



# Tax Bulletin

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# Applying PAYE to remuneration in the form of readily convertible assets

**This article explains measures in the 1998 Finance Act which clarify and strengthen anti-avoidance rules introduced in 1994. These rules require employers to operate PAYE when they pay staff in assets which can be readily turned to cash. The new rules put beyond doubt that where employees are paid in assets like platinum sponge, trade debts and reversionary interests in offshore trusts PAYE must be operated. They also apply PAYE to cash payments made to employees in return for giving up or not exercising share options and where payments are made to agency workers in the form of assets which can be readily turned to cash. This article explains the changes announced by the Chancellor in his March Budget. It will be of particular interest to practitioners whose clients pay remuneration in the form of assets, including shares, which are as good as cash.**

## Background

Following the removal in 1985 of the upper earnings limit for employers' NICs, a number of schemes grew up to reward employees in the form of assets which could be quickly and easily turned to cash. The aim was to put cash into employees' hands but to do so by giving them assets which could be sold quickly and easily with minimum risk of depreciation. Assets were used because there is generally no NICs on payments in kind. These schemes included remuneration in the form of diamonds, gold bars, fine wines and financial products. It was argued that the schemes also deferred the time at which tax had to be paid by taking the remuneration outside the scope of PAYE.

## Example 1

On 1 December 1990 Mr A, a director of a bank in the City of London, was paid his annual discretionary bonus but instead of paying him cash the bank awarded him 100 gold bars. Mr A did not take delivery of the gold bars. Instead, on 2 December 1990 he sold them for £200,000 which was paid straight into his bank account.

The award of gold bars was a payment in kind so the bank had no employers' NIC to pay and it was not a payment of emoluments for tax purposes so the bank did not operate PAYE.

*(continued on page 564)*

The bonus was included on form P11D and Mr A paid the tax due after the end of the year - some 12 months later than it would have been paid if the bank had operated PAYE.

This article concerns only the requirement to operate PAYE and does not cover the NICs anti-avoidance rules.

**Finance Act 1994 Provisions**

The 1994 Finance Act introduced Sections 203B - L and Section 144A Income and Corporation Taxes Act (ICTA) 1988 which applied PAYE to income taxable under Schedule E that was paid in the form of tradeable assets. Tradeable assets were defined as:

- assets tradeable on a recognised investment exchange or the London Bullion Market,
- assets tradeable on markets specified in PAYE regulations, and
- assets for which trading arrangements exist. Trading arrangements were defined as arrangements for the purpose of enabling the employee to obtain an amount of cash similar to the expense incurred in the provision of the asset.

The legislation also covered payments by intermediaries (and by gangmasters who are generally not affected by the Finance Act 1998 changes described in this article) and to employees working in the UK for overseas employers.

The tax avoidance industry responded to the 1994 measures by abandoning many of their existing schemes and replacing them with increasingly complex and artificial schemes involving esoteric (and often intangible) assets. Their arguments in support of these new schemes were based on a narrow interpretation of the anti-avoidance provisions. Although

the Inland Revenue made it clear that their arguments were not accepted these contrived arrangements grew in popularity.

There was also a noticeable increase in awards to employees of shares in the employer company or a company that controlled the employer company - assets which had been specifically excluded from the scope of the 1994 provisions. In November 1996 the rules were changed so that PAYE applied to awards of these shares where the shares could be easily turned to cash, unless shares were acquired under an Inland Revenue approved scheme.

**Summary of Finance Act 1998 Provisions**

In his 1997 Budget the Chancellor of the Exchequer signalled his determination to counter leakage and avoidance of tax whenever and wherever necessary. The anti-avoidance package announced in the 1998 Budget includes a range of measures to put a stop to artificial schemes to avoid the operation of PAYE. The key elements of the 1998 provisions are:

- A measure, with retrospective effect to 2 July 1997, to put beyond doubt that PAYE applies to income in the form of trade debts. This was the measure announced by the Chancellor in his July 1997 Budget.
- The term “tradeable asset” is replaced by “readily convertible asset” with an extended definition which spells out the types of assets to which the legislation applies.
- A new measure of the amount on which PAYE has to be operated.
- A revised definition of “trading arrangements”.
- A measure to make it clear that PAYE must be operated where instead of giving an asset to the employee the employer enhances an

asset already owned by the employee, where the asset in its enhanced form is a readily convertible asset.

- Explicit application of PAYE to amounts chargeable to tax under Schedule E on the exercise of share options where the shares acquired are readily convertible assets.
- Cash payments to employees in return for giving up or not exercising share options brought within the scope of PAYE.
- PAYE applied to the new Schedule E charges introduced by Sections 50 -51 of Finance Act 1998 - shares subject to a risk of forfeiture and shares which can be converted into shares of another class - where the shares involved are readily convertible assets.
- A provision to put beyond doubt when PAYE has to be operated on vouchers appropriated to employees where the voucher is exchangeable for readily convertible assets or cash.
- A definition of “employer” and “employee” which makes it clear that the anti-avoidance provisions apply to awards made to former employees.
- New rules to ensure that PAYE applies to awards of readily convertible assets to agency workers and to workers in the UK with overseas employers in the same way as it applies to cash payments.

The new legislation clarifies and strengthens the 1994 measures. Practitioners will want to note that the Inland Revenue remains of the view that none of the schemes put forward as avoiding the operation of PAYE succeed. We are currently challenging them all.

## Details of the 1998 Finance Act Provisions

### Trade debts

Section 64 Finance Act 1998 is a transitory provision which applies PAYE explicitly to income in the form of trade debts arising in the period from 2 July 1997 to 5 April 1998. PAYE must be operated on the amount of the debt. Trade debts awarded after 5 April 1998 are brought within the definition of readily convertible asset covered in the next section of this article.

The trade debt scheme was a fast growing attempt to get round the 1994 anti-avoidance provisions. Employers awarded to their employees debts which arose in the ordinary course of their trading activities, usually as an annual bonus. When the debtor paid up the employers collected the money due in the usual way but were acting on behalf of the employees to whom they then passed the cash. Invariably only debts which the employer expected to be paid in full were assigned to employees in this way so there was little risk of employees not getting the cash which their employers wanted them to have.

