution of a contentious technical issue of this sort to be left to a Rewrite Bill.

At present we are not even sure what approach the rewrite team is intending to take. What (if anything) is intended to be included in earnings under section 4.1.1(3)(d) as ‘other amounts chargeable to tax as earnings from an employment’?

The similarity of the expressions used in subs(2)(b) and (3)(d), which have quite different meanings, is also confusing. The way in which the section is constructed may look quite logical to anyone who is familiar with the *Nichols v Gibson*, (1996) 68 TC 611 issue, but it must look very strange to someone who is not.

In general we are in favour of repeating the main principles in each of the chapters concerned, rather than extracting them into a separate chapter.

We also think the rewrite does clarify the legislation in the three respects mentioned. Our only reservation is that if the £8,500 threshold is to be recast as an exclusion from the general rule (which does seem to be a good idea), its existence needs to be very clearly signposted. At present this is generally done by means of a note in small type somewhere in the list of chapter contents, where it could easily be overlooked. We think it should be an explicit exclusion written into the first section of each of the chapters concerned, or failing that at least a footnote to each of those sections.

- 4.6 Taxable benefits: vouchers and credit-tokens**
This structure does seem to be an improvement. We suggest, however, that each of the three charging provisions should be given a signpost to the general exceptions in sections 4.6.12 to 4.6.16, 4.6.18 and 4.6.19 (and the latter two sections would be better grouped under ‘exceptions’ than ‘general supplementary provisions’).
- 4.6.1 Cash vouchers to which this chapter applies**
(2) The proposed changes seem reasonable.
- 4.6.9 Transport vouchers pre-1982**
3 We believe this is clearly the right place for the proposition in subs(3).
- 4.6.10 Credit tokens**
4 Since the definition of a credit token is very difficult to understand, we would prefer the exclusion of cash vouchers and non-cash vouchers to be retained. In many cases, it would eliminate the need to consider the definition of a credit token.
- 4.8. Cars, vans and related benefits: overview**
5 Generally, the structure seems much improved. It is also a good idea, and in accordance with what we have always recommended, to bring the material from the regulations into the primary legislation.
- 4.8.6-23 Introduction**
9 The general approach described on pages 200 and 202 seems satisfactory, and certainly better than the existing legislation.
- 4.8.18 Reduction when car unavailable**
2 We find the formula approach an improvement.
- 4.8.29 Periods of unavailability and shared use**
3 We welcome the formula.
- 4.9 Taxable benefits: loans: overview**
8 The structure is easier to follow. The labels 'employment-related loans' and 'cheap loans' usefully allow the reader to grasp the concepts they embrace though we would prefer 'beneficial' to 'cheap'. We are not sure it is necessary to go so far as to refer to *taxable* cheap loans, however. The extra word has been dispensed with in the heading to 4.9.3 and in 1 of the Commentary. We doubt if any precision would be lost by eliminating it from the text as well.
- 4.9.9 Official rate: normal calculation**
4 We find the steps for making the calculation easier to follow than the original.
- 4.9.16 Pre-1976 share arrangements**

- 2 We are unaware of any occasions where these rules for shares acquired before 5 April 1976 might apply.
- 4.11** *Scholarships: overview*
- 5 We agree with your restructuring.
- 4.13** *Lower-paid employment: overview*
- 5 We regard it a great improvement to reverse the order, starting with general rules applying to those earning over £8,500 and ending with exceptions for those earning under £8,500.
- However it has effected one possible change in the law. The benefits code as rewritten seems to be unambiguously applicable, via section 4.1.3, to directors whether or not they have a contract of employment or receive other emoluments. Under the existing law it has been argued that a director who has no cash emoluments does not have an employment as defined in s168(2) and is therefore not within s167(1). Although the Revenue may well resist this argument, it should at least be acknowledged what is being done.
- 4.50** *Chargeability and year of charge: earnings: overview*
- 5 The changed structure is much clearer and we would welcome it.
- Under both the existing legislation and the rewrite it seems that Case III income is taxable when remitted even if the employee has by that time ceased to be resident in the UK. We do not know what the present practice is in these probably unusual circumstances, though the practicalities would suggest that it would usually be pointless to pursue the liability. If in fact it is not pursued, it would seem appropriate to take this opportunity to exclude it by statute.
- 4.50.12** *Earnings remitted to UK*
- 4 Bringing all the remittance rules together here is helpful, though we have comments to make on the wording and layout under D and E below.

D Specific comments

In the left-hand column, subsidiary references in brackets are to subsections; those not in brackets are to paragraphs of the Commentary.

Employment income

- 4.1.4** *Workers supplied by agencies*
General Neither the rewrite nor the Commentary solves the problem met on reading s134: what is it trying to tax which would not otherwise be taxed? The answer broadly is that it intends to stop people escaping Sch E tax by supplying self-employed services to the client via the agency. It would be helpful if this was brought out both in the legislation, by note if suitable, and in the Commentary. Without this the section is something of a mystery.
- (6) The last four words – [employment] ‘with that other person’ do not appear in the original. We believe it is implicit in the original, so it is a useful clarification. We think the change should have been flagged, however.
- 4.1.5** *Employment income and other kinds of income*
- This sort of statement is useful if, but only if, the exceptions implied by the words ‘except as otherwise provided’ are signposted.

Earnings

- 4.2** **Emoluments treated as earnings**
- 4.2.1** *Emoluments treated as earnings*
4 We note an apparent inconsistency with para 8 of the Commentary to 4.1.1 (where the word ‘earnings’ is accepted as having different meanings for income tax and NIC). Nevertheless we are content to avoid ‘remuneration’ and continue with ‘emoluments’ instead, which we agree it may be impossible to avoid (see our comments under heading C above at 4.4). However this section itself seems to be unnecessary, in that it merely duplicates the effect of 4.1.1(3)(a).
- 4.3** **Payments treated as earnings**
- 4.3.1** *Payments equivalent to sick pay*
(1) The phrase ‘equivalent to sick pay’ has presumably be chosen to distinguish the payments from contractual sick pay which are part of taxable earnings in the first place. We are comfortable with it, therefore.
- (1) Would it be possible to have ‘the employment’ instead of ‘the employee’s employment’ on the two occasions here, and on the very many occasions elsewhere? We doubt if it could be argued that it referred to anyone else’s employment. We find the phrase irksome, particularly when it is used so often. We note in any case that the phrase is avoided in 4.7.14. among other sections.
- (2)(a) In a similar vein, we note that ‘to the employee’s order’ is used rather than the simpler ‘to his order’. While we recognise that gender-free drafting is an issue that needs to be resolved one way or the other, we would expect a consistent approach to be used. 4.1.4(1)(a), for instance, uses the word ‘he’

and 4.4.3(4) 'his'.

4.3.3 *Payments on account of director's tax*

- (1) The last two lines are too wide. They would catch a cheque sent to the Revenue by the employee's spouse, for instance. Perhaps 'or on the director's behalf' should be added.

Taxable benefits

4.4 *The benefits code*

4.4.2 *Relationship between emoluments and benefits code*

We agree it is appropriate to legislate this practice.