The tax avoidance industry argued that such arrangements were not caught by the 1994 provisions and that there was therefore no obligation to operate PAYE. The Inland Revenue did not accept that this scheme achieved its aims but its use was growing and it was therefore important to legislate explicitly to provide certainty for employers and employees, and to put beyond doubt that the trade debt scheme did not work.

### Readily convertible assets

There are a number of different ways in which an asset can be turned to cash, not all of them involving an outright sale. For example, an asset can be used as security for a loan. The 1998 legislation makes it clear that PAYE

must be operated on the award of any asset that can easily be turned to cash, even if the asset cannot be sold, by replacing the term "tradeable asset" used in the 1994 provisions with the term "readily convertible asset".

The 1998 legislation includes an extended definition of "readily convertible asset" with certain types of asset specifically mentioned to make the scope of the legislation clear for employers. For example, the extended definition means that an employer who rewards an employee by giving him or her an oriental carpet held "in bond", which the employee immediately sells back to the supplier for cash, need not consider whether trading arrangements exist for the carpet because the legislation makes it clear that assets of this kind fall within the definition of readily convertible asset and PAYE must therefore be operated.

The extended definition of readily convertible asset introduced to Section 203F(2) by Section 65(3) Finance Act 1998 includes:

- **An asset that can be sold or otherwise realised on a recognised investment exchange or on the London Bullion Market.** For example, shares quoted on the London Stock Exchange and gold bars. These kinds of asset were included in the definition of "tradeable asset" in the 1994 legislation and are again specified in the 1998 legislation. This means that where an employee is awarded, for example, a gold bar the employer has to operate PAYE.
- **An asset capable of being sold or otherwise realised on a market specified in PAYE regulations.** This provision was also included in the definition of "tradeable asset" in the 1994 legislation but until recently no markets had been specified in regulations. Regulations have now been laid to specify the New York Stock Exchange ("NYSE") as such a market. In

practice where employees were awarded shares which could be sold on the NYSE employers had to operate PAYE under the 1994 provisions because the arrangements for sale of the shares were "trading arrangements" (this phrase is explained in more detail below). However, specifying the NYSE in regulations means that where shares which can be sold on the NYSE are awarded, the employer will know that the shares are readily convertible assets and that PAYE must be operated without having to consider first whether the arrangements in place for the sale of the shares amount to "trading arrangements". This puts employers who award shares quoted on the NYSE in the same position as those who award shares quoted on the London Stock Exchange.

- **Rights which pass on assignment, or any other rights, in respect of a money debt that is or may become due to the employer or any other person.** One of the avoidance schemes that sought to get round the 1994 legislation involved paying employees by transferring interests in bank accounts denominated in ECUs. The Inland Revenue does not accept that that scheme succeeded in removing the employer's obligation to operate PAYE but this provision makes it explicit that assets of this kind are readily convertible assets. It also covers remuneration in the form of debentures and, as explained above, remuneration in the form of trade debts paid after 5 April 1998.
- **An asset, or any right in respect of an asset, subject to a "fiscal warehousing regime" in the United Kingdom or similar arrangements elsewhere in the European Economic Area.** As some readers will be aware, the phrase "fiscal warehousing regime" is taken from Sections 18 to 18F of the Value Added Tax Act 1994.

Many of the schemes which sought to avoid the operation of PAYE, both before and after Finance Act 1994, involved assets held in “bonded warehouses” because the intention of the schemes was to put cash into the hands of employees not to provide them with assets. The last thing that employees wanted to do was take delivery of the long case clock, oriental carpet or other asset awarded to them and the employer in turn did not want to pay VAT on the purchase of an asset which the employee would sell straightaway. Keeping the asset “in bond” meant that it could be bought by the employer, transferred to the employee and sold again within a matter of days or even hours without anyone having to worry about VAT or delivery charges. It appears that some carpets and clocks have been bought, awarded and sold in this way many times over without ever moving from the warehouse.

This provision makes it clear that PAYE must be operated whenever an employee is paid in the form of an asset which is held “in bond”.

- **An asset which, without the employee doing anything, is likely to give rise to or become a right enabling an amount of money to be obtained which is likely to be similar to the cost of providing the asset.** This provision makes clear that awards in the form of some of the more esoteric, and usually intangible, assets used in avoidance schemes fall within the scope of PAYE. For example, some schemes that sought to get round the 1994 legislation involved paying employees in the form of reversionary interests in offshore trusts. Typically the employer purchased an interest in an offshore trust with a limited life. The employer then transferred that interest to the employee. A few days later the trust terminated and, without the employee taking any

further action, the cash settled in the trust was automatically paid into the employee’s bank account. Schemes of this kind involved employers and employees signing some complex legal documents which in some cases were probably not fully understood. The Inland Revenue made it clear that its view was that schemes of this kind did not succeed in avoiding PAYE. Despite this the schemes were heavily marketed and widely used by a range of employers from financial institutions in the City of London to small director controlled companies involved in trades which do not usually require familiarity with the workings of offshore trusts, such as green grocery and farming companies.

The provision refers to the amount obtained by the employee being “likely to be similar to the expense incurred in the provision of the asset”. This phrase is explained later in this article.

- **An asset for which trading arrangements are in existence.** This provision was also included in the definition of “tradeable asset” in the 1994 legislation. However, the 1998 legislation amends the definition of “trading arrangements” to make it clearer for employers in what circumstances PAYE has to be operated. The new definition of trading arrangements is explained in detail later in this article. This provision covers cases, for example, where an employer buys an asset - such as a consignment of hay (and we have seen cases of employees paid in this way) - for which a buyer has already been lined up. The asset is then transferred to the employee who immediately sells it to the third party as had been agreed from the outset.
- **An asset for which trading arrangements are likely to come into existence under some other arrangements or understanding in**

**place at the time income is provided in the form of the asset.** This measure is about operating PAYE when trading arrangements are likely to arise out of some other arrangement or intention of those involved in the award. “Likely” means that on the balance of probabilities trading arrangements will arise from that earlier arrangement or intention. Some of the schemes which sought to get round the 1994 legislation were based on the argument that PAYE had to be operated only if the employee could sell the asset at the particular moment when it was awarded. The Inland Revenue did not accept this argument but this provision expressly provides that PAYE must be operated where an employee is awarded an asset which he or she cannot sell immediately but for which steps have already been taken to put trading arrangements in place at a later date.

### Trading Arrangements

The new legislation amends the Finance Act 1994 definition of trading arrangements by:

- referring to the “*effect*” of those arrangements rather than their purpose. This makes it clear that PAYE must be operated where employees are given assets which can be easily turned to cash where the prime purpose of the arrangements was not to enable employees to sell assets. For example, under some of the schemes which sought to get round the 1994 legislation employees were awarded platinum sponge which they sold immediately on the platinum sponge market. Employers argued that the platinum sponge market was not a trading arrangement because its primary purpose was the commercial trade in platinum sponge rather than to enable employees to sell their assets. The Inland Revenue did not accept this

argument but the new definition of “trading arrangements” puts the matter beyond doubt;

- referring to arrangements which enable an amount of cash to be obtained which is *likely* to be similar to the expense incurred in the provision of the asset. This makes it clear that PAYE must be operated where employees are given assets which can be easily turned to cash where the amount which the employee obtains for the asset is not guaranteed. Some employers argued that under the 1994 legislation trading arrangements existed only where the amount the employee could obtain for the asset was guaranteed. The Inland Revenue has not accepted this argument which would have made the legislation completely ineffective. The 1998 legislation makes it clear for employers that if the arrangements enable the employee to obtain an amount that is, or is likely to be, similar to the expense incurred in the provision of the asset then PAYE must be operated. Readers will want to note that, as in the 1994 legislation, the amount obtained by the employee is “similar to” the expense of provision if it is the same as, greater than or not substantially less than that expense;
- including not only arrangements which enable the person to whom the asset is provided to obtain an amount of cash but also arrangements which enable his or her **family or household** to obtain such an amount;
- including arrangements which enable the individual to whom the asset was provided to obtain a **second, or subsequent, readily convertible asset** rather than cash. For example, where an employee is awarded an asset which cannot be sold for cash but which can be exchanged for a gold bar, PAYE must be operated.

### Readily convertible assets - particular cases

We have been asked to say whether PAYE applies in the following circumstances:

*Bringing an unquoted company to the market* - some unquoted shares are readily convertible assets whereas others are not. Where income is provided in the form of unquoted shares and there are arrangements in place at the time the income arises which will give rise to arrangements which enable the employee to turn those shares to cash, the employer must operate PAYE. Such arrangements will, for example, exist where:

- employees are awarded unquoted shares after, or at the time, their employer has taken meaningful steps towards floating the company such as instructing brokers or merchant bankers; or
- an employer has set up a facility which will enable the employee to sell the unquoted shares to a trust or particular individual; or
- there is an active quarterly market for the shares.

Where there is no market or other arrangement or understanding for the sale of the unquoted shares there will generally be no obligation to operate PAYE.

#### Example 2

On 1 May 1998 Ms B is awarded a right to acquire up to 10,000 shares at £1 each in her employer X Ltd, an unquoted biotech company. The options must be exercised by 31 May 2001. There is no Schedule E liability on the award of the option and so there can be no obligation to operate PAYE.

In July 1999 X Ltd decides to seek a listing on a recognised

investment exchange and instructs lawyers, accountants and merchant bankers to prepare for flotation on 31 October 2000. On 1 October 2000 Ms B exercises her options and acquires 10,000 shares worth £10 each. On exercise Ms B is chargeable to tax under Section 135 ICTA 1988 on  $(£10 - £1) \times 9 \times 10,000 = £90,000$ . Her employer has to operate PAYE on £90,000 because at the time the option is exercised there is an understanding that trading arrangements are likely to come into existence.

*Providing income to an employee in the form of a house* - the employer will not be obliged to operate PAYE just because the employee may be able to sell the property later. But the employer must operate PAYE where at the time of the award there are in place arrangements for a subsequent sale or an understanding that will lead to a sale, for example where a buyer for the house is already lined up. The employer must also operate PAYE where the employee receives the property in place of cash income to which he or she was legally entitled.

*Income provided in the form of shares which Stock Exchange rules prevent an employee selling at the particular time the shares are received* - at the time of the award there is a clear understanding that trading arrangements will be in place at a future date, PAYE should therefore be operated.

#### Amount on which PAYE has to be operated

To help employers operate PAYE on readily convertible assets, the legislation provides a new measure of the amount on which PAYE has to be operated - the best estimate that can reasonably be made of the amount on which the employee is likely to be chargeable to tax in respect of the provision of the asset. The legislation

recognises that it will not always be possible for employers to operate PAYE on the precise amount of the Schedule E charge. The Inland Revenue expects employers to use their best endeavours to establish the amount of the Schedule E charge and operate PAYE on that sum. It is important to remember that the estimate here is of the amount of *income* likely to be charged to tax, not of the amount of tax the employee is likely to have to pay. So having estimated the amount of income employers use the employee's PAYE code to quantify the amount of PAYE tax to be paid over to the Inland Revenue.

The sort of factors employers will want to take into account in estimating the amount of income likely to be chargeable to tax under Schedule E include:

- the cost of the asset to the employer;
- the market value of the asset when it was awarded;
- where the employee has already sold the asset, the amount obtained for it - if known;
- where the employee has contributed towards the cost of that asset - the amount of the contribution.

Employers providing income in the form of unquoted or restricted shares may want to check whether the amount on which they propose to operate PAYE is reasonable. They can do this by writing to:

Inland Revenue  
 Shares Valuation Division  
 (PAYE valuations)  
 Fitzroy House  
 Castle Meadow Road  
 Nottingham  
 NG2 1BD.