However, as drafted, 4.4.2(1)(b) uses the expression 'the amount treated as earnings under the benefits code' to mean two different things within the space of three lines. At the least, the first one needs to be amended to 'the amount which would otherwise be treated as earnings under the benefits code'. A more satisfactory approach would be to move this provision into Chapter 4.1, where it could operate as an exception to section 4.1.1(3)(c), leaving the phrase 'the amount treated as earnings under the benefits code' to take its natural meaning.

4.4.4 *Meaning of material interest*

- (2) It is easy to overlook the fact that a 'material interest' requires a shareholding of more than 5%, whereas for a 'personal company' for CGT purposes the test is 5% or more. We would like this snare to be removed. It seems that for Schedule E purposes 'material interest' is only relevant to whether a director comes within the provisions for those earning less than £8,500. We would have thought therefore that a change to '5% or more' would be within the remit of the rewrite.

- (2),(3) The words 'on his own or' have been omitted after the first occurrence of 'person' in each of subs(2) and (3). If this is a deliberate attempt at brevity we think it is misguided.

4.4.5 *Meaning of member of employee's family or household*

- We doubt if 'guest' would include a co-habiter of independent means. It would, however, be controversial to seek to change the word.

4.5.1 *Expenses payments*

- (1) There would be something to be said for beginning this subsection 'This Chapter applies to payments made to an employee (whether or not by the employee's employer), ...', to emphasise the fact that the more restricted terms of subs(3) do not apply to the section as a whole.

There is also a need for a signpost to the exclusion for payments covered by a dispensation (not yet rewritten).

4.6 *Cash vouchers to which this Chapter applies*

4.6.5 *Non-cash vouchers to which this Chapter applies*

- (3),(5) In the light of paragraph 3 of the Commentary, it seems that the word 'cheque' is being used in a very different sense from the usual one. A definition may be needed.

In any case, we have some difficulty in seeing the need for the expression 'cheque voucher'. We would have thought that a 'cheque' which can only

be used to obtain goods or services would be within the general definition of a non-cash voucher; whereas one which can be used to obtain cash would be a cash emolument or cash voucher, whether or not the employee is intended or required then to use the cash to obtain particular goods or services.

4.6.6 *Benefit of non-cash vouchers treated as earnings*

- (3) 'Provided in or in connection with its provision' is awkward. More to the point it is more or less incomprehensible. At worst it could be read as referring to the cost both incurred by the employer in obtaining the vouchers and (say) Marks and Spencer in providing food or clothing in exchange for them.

In any case, this seems to be a less successful piece of rewriting, in which the syntax is much harder to follow than in the original. If one assumes, as the existing legislation appears to, that the cost of the voucher and the cost of the goods etc are necessarily incurred by the same person, it is unhelpful to split the two things into separate paragraphs (a) and (b). If the rewrite team is trying to cover the possibility that two different people might be involved their wording needs a good deal of decompression to make sense, and the change in the law should be flagged.

4.6.7 *Cash equivalent of non-cash voucher*

- (1) An *excess* of one sum over another in the original has been changed to a *difference* between the two sums. So if the employee more than makes good the cost of the voucher, he is strictly taxable on the excess. We believe 'excess' should be retained. A similar point occurs at 4.6.11(2).
- (2) The vouchers have to be provided to all lower-paid staff. This would include part-time staff who may not even be present at lunchtime. We do not think that ESC A2 was interpreted that way. The same applies to 4.6.8(2)(b).

It would be pedantic (and contrary to our comments under 4.3.1(1)) to suggest that 'all employees in lower-paid employment' means the whole of the UK workforce earning less than £8,500. Nevertheless one has to hesitate before deciding that it probably refers to the whole of the workforce of a particular employer rather than that at a given workplace of that employer. It would be useful to have it clarified as part of the rewrite. The same applies in 4.6.8(1)(b) and (2)(b).

4.6.8 *Exception for meal vouchers*

- (1) So far as we can see, ESC A74 has only been legislated for in relation to meal *vouchers*. We would expect the rewrite also to deal with meals themselves provided by the employer, as does A74.

The same principle applies to 4.6.16 (small gifts).

4.6.9 *Exception for pre-March 1982 meal vouchers*

- (3) To the uninformed reader this subsection seems to make nonsense of the whole section: why have this charge if the voucher is caught under Chapter 4.12 anyway? We suggest that either the point should be dealt with by a note or that the exemption should explicitly apply to the lower-paid only.

In any case, it is irrational to charge the voucher by the back door, as it were, where Parliament intended it to be exempt.

We do not know why the legislation in FA 1994 (Schedule 24 paragraph 27) is not being rewritten. Although it is of a transitional nature it will presumably remain relevant for much the same length of time as 4.6.9 itself.

- 4 We would prefer the FA 94 legislation to be reproduced here, unless a *Pepper v Hart*, (1992) 65 TC 421 statement over-rides the requirement.

4.6.16 *Exception for small gifts*

- (2)(c) As a policy change outside the rewrite, we suggest that the Revenue should be given the power to raise the £150 threshold by Statutory Instrument.

4.7 *Living accommodation: Overview*

- 2 We do not think it right to say that board and lodging in a guest house, private home or hotel rooms is not living accommodation.

4.7.2 *Accommodation provided by local authority*

- 2 The Commentary identifies the problem that the exemption for accommodation provided by local authorities for their employees does not extend to housing associations and their employees, but does not suggest any solution. This is anomalous, particularly where there has been a Large Scale Voluntary Transfer. Clearly the necessary change would be beyond the scope of the rewrite itself, but we suggest the rewrite team should feed anomalies of this sort into the regular Finance Bill process.

4.7.5 *Chevening House*

- We would like to see this exemption brought into the Chevening Estate Act, where it has always belonged, rather than clutter up the tax legislation.

4.7.12 *Other accommodation in UK over £75,000*

- (2) It is not clear if there is meant to be a difference between 'sum made good' in the first step and 'rent paid' in the fourth, and if so why. Para 5 of the Commentary implies they mean the same thing.

It would seem that the five steps for calculating the cash equivalent could be simplified and reduced to four if step 1 was eliminated and step 5 became the rent paid less any sum made good.

4.7.13 *Special rule for cost of accommodation*

- (3) In (a) of P, 'recent improvements' might give the wrong impression. They are improvements after the employee has started to occupy. On the other hand, the original intention might have been to include *all* improvements, since the employee is taxed on those carried out before he started to occupy (through the market value adjustment) as well as after. So if he makes a contribution to all improvements should he not have his benefit reduced accordingly? Might such a change be made to the law without it being a change of policy?

4.7.17 *Deductions*

- (3) We cannot of course yet comment on the meaning of foreign earnings in 4.49.3(2).

4.7.18 *Relationship with charge on emoluments*

- (2) This is, at first sight, puzzling for anyone who may have forgotten the definition of 'emolument'. It might help to add the words 'within Chapter 4.2' at the end. It would also help to add 'in respect of the provision of the accommodation'.