Employers should provide full details of the transaction which they want considered. It will not normally be possible or necessary to provide a formal valuation.

Employers who have questions about the amount on which PAYE should be operated can contact their PAYE Tax Office for advice in the usual way but there is no need for employers to agree their best estimate of the amount of the Schedule E income with the Inland Revenue before they operate PAYE. Formal clearances are not necessary and so there is no provision for them.

Where PAYE is operated on the basis of an estimated figure neither the Inland Revenue nor the employee is obliged to accept that valuation when working out the final Schedule E liability. This means that the figure on which the employer operates PAYE may be different from the amount included in the employee's Self Assessment. The employer's obligation is to operate PAYE at the right time on an amount which is the best estimate that can reasonably be made, at that time, of the amount chargeable to tax under Schedule E. Where the employer has done this any discrepancy between the amount on which PAYE is operated and the final Schedule E liability will be dealt with after the end of the year through the employee's Self Assessment. In the Self Assessment the employee must return the correct amount on which Schedule E is chargeable and the amount of PAYE tax deducted and accounted for.

**Enhancement of an asset**

The new rules provide that PAYE should be operated where, instead of awarding an asset to the employee, the employer enhances the value of an asset the employee already owns. An employer may, for example, pay a substantial additional premium on a life assurance policy which an employee already owns thereby significantly increasing the value of the employee's rights under that policy. The obligation to operate PAYE applies where the asset in its enhanced state is a readily convertible asset.

**Example 3**

Mr C is employed by a bank. His employer wants to give him a bonus worth £500,000. Mr C takes out a life policy in his own name with an initial premium of £100. Two days later the employer pays an additional premium of £500,000 direct to the life assurance company. Three days after that Mr C surrenders the policy and receives £500,100. Mr C's employer must operate PAYE on the £500,000 premium.

**Gains on the exercise of share options**

The new rules provide an explicit rule for the operation of PAYE on the exercise of a share option where there is a Schedule E liability and the shares acquired are readily convertible assets. There is no obligation to operate PAYE on the exercise of a share option granted under an Inland Revenue approved scheme or where the option was over "own company" shares and was granted before 27 November 1996.

**Example 4**

Ms D is employed by a computer company. On 2 September 1998 her employer awards her a right to acquire 100,000 shares at £2 each. The option is not awarded under an Inland Revenue approved scheme and cannot be exercised after 1 September 2003. On 2 February 1999 Ms D exercises her option. She acquires shares quoted on the London Stock Exchange with a value of £5 each.

There is no charge to tax under Schedule E on the grant of the option. When Ms D exercises the option there is a Schedule E charge under Section 135 ICTA 1988 on (£5 - £2 =) £3 x 100,000 shares = £300,000. The shares acquired are readily convertible

assets so Ms D's employer must operate PAYE on the best estimate that can reasonably be made of the likely amount of that charge.

### Cash cancellation/release payments

Finance Act 1998 introduces a new requirement to operate PAYE on cash payments made to employees in return for giving up or not exercising a share option. Such payments are commonly referred to as cash cancellation or release payments. The amount on which PAYE should be operated is the amount within the Schedule E tax charge under Section 135 ICTA 1988. Readers should note that while other aspects of the 1998 provisions do not apply to shares acquired under Inland Revenue approved schemes or to "own company" shares acquired on the exercise of options granted before 27 November 1996 this provision applies PAYE to all cash cancellation payments - including those paid to employees for not exercising options where the options were granted before 27 November 1996 or under an Inland Revenue approved scheme. **Shares subject to risk of forfeiture are convertible shares** Finance Act 1998

maintains new provisions concerning the award of shares subject to a risk of forfeiture or capable of being converted into shares of a different kind. Depending on the particular circumstances the new provisions can give rise to a Schedule E charge:

- when the risk of forfeiture is lifted;

- when the shares are sold;
- when the shares are converted into a different kind of share;
- on the award of the shares.

The new PAYE measures apply to any Schedule E charge under Sections 50 -51 Finance Act 1998 arising on or after 6 April 1998 where the shares acquired are readily convertible assets.

Practitioners should take care to distinguish between what are commonly known as:

- share incentive plans and
- restricted share schemes - shares subject to forfeiture.

#### *Share incentive plans*

Under these schemes an employee may be promised or allocated a number of shares but does not actually acquire those shares until relevant conditions are met. In these cases the Schedule E charge arises when the conditions are satisfied and the employee acquires the shares. That is the time at which PAYE must be operated if the shares are readily convertible assets.

#### *Restricted share scheme - shares subject to forfeiture*

Under these schemes the employee acquires shares which may be forfeit at some future time. Section 50 Finance Act 1998 normally provides a Schedule E charge at the time the risk of forfeiture is lifted and not at the time the shares are awarded. The obligation to operate PAYE arises at the same time as the Schedule E charge if the shares are readily convertible assets.

### Vouchers exchangeable for readily convertible assets or cash

The Schedule E charge on both cash and non-cash vouchers provided to employees arises when the voucher is received. Where a voucher is appropriated to an employee it is not always clear when the voucher is received so Sections 141(5) and 143(2) ICTA 1988 specify that the date the voucher is appropriated is the date on which it is received. Where an employer is obliged to operate PAYE on remuneration in the form of a voucher the new legislation provides that it should be operated when the voucher is received and specifies that date as including, where appropriate, the date on which a voucher is appropriated.

### Definition of employer and employee

The new legislation makes it clear that where a Schedule E liability arises in respect of an award of readily convertible assets made to an individual by a former employer, that former employer is obliged to operate PAYE. These circumstances most commonly arise where an employee is awarded a share option, leaves the employment and exercises the share option some time later, acquiring shares which are readily convertible assets. The former employer's obligation is to operate PAYE at the basic rate.

### Agency workers and overseas employers

The new PAYE legislation ensures that where a Schedule E charge arises on the award of readily convertible assets to an agency worker there is an obligation to operate PAYE in the same way as PAYE would be operated if that worker were paid in cash. While relatively few workers are affected by this aspect of the 1998 provisions and in the most common circumstances the obligation to operate PAYE on awards of readily convertible assets will fall on the agency, the obligation to operate PAYE will, depending on the precise circumstances, sometimes fall on the client or a third party. The tables at the end of this article explain who needs to operate PAYE in which circumstances and will be of particular help to readers who need to consider the application of PAYE in the more unusual circumstances such as those involving offshore agencies.

Where an employee works for someone in the UK but is employed and paid by an employer overseas the person in the UK has to operate PAYE on awards of readily convertible assets in just the same way as PAYE must be operated on cash.

**Deducting and accounting for PAYE**

Where PAYE is operated on a cash payment the tax due is deducted from the payment made and handed over to the Collector of Taxes. Where, under the anti-avoidance provisions an employer has to operate PAYE on the award of an asset it is not possible to deduct the tax due in the same way.

The PAYE tax on the award of the asset must be deducted from any cash payments made at the same time as the asset is awarded or later in the same income tax month. Tax deducted in this way must be sent to the Collector of Taxes within 14 days after the end of the income tax month.

Where the tax cannot be deducted in this way because no cash payments are made or the cash payments made are not sufficient the employer must account for the PAYE tax due out of his own funds and send the money to the Collector of Taxes within 14 days of the end of the income tax month.

Where an employer is unable to deduct the PAYE tax due and has to account for it out of his own funds that PAYE tax has not been born by the employee in any way. Under Section 144A the employee is treated as having received a taxable benefit equal to the amount of that PAYE tax unless he or she makes it good to the employer within 30 days of receiving the original payment in the form of an asset.

**Example 5**

On 30 September 1995 Mr E's employer awarded him a gold bar worth £20,000 and on 2 October 1995 paid him a cash salary of £2,000. PAYE was due of £8,000 on the notional payment and £800 on the cash salary. Mr E's employer deducted £2,000 from the cash salary and paid this over to the Collector of Taxes by 19 October 1995. The employer also accounted for the remaining

PAYE tax of £6,800 to the Collector of Taxes by 19 October 1995. Mr E did not make good the £6,800 to his employer by 30 October 1995 so a taxable benefit arose on that amount under Section 144A ICTA 1988.

**Accounting for PAYE on assets awarded between 6 April 1998 and 31 July 1998 - the notional payment regulations (SI 1994 No. 1212)**

Where between 6 April 1998 and 31 July 1998 an employer awards an asset or makes any other notional payment which is covered by the 1994 legislation he must deduct and account for PAYE in the way described above.

Where between 6 April 1998 and 31 July 1998 an employer awards an asset or makes any other payment which is brought within the scope of PAYE for the first time by Finance Act 1998, he must account for the PAYE tax due out of his own funds to the Collector of Taxes by 19 August 1998.

**Example 6**

On 30 June 1998 Ms F's employer makes a notional payment of £200,000 which was not covered by the 1994 provisions but is covered by Finance Act 1998. On 2 July Ms F's employer pays her a cash salary of £2,000. PAYE is due of £80,000 on the notional payment and £800 on the cash salary. Ms F's employer must deduct the £800 from the cash salary and pay this over to the Collector of Taxes by 19 July 1998 in the usual way. Her employer must account for the £80,000 PAYE tax due on the notional payment to the Collector of Taxes by 19 August 1998. There is no statutory provision for any part of the PAYE tax due on the notional payment to be deducted from the cash salary paid on 2 July 1998.

If Ms F does not make good the £80,000 to her employer by 30 July 1998 a taxable benefit will arise on that amount under Section 144A ICTA 1988.

**Accounting for PAYE on assets awarded between 1 August 1998 and 5 August 1998**

Where between 1 August 1998 and 5 August 1998 an employer awards an asset or makes any other payment which is brought within the scope of PAYE by the 1994 provisions as amended by Finance Act 1998 he must deduct the PAYE tax due from cash payments made at the same time as the award or later in the same income tax month. Any PAYE tax which cannot be deducted in this way must be accounted for out of the employer's own funds. PAYE tax deducted or accounted for must be paid over to the Collector of Taxes by 19 August 1998.

**Example 7**

On 3 August 1998 Mr G's employer makes a notional payment of £10,000 which was not covered by the 1994 provisions but is covered by Finance Act 1998. On 4 August his employer pays him cash salary of £1000, PAYE is due of £4,000 on the notional payment and £400 on the cash salary. The employer must deduct PAYE tax of £1,000 from the cash salary and pay this over to the Collector of Taxes by 19 August 1998. The employer must also account for the remaining £3,400 to the Collector of Taxes by 19 August 1998. If Mr G does not make good the £3,400 to his employer by 2 September 1998 a taxable benefit will arise on that amount under Section 144A ICTA 1988.

**Accounting for PAYE on assets awarded after 5 August 1998**

Where an employer awards an asset or makes any other notional payment which is brought within the scope of PAYE by the 1994 provisions as amended by Finance Act 1998 he must deduct PAYE tax due from cash payments made at the same time as the award or later in the same income tax month. Any PAYE tax which cannot be deducted in this way must be accounted for out of the employer's own funds. PAYE tax deducted or accounted for must be paid over to the Collector of Taxes within 14 days of the end of the income tax month.

**Example 8**

On 20 September 1998 Ms H's employer awards her platinum sponge worth £300,000. On

27 September 1998 her employer pays her a cash salary of £4000, PAYE is due of £120,000 on the notional payment and £1,600 on the cash salary. The employer must deduct PAYE tax of £4000 from the cash salary and pay this over to the Collector of Taxes by 19 October 1998. The employer must also account for the remaining £117,600 to the Collector of Taxes by 19 October 1998. If Ms H does not make good the £117,600 to her employer by 20 October 1998 a taxable benefit will arise on that amount under Section 144A ICTA 1988.