4.8 Cars, vans and related benefits

4.8.1 *Tax charge on benefit of car or van*

- (1) Both (b) and the second paragraph are repeated in 4.8.3. To prevent confusion, they should possibly be left out here. If not, it should be 'the member' for consistency, not 'a member'.

4.8.2 *Meaning of car and van*

Splitting and indenting (i) 'a motor vehicle ...' and (ii) 'a vehicle of a type ...' would avoid the possible reading that 'car means ... a vehicle of a type not commonly used as a private vehicle ...'.

The definition of motor vehicle, goods vehicle and so on are so integral to the meaning of a car or van that the reference to 4.8.44 might be by way of note to the section rather than buried in Defined terms.

4.8.6 *Cash equivalent of benefit of car*

- (1) This lay-out is generally helpful, but we think the paragraph after Step Five should say 'This amount is the cash equivalent of the benefit of the car unless a reduction falls to be made ...'. At present it looks rather strange that Step Six leads one to a cash equivalent and Step Five to the 'amount treated as earnings' - even though in fact these are the same thing. The opening line says that this section tells one how to find the cash equivalent and we would be inclined to stick to that, rather than duplicating the effect of section 4.8.1(2) by following through to state that the end result is the amount treated as earnings; but if the latter approach is to be adopted it should come at the end of the section and in a form which applies to all the possible circumstances (ie reduction under Step Six, apportionment under subs(3), or neither).

4.8.12 *List price of accessory*

- (2) The reference should be to the price published by the manufacturer etc of the accessory, rather than of the car: cf s168B(4).
- (3) This gives the list price for any accessory fitted post-delivery. It does so by reference to the *car* manufacturer's etc price, but s168B(4) as applied by s168C(4) gives it as the *accessory* distributor's price.

4.8.14 *Replacement accessories*

- (2) The closing words should be '... in arriving at the cash equivalent of the benefit of the car for the year', since under the structure adopted for 4.8.6 accessories are taken into account separately at Step Two rather than as part of the price of the car at Step One.
- (3) It is not clear why, here and in the original, this limitation does not apply if the replacement accessory is a standard one. Also, for this section generally, what happens if the replacement takes place part way through the year?

We are not sure whether this section succeeds in avoiding double counting, in the case where the old accessory was a standard accessory. We think the existing regulation 3(1) of SI 1994/777 does apply in that situation, provided the new accessory is not 'superior'; it is confined to cases where the new accessory is within s168C, which among other things means that it must not have been made available with the car at the outset, but a replacement will by definition satisfy that test. The corresponding criterion in the rewrite section is that the new accessory must be a non-standard

accessory, and it is not clear to us (having regard to the definition in section 4.8.10(3)) whether or not a replacement, of the same type as an original accessory whose value was reflected in the list price of the car, is 'non-standard'.

We would welcome clarification as to what is supposed to happen under either the existing regulations or the rewrite if a *standard* accessory is replaced by a new accessory of the same type but superior quality.

4.8.19 *Reduction for payments for private use*

- (1) The original includes payment by deduction from earnings. Although we imagine that the meaning is not altered by using the simple word 'pays', we prefer the fuller version, as used in 4.8.30(1).

4.8.20 *Temporary replacements*

- (1)(b) As we read this, if a car is temporarily replaced by an inferior one, it looks as though the benefit of both cars is taxable if the period is less than 30 days. While that conforms to the original (SI 1994/778 para 4(2)), it is liable to give the wrong impression. Para 4(1)(b), now 4.8.20(1)(b)(ii), would give a let-out. The apparent conflict would be avoided by removing the reference to a materially worse car. It is revealing that 'a materially worse car' is not defined, unlike a better one.

The two limbs of the condition in (1)(b) are linked by 'or' in the original, not 'and'. One effect of the change appears to be that the unfortunate employee who is given a replacement of materially lower quality would be subject to a charge on both cars.

4.8.21 *Cars that run on road fuel gas*

- (1) The car may have been manufactured so that it will only run on diesel. Both here and in the original, for a LPG-powered car, two assumptions have to be made: its price as a petrol car rather than a diesel car and then its price as a LPG car rather than a petrol car. Can it not be written as the extra price for a LPG car compared with its state as a petrol or diesel car?

4.8.25 *Car fuel: cash equivalent*

- (5), (6) In principle, we prefer any definition from outside a taxing act to be brought within one, unless it is particularly long.

4.8.26 *Car fuel: reduction of cash equivalent*

- (3) We are grateful for this new restriction to the fuel benefit where the car is shared.
- (4)(b) We would like to see the statement that there is no fuel charge where no fuel is provided for private use brought into the beginning of this group, ie in 4.8.24. Like the equivalent in 4.8.1(1) for the car benefit, it avoids many people having to read further.

4.8.28 *Cash equivalent of van: basic case*

- (3) This introduces the 'reckonable amount' without defining it or stating its purpose. In fact it leads to the cash equivalent in 4.8.30, but some guidance at this earlier stage would help the reader.

In any case, 'reckonable amount' looks very much like old-speak. Why not 'basic chargeable amount', as in section 4.8.6?

- 2 We do not understand why it is said that 'as with cars, there appears to be

risk of confusion' if the 'cash equivalent' continues to be used. There is no alternative expression used for cars (or fuel) that we are aware of. This may just be a matter of wording, though.

4.8.30 *Car: reduction for payments for private use*

(2) The amount brought forward from 4.8.28 (basic charge) should also be brought forward here.

On the other hand this seems a rather cumbersome way of setting out a very simple calculation. It would be better to use the same structure as 4.8.19, which is doing the same thing.

4.8.31 *Shared vans: introductory*

The second sentence is not strictly true, since (subject to the further comment below) 4.8.32(4) allows periods of exclusive use not exceeding 30 days to be treated as part of a period of shared use.

4.8.32 *Meaning of shared van*

(3) The law seems to have been changed here, since the existing paragraph 4(3) (a) of Schedule 6A covers the possibility that for part of the period in question the van might be available to only one employee. The rewritten version does not do this, which also has the consequence that subs (4) seems to be redundant. Replacing 'throughout', in paragraph (a), by 'in' would probably cure the problem.

4.8.33 *Shared van: participating employee's cash equivalent*

(2),(3) Again, 'reckonable amount' is an unattractive phrase, and it is not clear why we need to have two separate defined phrases - 'reckonable amount' and 'the participating employee's share' - when they appear to be the same thing. In subs(4), 'basic chargeable amount' (as in section 4.8.6) would be better than 'basic value' - the figure is not representative of the actual value of the van.

4.8.35 *Shared van: alternative calculation*

(1) The calculation in 4.8.33 is not of 'a basic value ... for a participating employee' but of 'the participating employee's share', starting from the basic value of the van which is a fixed figure. And what this alternative calculation provides is a substitute for the participating employee's share, rather than the basic value.

4.8.36 *Van: reduction for payment for private use*

(1), (3) It is unclear how the two definitions of the relevant sum are meant to tie in with one another.

We think a proliferation of defined terms is positively unhelpful. The section could probably have been drafted quite clearly without having a special expression for the figure which is defined as 'the relevant sum'. However the definition of 'employee's private use' is worse since it actually adds nothing to what is said in sections 4.8.3 and 4.8.5. But it sets one off in search of some special refinement of meaning, applicable only to shared vans, which requires the concepts covered by those two sections to be restated within one defined phrase. As we see it, the overriding requirement is that the three sections which deal with payments for use should follow an identical pattern unless there are actual differences in the intended effect, whereas at present they are all different.

4.8.39	<i>Interaction with general provision</i>
General	We found this section generally opaque and difficult to make sense of. Its nuances are unlikely to be understood by the uninitiated.
(2)	This more or less replicates 4.8.1(1), which adds to the reader's confusion. No origin is given for the second paragraph of the section, and we cannot see what it is based on.
4.8.40	<i>Other charges excluded</i>
(1)	The words 'arising in the circumstances mentioned in subsections (2) to (4) below' imply that all three of them have to be satisfied. It seems that 'any of' needs to be inserted before 'the circumstances'.
(2)-(4)	The Origin quoted for these subsections does not seem right, so we have been unable to review them.
Note	For a driver, the reference to 4.12.1 may not go far enough as it is the general charging section for benefits not otherwise charged. S155(1) specifically excludes a driver from the car benefit, so we wonder if this should be made explicit in the legislation.
4.8.41	<i>Pooled vehicles</i>
General	We found this section convoluted and the original easier to follow. Also, we found the constant repetition of 'in that year' tiresome.
(1)	We do not understand why there is a reference to 4.2.1, which says that emoluments are treated as earnings. Perhaps the reference should be to 4.2.2 (meaning of emoluments).
(2)	We do not know why the words 'of one or more employers' are included in (a) but omitted from (b). Perhaps 'the employees' when used subsequently are meant to subsume these words. If so, they would fit in better right at the end of (1). Otherwise it is generally unclear who 'the employees' are.
(9)	The meaning of this subsection is obscure, both here and in the original. Can some substance be given to it?
4.8.42	<i>Car available to more than one family member</i>
General	The structure of 4.8.42(4)(a) is not very clear; in particular it is not obvious whether 'to whom this Chapter applies' refers back to 'members of the family' or 'individuals' or 'the employer'. Too many concepts have been loaded into a single sentence, the last straw probably being the inclusion of the words 'employed by the employer', which are not in the published concession and do not seem to be strictly necessary. Another example of this sort of problem is that it is necessary to identify, eg where husband and wife are each employees of the same employer, which one is 'the employee' and which 'a member of the employee's family or household'. As we read it, this identification is done for <i>each</i> , so the wife is a member of the family of the husband as an employee, and the husband is a member of the family of the wife as an employee. The position becomes even less clear if the wife can drive the 'husband's car', and therefore it is available to her, and similarly the husband can drive the 'wife's car'.
4.8.44	<i>Minor definitions – general</i>
General	As a general principle, we think that definitions taken from outside the tax legislation should be imported into it, to save having to look up non-tax

legislation. This applies to the definitions of invalid carriage, motor cycle and road (for which, incidentally, the relevant section of the Road Traffic Act 1988 is missing) so long as the length is manageable.

4.8.45 *Minor definitions – equipment for disabled person*

- (3)(b) We suppose this paragraph means ‘is not required, at the time in question, to be returned to ...’.

4.9 *Taxable benefits: loans*

4.9.2 *Employment-related loans*

- 4 We would have thought that the opportunity could have been taken to repair the omission of a definition of a ‘material interest’ in a partnership, if only in vague terms such as ‘.. and in relation to a partnership shall be construed in like manner’. This may be regarded as being within the remit of the rewrite rather than involving a substantive change of policy.

4.9.6 *Advances for necessary payments*

- (1) SP 7/79 refers to expenses ‘necessarily’ incurred in the duties, whereas the words ‘wholly, exclusively and’ have been added without comment. This seems to be a restriction to existing practice.

4.9.13 *Aggregation of loans by close company to director*

- (3) S160(1BA)(b) excludes from aggregation loans made otherwise than by virtue of employment. Since, by definition, all loans to an employee are deemed to be by virtue of employment (other than loans by an individual for family etc reasons), the decision to drop the exclusion seems reasonable.

4.9.14 *Meaning of loan qualifying for tax relief*

- (2)(a) Relief for interest paid to buy or improve a property that is let is no longer given under s353 but as an expense under Schedule A and its Case V equivalent. Such interest needs to be included here. (The relief for interest on loans to buy the main residence is of course now redundant.)

4.9.15 *Writing off of loan*

- (1) In the second paragraph, it would seem necessary also to make an exception for a write-off on or after death, per 4.9.18.

Contrary to the view taken in the Commentary, we think the phrase ‘released or written off’ should be changed so as clearly to exclude the case where the employer writes off the loan in his own books as a bad debt while still retaining every intention of collecting it if this should become possible.

- (4) This seems to need some opening wording to define the situation in which it is relevant.

4.9.20 *Meaning of relative*

The use of ‘their’ in place of ‘that person’s’ or ‘his or her’ appears to be a new departure. We appreciate that gender-free drafting is a minefield, but at the least a consistent approach should be used. Beyond that, while ‘their’ is currently gaining acceptance when relating to a single person, it is perhaps too early to say that it has a permanent place. We would prefer the term to be avoided in the rewrite.

One might ask why a wider expression than ‘family’ has to be used just for this one purpose. This is a matter which we think should be reviewed as a matter of policy, outside the rewrite.

4.11 Scholarships

4.11.1 *Employment-related scholarships*

- (4) It may seem a small point, but if ‘the’ (or ‘that’) was substituted for ‘a’ at the end of the first line of the second paragraph, it would accord with the original. It is of course difficult to imagine circumstances where a second connected party made the contribution but not under an arrangement between the employer and the first connected party. Nevertheless, we feel that the distinction should be retained.

It is strange that the ‘domestic, family or personal relationships’ exclusion applies when the scholarship is *provided* by the employer but not when it is *arranged* by him (or by a connected person). Indeed it is arguable that ‘arrangements’ would include the case where the employer provides the scholarship directly, in which case subs(3) and (4) are in conflict in this case. Although the problem exists in the existing legislation, one might have hoped for some clarification.

4.11.3 *Trusts and schemes*

- 2(a) We are not sure if a scholarship provided by a trust fund or a scheme should preclude one provided by the employer direct, even though that is what the existing legislation says. A company could provide open scholarships, as well as closed ones to its employees’ children. So long as payments relating to employees’ children come to no more than 15% of the whole, it seems to us that the employees would not be taxable.

4.12 Residual liability

Heading We are not particularly happy with this heading, which implies that it deals with left-over items. In fact it deals with items not covered by specific rules. We suggest ‘other liabilities’ instead.

- (2) Presumably, as the Commentary implies, what is meant is the expense incurred by the provider of the benefit. It would be as well to spell this out, since otherwise the benefit could theoretically be multiplied up if it passes through several hands before reaching the employee.