Employers should include remittances in respect of any awards of assets or other notional payments with the other tax they account for under PAYE.

Readers should note that this article supersedes two earlier articles on PAYE avoidance and remuneration in non-cash form which were published in May 1994 and February 1997 (editions 11 and 27). We have put together an open letter which was issued on 1 May 1998 which answers some of the common questions asked by employers about the application of these provisions to awards of shares. We have sent this to employers, agents and representative bodies with a particular interest in this field. Readers who would like a copy of the open letter should write to:

Graham Lewis  
 Personal Tax Division (Schedule E)  
 Sapphire House  
 550 Streetsbrook Road  
 Solihull  
 B91 1QU.

**Agency workers - who has to operate PAYE?**

**1. Payment in cash**

Individual works for	Paid by	PAYE must be operated by	Legislation
UK client via UK agency	client	client	S203
	agency	agency	S203
	UK intermediary of client	intermediary of client	S203
	overseas intermediary of client	client	S203L(1B) and S203B
UK client via overseas agency	UK intermediary of agency	intermediary of agency	S203
	overseas intermediary of agency	agency	S203L(1A) and S203B
	client	client	S203C
	agency	client	S203L(1A) & S203
	UK intermediary of client	intermediary of client	S203
	overseas intermediary of client	client	S203L(1B) & S203B

<b>1. Payment in cash <i>continued</i></b>			
<b>Individual works for</b>	<b>Paid by</b>	<b>PAYE must be operated by</b>	<b>Legislation</b>
<b>UK client via overseas agency <i>continued</i></b>	UK intermediary of agency	intermediary of agency	S203
	overseas intermediary of agency	client	S203L(1A) & S203C
<b>Overseas client via UK agency</b>	client	no one	—
	agency	agency	S203
	UK intermediary of client	intermediary of client	S203
	overseas intermediary of client	no one	—
	UK intermediary of agency	intermediary of agency	S203
	overseas intermediary of agency	agency	S203L(1A) & S203B
<b>2. Payment in the form of readily convertible asset</b>			
<b>Individual works for</b>	<b>Paid by</b>	<b>PAYE must be operated by</b>	<b>Legislation</b>
<b>UK client via UK agency</b>	client	agency	S203L(1A) & S203F
	agency	—" —	—" —
	UK intermediary of client	—" —	—" —
	overseas intermediary of client	—" —	—" —
	UK intermediary of agency	—" —	—" —
	overseas intermediary of agency	—" —	—" —
<b>UK client via overseas agency</b>	client	client	S203L(1A) & S203C(3A)
	agency	—" —	—" —
	UK intermediary of client	—" —	—" —
	overseas intermediary of client	—" —	—" —
	UK intermediary of agency	—" —	—" —
	overseas intermediary of agency	—" —	—" —

**2. Payment in the form of readily convertible asset *continued***

Individual works for	Paid by	PAYE must be operated by	Legislation
Overseas client via UK agency	client	agency	S203L(1A) & S203F
	agency	— " —	— " —
	UK intermediary of client	— " —	— " —
	overseas intermediary of client	— " —	— " —
	UK intermediary of agency	— " —	— " —
	overseas intermediary of agency	— " —	— " —

**ENTERPRISE INVESTMENT****SCHEME: UPDATE ON****PROCEDURES**

Following the changes made by the Finance Act 1998, the Enterprise Investment Scheme has two distinct limbs.

- Income tax relief (which, provided it is not subsequently withdrawn, brings with it exemption from capital gains tax in respect of a gain on the shares) can be obtained for subscriptions for shares by individuals who are not connected with the company invested in, and by paid "business angel" investors.
- Capital gains tax deferral relief can be obtained by individuals, whether they are connected with the company or not, and also by trustees of certain trusts, where chargeable gains are re-invested through the scheme.

The rules which determine whether the company invested in is a qualifying company for the purpose of the scheme, and whether an issue of shares satisfies the conditions of the scheme,

are the same for each limb. So where, before issuing shares, a company asks the Revenue for an assurance that on receipt of form EIS 1 they will authorise the issue of certificates to investors, it is immaterial whether those investors intend to claim income tax relief or deferral relief (or both). Similarly, the Revenue do not need to know which relief is to be claimed when they are considering whether to give that authorisation.

Various changes are being made to form EIS 1. The new print, which will be identified as EIS 1(1998), should be available very shortly from Tax Offices. Companies should use this new print for share issues taking place after 5 April 1998, but should continue to use the old print, EIS 1(1997), for issues before 6 April.

Where the issue is after 5 April the EIS certificates to be completed by the company and sent to investors will be provided on an amended form designated EIS 3(1998). This incorporates both a claim form for deferral relief and a claim form for income tax relief. (The latter is for use where a coding adjustment is requested and in cases where self-assessment does not apply).

Finally, as practitioners will appreciate, our booklet describing the scheme (IR137) is now well out of date. We shall be publishing a revised version in due course, and this is expected to become available during the Autumn.

**interpretations****CAPITAL PAYMENTS BY****OFFSHORE TRUSTS TO UK****RESIDENT CHARITIES: CHANGE IN INLAND REVENUE PRACTICE**

Following recent legal advice the Inland Revenue are changing their practice on the capital gains tax treatment of capital payments by offshore trusts to UK charities.

Under the provisions of Section 87 of the Taxation of Chargeable Gains Act 1992 (TCGA), where gains have been realised by the trustees of an offshore settlement, chargeable gains may be treated as accruing to beneficiaries who are resident in the United Kingdom to the extent that they receive capital payments from the trust.

Under Section 256 TCGA, gains accruing to charities are not chargeable

to tax if they are applicable and applied for charitable purposes. Until now, however, the Inland Revenue have always taken the view that this exemption is not available for gains which are treated by section 87 TCGA as accruing to a charity as the beneficiary of an offshore settlement.

Following recent representations on the matter, the Inland Revenue have taken legal advice on the application of these provisions and, in the light of that advice, have now concluded that the better view is that Section 256 TCGA may exempt gains which would otherwise be charged on UK charities under section 87 TCGA.

Consequently, where a UK charity, as beneficiary of an offshore settlement, receives a capital payment, in respect of which a chargeable gain would be treated as accruing to it under Section 87(4) TCGA, the charity will now be entitled to exemption from tax provided by Section 256(1) TCGA to the extent that the capital payment is applicable and applied for charitable purposes.

This change of practice will apply to capital payments made to charities in the circumstances outlined above on or after 10 August 1998, and to any such payments made before that date where the tax liability is still open.

**FARMERS' AVERAGING AND TRANSITIONAL OVERLAP PROFITS**

We have been asked whether transitional overlap profits, computed in accordance with Paragraph 2(4) Schedule 20 Finance Act (FA) 1994 as amended by Section 122(2) FA 1995 are altered by farmers' averaging under Section 96 Income and Corporation Taxes Act (ICTA) 1988. The short answer is no. The long answer goes like this:

Transitional overlap profits are defined in Paragraph 2(4) Schedule 20 FA 1994 as:

"the amount of profits or gains of the basis period for the year 1997-98 which arise after the end of the basis period for 1996-97 ... and before 6 April 1997."

Sub-paragraph 4A requires us to ignore capital allowances and balancing charges in this process. The method of computation is explained in paragraphs 6.27 to 6.32 of booklet SAT1 (1995).

Farmers' averaging is defined in Section 96 by reference to profits of years of assessment which are, in turn, defined in sub-section (7) as profits which are chargeable to income tax for the year concerned. Section 60 ICTA 1988 provides that these profits are the profits of the basis period for the year of assessment concerned.

So farmers' averaging is applied to profits of basis periods. It is not logical to suggest that it can alter the amounts of those profits. The profit of the basis period is the profit which is assessed but a later change to the profit assessed does not read back to change the profit of the basis period. That profit is based on the actual results of the business for the period concerned. (This may be contrasted with backwards spreading of literary profits under Section 534 ICTA 88 where the Act specifically provides that part of the income from sale of a work is treated as arising at a different time, normally in a different basis period.) It therefore follows that transitional overlap profits are to be computed by reference to the profits of the period from the end of the basis period for the 1996/97 assessment to 5 April 1997 *before* that figure is altered by farmers' averaging.

**Example 1**

The results of a farmer who commenced business before 6 April 1994 are as follows

Year ended	
30 September 1995	20,000

Year ended	
30 September 1996	24,000

Year ended	
30 September 1997	10,000

The basis periods are

96-97	2 years to 30 September 1996
-------	---------------------------------

97-98	year to 30 September 1997
-------	------------------------------

and the transitional overlap profit is the profit from 1 October 1997 to 5 April 1998:

i.e.  $6/12 \times 10,000 = 5,000$

If farmers' averaging is not claimed the assessments are as follows

96-97	22,000 ( $12/24 \times (20,000 + 24,000)$ )
-------	---

97-98	10,000
-------	--------

If averaging is claimed the average profit for 97-98 and 96-97 is 16,000 ( $1/2 \times (22,000 + 10,000)$ ). The self assessment for 96-97 is not altered but an adjustment is made to the 97-98 tax to take account of the reduction in profits for 96-97 from 22,000 to 16,000. But there is no effect on the profit of the year ended 30 September 1997 so the transitional overlap profit is unaffected and remains as 5,000 .

Capital allowances have been ignored so far. Including them emphasises that the transitional overlap profit is not changed by farmers' averaging.

**Example 2**

The results are as before but there are capital allowances of 4,000 for 96-97 and 8,000 for the basis

period for 97-98 (i.e. the year ended 30 September 1997).

So we have:

96-97	Profits 22,000 less CAs 4,000 =	18,000
-------	------------------------------------	--------

97-98	Profits	2,000
-------	---------	-------

If farmers' averaging is claimed the profits become 10,000 for each year.

Capital allowances must be ignored when computing transitional overlap profits. The Act provides no mechanism for unscrambling the capital allowances and incorporating unscrambled figures into revised transitional overlap computations. If Parliament had intended people to go through such a process there would have been rules. So the transitional overlap profit remains as £5,000 (2,000 + CAs 8,000 = 10,000 x 6/12)

In short transitional overlap profit is computed at an earlier stage in the process than farmers' averaging and the two do not interact at all. This is the way the law was intended to work and in our view it achieves that objective.

## miscellaneous

### FARMERS' AVERAGING WHEN 97-98 SHOWS A LOSS

We have been asked for further guidance on how to complete the self employed pages of the Self Assessment return when there is a farming loss for 97-98 and a claim to farmers' averaging with 96-97.

Trading conditions for farmers have been difficult recently. Consequently profits for 97-98 are likely to be lower than those for 96-97 and the 97-98 result may be a loss.

Losses are treated as nil in farmers' averaging computations but relief for

losses can still be claimed in the normal way.

#### Example

Profits assessable 96-97	50,000
Loss 97-98	10,000

If averaging is claimed the profit becomes 25,000 ((50,000 + Nil)/2) each year.

Under the new rules for Self Assessment the return for 96-97 is not revised. Instead an adjustment of the amount of the change in the 96-97 tax is made in the 97-98 return. There was an article explaining the new rules at page 392 in the February 1997 Tax Bulletin. The procedure is to tick box 18.5, and enter the amount in the additional information box on page 8.

In the example above the loss of £10,000 should be entered in box 3.73 of the Self-employment pages [or box 4.7 of the partnership pages where appropriate] and box 3.80 [4.14].

The farmers' averaging adjustment of £25,000 should be entered in box 3.78 [4.12].

The profit of £25,000 assessable for 97-98 should be entered in box 3.79 [4.13]

The guidance which says that you must show nil in box 3.80 [4.14] if there is a profit in box 3.79 [4.13] and nil in box 3.79 [4.13] if there is a loss in box 3.80 [4.14] is wrong in this special situation and you should ignore it. We have arrangements in place to deal with this where returns are submitted manually.