4.12.6 *Transfer of asset used or depreciated*

- (2) Saying that the cost of the benefit is *limited* to the market value at the time of the transfer implies that the benefit cannot come to more than the original market value. This is indeed confirmed in para 2 of the Commentary. It is possible, however that the asset might have gone up in value since being used. In that event the original would have allowed the benefit to be *increased* to the value at the time of transfer. If the Revenue do in practice treat the provision solely as a limiting the value, this subsection should be described as a change to the law which does not affect anyone's liability to tax. 4.12.6. On the other hand, case law (eg *Weight v Salmon*, (1935) 19 TC 174) probably brings the full value into tax.

4.12.7 *Deduction for necessary expenses*

Chapter 4.18 seems to be an incorrect reference, as it deals with security expenses. We think the reference taken from s156(8) should be to 4.21 (ministers of religion).

4.12.8 *Apportionment of expenses*

- 1 It is stated in the Commentary that the apportionment rule covers use by

more than one person, and for part of the tax year, as well as different types of use by one person. Although we agree with this view, it is not one that immediately stands out on reading this section (or the original). We suggest that the intention should be made clearer in the rewrite.

4.13 Lower-paid employees

4.13.2 *Meaning of lower-paid employment*

- (1) It would be better to make explicit the point that ‘earnings’ here refers to the *entitlement* for the year, particularly as the phrase ‘the earnings from the employment’ in section 4.13.3 does seem to carry the connotation of the amount actually received.

4.13.4 *Car benefits*

- (4) Chapter 4.6 deals with cash vouchers, non-cash vouchers and credit tokens. Sections 141 and 142 deal with the second and third of those items but not the first. It appears, therefore, that cash vouchers have wrongly been added to earnings for arriving at the £8,500 threshold.

4.13.6 *Loan released or written off after employment becomes excluded*

- (2) If one looked for an example of indigestible tax legislation, this would do very well. It is, of course, easy to criticise a sentence which has to be read a number of times before it can be understood, and which uses the word ‘employment’ eight times and ‘loan’ five times; it is a lot more difficult to suggest how it can be improved. All the same, we feel that the attempt should be made, using techniques that have successfully been developed elsewhere in the course of the rewrite.

Perhaps something on the following lines would be suitable: ‘If an employment becomes an excluded employment and a loan within 4.19.5 was made before that time, that section applies as if the employment had not become an excluded one’. This would enable subs(2) to be simplified through referring to the new (1).

Chargeability and year of change

4.50 Chargeability and year of charge: earnings Overview

- 10 We agree that it would not be appropriate to legislate for SP 5/84. Separately from the rewrite, however, the wording of the statement should be looked at afresh in the light of its limitations.

4.50.1 *Chargeability and year of change*

- (2) We think the words ‘the total amount of’ are inappropriate, since some of the earnings may be chargeable on receipt and some on remittance: one does not calculate a total amount first and then decide on the basis of charging it.

4.50.2 *Employees resident and ordinarily resident*

- 2 The Commentary mentions a difficulty over the word ‘for’, but no attempt seems to have been made to resolve it in the actual legislation; ‘attributable to’ might be an improvement.

4.50.3 *Foreign earnings excepted*

- (2)(b) This (duties performed wholly outside the UK) replicates what has already been said in subsection (1). So far as we can see, there is no need for it.

- 4.50.5** *Employee resident but not ordinarily resident in UK*
 (3) The existing legislation catches sums paid in the UK as well as sums remitted to the UK. We suggest inserting ‘or received in the UK’ at the end of the sentence.
- 4.50.8** *Attribution of earnings to year*
 4 This points out that the ‘*Bray v Best*’ rule applying to the three cases of Schedule E is being extended to all charges under Schedule E. This is a substantive change in the law which at least should have been flagged more prominently. It does not appear under heading 2 or 3 on pages 15 to 18 of the document, for instance. We doubt if it should even be part of the rewrite project.
- 4.50 10** *Receipt of money earnings*
 (1) Rule Under the existing legislation we have heard it argued that for this purpose a person ‘becomes entitled to payment’ of earnings when he becomes indefeasibly entitled to payment of them on a specified future date. We have never accepted this, and it does not appear as though the rewrite team do either, but it would be helpful if the point could now be put beyond doubt by adding wording such as ‘immediately or on demand’.
 Two
- (1)(c) Although the wording of the original has been followed, the words ‘known until the amount is’ confuse the reader and do not seem to add to the meaning. It is difficult to imagine that a sum can be known without also having being determined.
- 4.50 11** *Receipt of non-money earnings*
 General There is a distinction, here and in the original, between benefits treated as earnings received at a particular *time*, at a particular *period* in a tax year and in a particular tax *year*. Although the *time* at which earnings are received (or deemed to be received) is relevant for PAYE purposes, we are not sure what is gained by distinguishing between the period and the year.
 We are not sure if s162(6) (employee shareholdings sold in excess of market value) should be brought in here. It is referred to in s202B(10). No doubt this will be borne in mind when the legislation on employee shareholdings is rewritten.
- (1) To tie in with 4.2.2, ‘money’s worth’ should presumably be brought in here.
- 4.50 12** *Earnings remitted to UK*
 (3) The phrase ‘Earnings outside the UK’ needs either to be defined or to be redrafted with greater precision.

E. Detailed comments on drafting

Subsidiary references in brackets are to subsections; those not in brackets are to paragraphs of the Commentary.

Employment income

4.1 Income taxed as employment income

4.1.1 *Income taxed as employment income*

(3)(d) No doubt a cross-reference will be inserted once the substantive part has been drafted.

4.1.4 *Workers supplied by agencies*

(1)(a) We would prefer the original commas to be reinserted, as ‘subject to or to the right of’ reads awkwardly.

(2)(a) It is unclear if the employment is with the client or the agency.

(8)(b) The ‘or’ in the third line should be ‘nor’, per the original.

(6)(b) We do not find this particularly easy to understand.

(7) Part of this largely duplicates what is already in subs(1)(c).

We would welcome clarification of why ‘perquisites’ need to be brought in here.

2 In the first indent, we think it should be ‘an’, not ‘that’ employment, as no employment has yet been established.

3 In the third line, the reference should be to 4.2.2, not 4.2.1(2).

Earnings

4.2 Emoluments treated as earnings

4.2.1 *Emoluments treated as earnings*

Note It is not obvious why items received in exchange for vouchers should be singled out here.

The purpose of the footnote is unclear, since section 4.6.18 is a limitation on the meaning of ‘earnings’ rather than ‘emoluments’.

4.2.2 *Meaning of emoluments*

(2) A signpost to the exception in 4.8.39(1) (car or van benefits) might be helpful.

(2)(a) It is not clear what ‘direct monetary value’ adds to ‘monetary value’. The extra word causes doubt, for instance as to the timeframe.

4.3 Payments treated as earnings

Overview ‘Judging by the index, the reference in the Commentary to 4.49 is incorrect.

(2)(b) ‘To or to the order of or for the benefit of’ would be improved by commas.

4.3.1 *Payments equivalent to sick pay*

Origin The origin for subsections (1) and (2) should be s149(1) *and* (3).

- 4.3.2** *Payments on account of tax*
 (1)(a),(2) 'Treated' and 'notional' involve tautology.
- Taxable benefits**
- 4.4** **The benefits code**
- 4.4.3** *'Director' and 'full-time working director'*
 (2) We suggest that no comma is needed after the 'and' in the last line but two.
- 4.4.4** *'Material interest'*
 (2),(3) The words in brackets referring to associates tend to break the flow of these sentences. Perhaps they should be relegated to a subsection.
- (4) Instead of 'Part XI of the Income and Corporation Taxes Act 1988', it would be more helpful to refer to ICTA s.417(1) and (3).
- 4.4.5** *Members of household etc*
 - 'Members of the employee's family or household' is a single phrase, and we doubt if anything is gained by splitting it.
- 'Servants' has an archaic ring. We do not know if live-in nannies and the like are included in the term. If they are, perhaps something like 'live-in domestic staff' would be suitable. Or perhaps the term can be dropped altogether.
- 4.5** **Excess payments**
- 4.5.1** *Expense payments*
 (2) Spaces are needed between the statutory references. In any case, have they not now become 4.20-23?
- (4) 'Paid away by' has an archaic ring to it.
- Origin The origin for (2) should include s153(2), which should be removed from the origin for (3).
- 4.6** **Vouchers and credit tokens**
- Overview In something as informal as an Overview, if not in the sections themselves (see our comments under 4.3.1(1) of D above), we would have thought that the phrase 'employee's employment' could be dispensed with. What about 'someone's employment', then 'the employment'? The same applies in 4.7 and elsewhere.
- 4.6.1** *Cash vouchers*
 (3)(b) We are not sure if the meaning of a 'savings certificate' is clear, and it is not obviously the same as 'certificate for redeemable securities' in 4 of the Commentary. In any case, since this subsection appears to refer to National Savings Certificates, why not say so?
- 4.6.2** *Meaning of cash vouchers*
 Origin There are two origins for subsection (3). The first is wrong.
- 4.6.5** *Non-cash vouchers*
 Defined Elsewhere, apart from 4.6.5 to 7, the definition of employee is given as terms 4.1.2 and 4.1.3.
- 4.6.6** *Benefit of non-cash vouchers*
 (1) What does the word 'particular' add?

(2)(b)	This would seem to defer the tax for a year if the employee receives the voucher on 5 April and hands it to his or her spouse on 6 April.
Defined terms	The cash equivalent should be referenced to 4.6.7.
Origin	The origin for subs(3) is s141(1), not (2)(b).
4.6.7	<i>Benefit of non-cash vouchers</i>
(2)	We suppose the possibility that the employer may have no lower-paid employees should also be covered, despite the improbability of such a business providing luncheon vouchers.
(3)(a)	15p will not 'obtain' a meal. It can be used towards a meal, however.
4.6.10	<i>Credit tokens</i>
(3)	As between the credit card company, the employer, the employee and the supplier of the goods or services, it is difficult to work out which party is which in 'given by a person to another person'.
(4)	We marginally prefer the original 'object', or perhaps 'item', to the 'thing'.
(3),(4)	These subsections remain near incomprehensible. We suspect, however, that little can be done to improve the original other than to say that it includes credit cards. These account for by far the majority of items.
4.6.13	<i>Incidental overnight expenses</i>
(4)	It would be helpful to be more specific and add (3) to s200A.
4.6.19	<i>Inland Revenue notices</i>
General	These 'notices' are generally referred to as 'dispensations', so it seem reasonable to describe them as such.
4.7	<i>Living accommodation</i>
4.7.7	<i>Cash equivalent of benefit of living accommodation</i>
General	We prefer the word 'found' to 'determined'. The latter risks confusion with formal determinations by the Revenue under self assessment.
4.7.10	<i>Accommodation not over £75,000</i>
(2)	We think that the defined term 'value of the accommodation for the employee' should be in bold/italics.
4.7.11	<i>Accommodation over £75,000: rent at market value</i>
Heading	It would be more accurate to add 'or more' at the end.
4.7.12	<i>Other accommodation over £75,000</i>
(2)	The word at the beginning of step 2 should of course be 'Calculate'.
	Also, a specific reference to 4.9.8 would be more useful than a general one to Chapter 4.9.
4.7.13	<i>Special rule for cost of accommodation</i>
(3)	'MV' could perhaps be better expressed in a different order – as the market value at the date it is first occupied, being the price it would reasonably fetch etc.
4.7.15	<i>Notional annual value</i>
(5)	It is possible, though probably unintended that subs(5) (registered rent etc) could give a higher figure than subs(6) (rateable value) because the

	registered rent could be more up-to-date.
(6)(a)	'In the same condition': as what?
4.7.16	<i>Accommodation outside UK</i>
(2)	Again, we think that the defined term 'value of the accommodation for the employee' should be in bold/italics.
4.7.17	<i>Deductions</i>
Defined terms	The 'cash equivalent' in 4.7.16 should probably be added.
Origin	S193(4)(a) is the origin for subs(2), and s193(2) for subs(3).
4.7.19	<i>Rates etc discharged for employee</i>
(2)	Here and in the heading, we are not sure that the word 'discharged' fits in particularly well with the new writing style.
Note	Unless this is put in a separate box it is usually liable to be ignored as part of the Defined terms and Origin. The same point arises in 4.8.20, 4.8.40, 4.12.1 and 4.1.3.1.
4.7.20	<i>Limit on charge on expenses</i>
(3)	We much prefer 10% to 0.1.
4.7.21	<i>Notional annual value or annual market value</i>
Defined terms	The notional annual value is given in 4.7.15, not 14.
4.8	Cars, vans and related benefits
Overview	Under ' <i>Supplementary provisions</i> ', we suggest that 'The Treasury can ...' should start a fresh paragraph, and that 'maxima for the reduction' would read better as 'maximum reduction'.
Contents	Throughout, there is inconsistency between the definite and indefinite article (the/a) and whether to use the article at all (cash equivalent/the cash equivalent). This occurs elsewhere in lists of contents but the discrepancies are particularly marked here. Generally, we favour dropping the article.
4.8.6	<i>Determining cash equivalent</i>
(1)	Items are conventionally described as 'brought forward from' and 'carried forward to'.
	In step five, deleting 'the amount' from 'This amount is the amount' would be much easier to read.
	In step six, 'cash equivalent' should presumably be in bold/italics.
4.8.8	<i>List price of car</i>
Origin	For subs(2) the origin should be s.168A(9)(a) as well as (b), and 'and closing words' should be deleted as they belong to 4.8.44 (definition).
4.8.11	<i>Amount to include for accessories</i>
(2)	From the middle of the second line, this would read more simply as 'there shall be taken into account the price of any non-standard ...'. If a similar change is made to (3), then (4) can be dispensed with. The heading might need changing.
	It might be helpful to add a cross-reference to Step Two of 4.8.6, to remind the reader how the amount mentioned is to be 'taken into account';

	similarly in subs(3).
4.8.13	<i>Notional price of accessory</i>
Origin	The origin of subs(3) should include s168A(9)(a) for including the fitting.
4.8.14	<i>Capital contributions</i>
Defined terms	4.8.6.should be included for the basic chargeable amount.
Origin	The origin of (1) and (2) should include s168D(4) (part).
4.8.15	<i>Capital contributions by employee</i>
(2)	It does not actually say what the deduction is deducted from.
4.8.16	<i>Reduction for business travel.</i>
(4)	Say the formula comes to 90%. 'The reduction is made by applying the formula 90%' is ambiguous. It might mean that the reduction is 90% or (as is not intended) the figure is reduced by 90%. We suggest inserting 'to those figures' between 'applying' and 'the formula'. The same point arises in 4.8.18 (periods unavailable).
Origin	The origin of subs(1) should include Sch 6 paras 5, etc, which establish the priority of the various discounts.
4.8.19	<i>Reduction for payments for private use</i>
(3)	The word 'employer' should be 'employee'.
Defined terms	For consistency, 'available for' should be inserted before 'private use'.
4.8.20	<i>Temporary replacements</i>
	Throughout, 'The normal car' is undefined. Although as a matter of construction one can assume it means the same as 'the car normally available', perhaps it should actually be defined for absolute clarity.
(2)(b)	4.8.18 only applies if the car is unavailable for 30 days or more. It would help eliminate a possible doubt in the reader's mind if words such as 'regardless of the period being less than 30 days' were added to 4.8.20(2)(b).
Defined terms	There is a full stop missing in 1.1.2.
4.8.21	<i>Cars that run on road fuel gas</i>
(1)	The command 'reduce the amount ...', when used in mid-sentence rather than in applying a formula (as in 4.8.29), appears rather stark.
4.8.22	<i>Classic cars</i>
(1)	The words 'equivalent of the' appear to have been omitted between 'cash' and 'benefit'.
4.8.24	<i>Car fuel: when charge arises</i>
(2)(d)	Neither here nor in the original is the meaning particularly clear. In the second paragraph, it would be helpful to refer more specifically to subs(5) and (10) of 4.6.
(4)	Here too there is a failure to say what the deduction is made from, and if anything the structure of the section suggests it should be deducted from the taxable benefit for the year rather than from the deemed price of the car. In the first line of the section 'cash benefit' should be 'cash equivalent of

	the benefit’.
4.8.25	<i>Car fuel: cash equivalent</i>
Origin	This has gone a bit awry. The origin for subs(4) should be s158(2)(c), and that for subs(5) s158(2B).
4.8.26	<i>Car fuel: reduction of cash equivalent</i>
(3)	It would be helpful to put '(shared cars)' after '4.8.23'.
4.8.28	<i>Cash equivalent of van: basic case</i>
Origin	The origin of (2) is specifically s168(5A)(b).
4.8.29	<i>Reduction for unavailability and shared use</i>
	Here and in subsequent sections, the imperative 'Apply the fraction' fits in better than in 4.8.21, as it is part of a formula.
4.8.31	<i>Shared vans: introductory</i>
Defined terms	So far, the definition of private use has been written as 4.8.5. We prefer the addition of the (2) here as it makes it more specific.
4.8.32	<i>Meaning of shared van.</i>
(2),(3)	It is confusing that practically the same condition (available to more than one employee) has been used in two places, though in only one of them is it referred to as 'a shared period'. Presumably this is to focus the ambit of the first paragraph of (4), but we would like this difficulty to be avoided if possible.
4.8.33	<i>Participating employee's cash equivalent</i>
Origin	From subs(5) these have gone awry.
4.8.34	<i>Meaning of participating employee</i>
(2)	The last sentence is difficult to disentangle. We suggest it should distinguish between (a) a van shared between more than one employee and (b) more than one van available to a single employee.
Origin	A number of the subsections referred to here are 'ghosts'.
4.8.35	<i>Alternative calculation for shared van</i>
(1)	'The figure found for the employee' could perhaps be simplified as 'the basic value'
Origins	The origin of subs(2) is para 8(3), and that for subs(3) para 8(2).
4.8.36	<i>Payments for use</i>
Heading	The word 'private' should be put before 'use'.
4.8.37	<i>Interaction</i>
-	Since this is the detail underlying the general statement in section 4.8.31 it would make more sense to combine the two sections, or at least link them by cross-reference.
	We do not think the last line of subs(2) is necessary. (It would be needed if the rest of the section had said that the total cash equivalent is arrived at by adding together the cash equivalents of the two notional vans, but it does not).
4.8.40	<i>Other charges excluded</i>
(2)-(4)	We find 'the circumstances is that' at the start of these three subsections somewhat inelegant. We suggest that the words should be omitted and that the subsections should become sub-subsections of subsection (1), numbered

(say) (i) to (iii). The same principle applies to 'the condition is' in 4.8.41 and 42.

- (3) The more natural order would be to reverse (a) and (b), as it is more likely that the voucher will be spent on goods and services.

Note In the first line, 'either' should come after 'van'.

4.8.41 *Pooled vehicles*

Origin S159(3) would appear to be the origin of (1), not of (10).

4.8.42 *Car available to more than one family member*

(1) We think that 'another's' should be 'the other's'.

(2)(a) 'That employee's family' would read better than 'the employee's family'.

4(a) It would be simpler to substitute 'employer concerned' for 'employer to whom this Chapter applies'.

4.8.43 *Orders substituting amounts*

Origin As the origins of (2) are identical to that of (1), they could be combined as the origins of (1) and (2) - like that for (3) and (4).

4.8.44 *Minor definitions – general*

'Invalid carriage' and 'motor cycle' really deserve separate headings.

The date of first registration should surely be capable of being earlier than 1994.

Origin We would have thought that the origin of the definition of 'motor vehicle' was based on s168(5)(a), and that for relevant taxes was based on s168A(9), rather than being described as 'drafting'.

Origin The definition of 'road fuel gas' has actually been omitted, though its Origin is shown. The definition is contained in 4.8.21, and seems better placed there.

Origin An origin is needed for 'road'.

4.8.45 *Minor definitions re disabled persons*

(1) This would fit in better as part of 4.8.10 itself, or somewhere adjacent to it.

(3) This long sentence is probably best split into two, as in the original.

(3)(a) In the third line, 'has' makes better grammatical sense than 'having'.

4.8.46 *Index of defined terms*

We are not sure on what basis defined terms are included here. If this list is meant to be comprehensive, the following are missing: motor cycle, motor vehicle, price of a car, relevant taxes, road. On the other hand, the list is distressingly long, and it seems unnecessary to include (as we suspect is the case) terms which are only used in the section within which they are defined.

There are some minor errors in the references given: 'basic value of a van' should be 4.8.33(4); 'normal car' should perhaps be 4.8.20(1)(b)(i), though that is not really a definition; and 'participating employee's share' should be 4.8.33(3).

One of the references is not really to a definition: 'replacement car' to 4.8.20.

For consistency, the reference for heavy oil should be to 4.8.44, not to the Hydrocarbon Oil Duties Act.

The reference for the inclusive price of an accessory should be to 4.8.13(2) as well as to 4.8.12(5).

4.9 Taxable benefits: loans

Overview We do not think the comma is needed in the second line of the first paragraph.

4.9.1 *Loans to which this Chapter applies*

Defined terms 'Relative' is actually defined in 4.9.20.

Origin S160(4) does not appear to be part of the origin of subsection (1).

4.9.2 *Employment-related loans*

(1) B We have earlier commented on what seems to be unnecessary repetition of 'the employee's employer' when 'the employee' would seem to be sufficient in the context. Here is a particular example, seeing that C to F use the shorter form.

(1) C, D The words '(being a company)' were added to 'employer' in the original but are missing from the rewrite. This probably does not matter, being implicit in the context.

(1) E 'The close company' would read better than 'the employer', as in F. In fact, (a) and (b) could be brought together much more simply as 'or company or partnership controlled by the close company'.

Defined terms We are not sure where 'material interest' is defined, but it is not in 4.13.1(5).

Flow chart This is a useful chart but we think it needs the following changes:

- delete the 'Yes' loop to the left of 'To employee'. Instead, insert a 'No' loop from 'To employee' to 'To a relative of the employee';
- in the third box down on the right, we suspect it should be 'the employer' rather than 'the company';
- in the fifth box down on the right, we suggest 'a' (rather than 'the') close company;
- in the fifth box down on the left, 'that company or partnership' would be simpler than 'the company or partnership which controlled the close company'.

4.9.3 *Benefit of cheap loan treated as earnings*

(2) It would be useful to have a forward note to 4.9.9, 11, 18 and 19.

4.9.5 *Exceptions for fixed-interest loans*

(1) We do not think that 'and unvariable' adds to 'fixed'.

(3) It is not clear which time is referred to by 'at the time'. The original 'at that time' is better.

4.9.6 *Advances for necessary payments*

(3) 'At any place of the employee' reads a bit awkwardly. 'Of the employee' could perhaps go after 'attendance'.

(5) 'Incidental overnight expenses' should presumably be in bold and italics, as

	a definition.
(5)	The definition of 'qualifying absence' can be more precisely given as s200A(3).
Origin	It would be helpful to give s198(1A) and (1B) as a reference point for the definitions in (3) and (4); and to s200A for (5).
4.9.7	<i>£5,000 limit</i>
(a), (b)	It is quite difficult to tease out the difference between these two subsections. Perhaps (b) should become a new paragraph saying, in effect, that for this purpose loans that qualify for tax relief are excluded or that if there is an excess over £5,000, it is ignored if it is represented by one or more qualifying loans. This would also avoid the negatives. A note referring to 4.9.14 for the meaning of loans that qualify for tax relief would also help.
4.9.13	<i>Aggregation of loans by close company to director</i>
Defined terms	'Director' is not defined in 4.13.1 but in 4.4.3.
(3)	Although the point is probably implicit in subs(1), it would be clearer if this began 'For this purpose loans between the same borrower and lender are agreeable if ...'.
4.9.15	<i>Release or writing off of loan</i>
(1)	We suggest that 4.9.18 should be referred to in the second paragraph, as well as 4.9.16.
4.9.21	<i>Index of defined expressions</i>
	The source for material interest is not 4.13.1(5).
4.11	Scholarships
4.11.1	<i>Employment-related scholarships</i>
Origin	The origin of subs(2) is of course s165(5), not (6).
(4)	The words 'directly or indirectly' seem redundant in the context of a 'whether or not' statement.
4.11.3	<i>Trusts and schemes</i>
(3)	We think it would read better if the first paragraph ended '... attributable to employment-related scholarships'. That would also appear to reproduce the effect of the existing legislation more exactly, though the difference is probably not material.
Origin	The origin for subs(3) should include s165(3) as well as (6)(b).
4.12	Residual liability
4.12.4	<i>Cost of benefit</i>
(1)	This would read easier if 'by the employee' were placed after 'made good'.
(2)	The second and third indented items should refer to 4.12.6 and 8, not 4.12.7 and 9.
4.12.5	<i>Cost of asset available without transfer</i>
(2)	Properly, it should be the higher of (a) and (not <i>or</i>) (b).
4.13	Lower-paid employment

Overview	We note the use of the word 'his'. Although this may be admissible in the context of an informal summary, we repeat our comment that a consistent line needs to be taken on gender-related terms.
4.13.1 (2)	<i>Provisions not applicable to lower-paid employment</i> It is probably unimportant, but the bracketed descriptions of Chapters 4.8 and 4.11 differ from the headings of those chapters. The same applies to 4.13.6 when referred to in the Note.
Definitions	A definition is needed for 'material interest'.
4.13.3 (1)	<i>Calculation of earnings</i> In step 2, we suggest that 'that would be' needs to be inserted before 'treated as earnings'.
(3)(b)	The reference should be to 4.7.16, not 15.
(5)	A space is missing between 198 and 201.
4.13.6 (3)	<i>Release of loan after employment becomes excluded</i> The exclusion could be more precisely targeted to 4.13.1(1).
Chargeability and year of charge: earnings	
4.50	Chargeability and year of charge: earnings
Overview	In para 2, line 3, there should be a 'the' in front of 'employee'. In para 4, line 1, we suggest inserting 'in' after 'received'. This would avoid the suggestion that, for someone who is resident and ordinarily resident in the UK and whose earnings are not foreign earnings, earnings received overseas are not taxable unless remitted here. In the contents, 5.50.15 should of course start on a new line.
4.50.1 Defined terms	<i>Chargeability and year of charge</i> The definition of earnings is in 4.1.1(3), not 2(3). The same applies in 4.50.2 to 3.
4.50 5,6	<i>Employee not ordinarily resident or not resident in UK</i> A signpost or Defined Term needs inserting for the meaning of 'Crown employment subject to UK tax' in 4 50.7.
4.50.7 Defined terms	<i>Crown employment</i> These are missing both here and in many subsequent sections
4.50. 10 (1)	<i>Receipt of money earnings</i> In Rule Three, 'account' should be 'accounts'.
4.50 12 (5)(b)	<i>Earnings remitted to UK</i> The words 'for the time being' and 'or the time at which the debt is due to be repaid' can confuse. The latter is an alternative not to the former but to 'the amount ... of the borrower's indebtedness'. Perhaps this could be avoided by having the alternatives separately indented under (a) and (b). In any case, 'or the time ... in part' would probably fit better at the end of the sentence, with the words 'does so at' inserted after 'or'.
Origin	The source for the last seven words of this subs(3)(c) needs inserting as s65(9).

4.50. 15 *Duties on board vessel or aircraft*

- (2) The exceptions which necessitate the words ‘except as otherwise provided’ should be signposted. (We suppose section 4.50.14 is one, but there might be others.)

14-13-36

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29.9.99