Unfortunately the return will be rejected if it is filed using ELS because the computer validation checks to see whether 3.79 [4.13] is nil if there is an entry in 3.80 [4.14] and vice versa. It is too late to change the program for 97-98 and the way around this problem is to submit a manual return. We are sorry for the inconvenience that this will cause.

The loss of £10,000 can be claimed in various ways. The most likely are

- against 97-98 income (including the profit of £25,000 resulting from averaging) using box 3.81 [4.15]
- against 96-97 income (including the profit of 25,000 resulting from averaging) using box 3.82 [4.16]

These claims are made in the normal way but care must be taken to ensure that if the loss is carried back the figures are computed using profits of 25,000 and not the 50,000 originally returned.

### TRANSFER PRICING AND THE ARBITRATION CONVENTION

The extension of the Arbitration Convention was agreed by EU Finance Ministers at their meeting in Brussels on 19 May 1998. The Convention, which is in force for 12 Member States, had been due to expire at the end of 1999, but it will now be extended for at least 5 years (Inland Revenue Press Release 19 May 1998). The three new Member States, Austria, Finland and Sweden, have yet to complete the process of ratification.

The Convention provides for independent arbitration to ensure the elimination of double taxation by EU Member States which could arise from a transfer pricing adjustment made by a Member State. Guidance about how the Convention works was provided in *Tax Bulletin*, Issue 31, October 1997.

The Arbitration Convention is good for business and industry throughout the EU and beyond. It ensures the elimination of double taxation arising from transactions between associated enterprises across national boundaries within the EU, and by doing so facilitates trade and commerce within the Single Market.

The extension of the Arbitration Convention had been identified by business as a key tax priority, and the UK Presidency was able to respond to this. Adair Turner, Director-General of the CBI, welcomed the extension of the Arbitration Convention, saying:

“ [The] announcement is a first class success for the UK’s Presidency. We congratulate Ministers and officials on their achievement. Businesses operating throughout the European Union will be relieved that the future of the arbitration process has been secured.”

Enquiries about the application of the Convention should be addressed to:

Andrew Hickman  
International Division  
Melbourne House  
Aldwych  
London  
WC2B 4LL

Telephone: 0171-438-6916  
Fax: 0171-438-7629

Enquiries about the application of the Convention where the matters in question relate to sales of oil, etc. should be addressed to:

Graham Black  
Oil Taxation Office  
Strand Bridge House  
138-142 The Strand  
London  
WC2R1HH

Telephone: 0171-438-6986  
Fax: 0171-438-6440

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## TAX TREATY NETWORK:

UPDATE 

Draft Orders in Council in respect of Double Taxation Agreements with Hong Kong (Air Services Agreement), Kazakhstan (Protocol to the 1994 Convention) and Oman (new comprehensive Agreement) were

debated and passed by Parliament on 8 July 1998. Copies of the Orders and the House of Commons Official Report of the debate in Committee are available from the Stationery Office using the following references:

- The Double Taxation Relief (Air Transport) (Hong Kong) Order 1998
- The Double Taxation Relief (Taxes on Income) (Kazakhstan) Order 1998
- The Double Taxation Relief (Taxes on Income) (Oman) Order 1998

The Official Report can also be found on the Internet at

<http://www.parliament.the-stationery-office.co.uk>

and the text of the Orders at

<http://www.hmso.gov.uk>.

Further announcements will be made as and when each agreement enters into force.

Representations generally about new treaties or suggestions about changes to existing treaties are always welcome and should be addressed to:

Eilish Vaughan  
International Division  
Melbourne House  
Aldwych  
London  
WC2B 4LL

Telephone: 0171 438 6051

Questions about a particular double taxation agreement and its effects on a taxpayer’s affairs should be addressed to the local Inland Revenue office responsible for that taxpayer.

Double taxation issues arising from estates, inheritances and gifts are regulated by separate treaties. Representations for new or revised agreements for estates, inheritances and gifts should be addressed to:

David McDonald  
Capital and Valuation Division  
Room 121  
3rd Floor  
New Wing  
Somerset House  
Strand  
London  
WC2B 6NR

Telephone: 0171 438 7741

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## INDIVIDUALS BECOMING NOT RESIDENT AND NOT

## ORDINARILY RESIDENT IN THE UNITED KINGDOM: YEAR OF DEPARTURE

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We have made a small change to the organisation of our work which affects certain individuals becoming not resident and not ordinarily resident in the UK.

Strictly an individual is either resident or not resident in the United Kingdom for the whole of the tax year. But, by concession (ESC A11), the tax year is split so that individuals can be treated as resident in the UK for only part of the year. Up to and including the tax year 1997-98 tax offices have been responsible for dealing with liability of individuals for split years.

### Year of Departure

From the tax year 1998-99 Financial Intermediaries and Claims Office (FICO) will be responsible for dealing with the liability of the split year for individuals who:

- leave the UK, and
- become not resident and not ordinarily resident in the UK after 6 April 1998 and
- are liable to UK tax on sources of UK income arising after they leave.

Generally, if there is no income arising after the date of departure from the UK which gives rise to UK tax liability, tax offices will continue to deal with the tax liability, or any repayment due, up to the date of departure.

### Exceptions

FICO will not be taking responsibility for split year cases where an individual's main tax office is any of the following:

- Public Department Districts
- Cardiff 1 (Seafarers)
- Centre 1 (Foreign Unit)

### Year of Arrival

Where split year treatment is due for the year in which an individual arrives in the UK, FICO will only deal with the liability for that year if the individual:

- leaves the UK again later in the same year, and
- becomes not resident and not ordinarily resident from the day after the date of departure to the following 5 April.

## REVENUE PROSECUTIONS

Readers will be aware of the Revenue's policy of selective prosecution involving the most serious cases across the whole range of the tax system. The Board sees this as an important part of its strategy to deter tax fraud and evasion. As part of the wider publicity for this strategy, details of Revenue prosecutions are published in Tax Bulletin. We are also making the information available on the Revenue web-site. The address is: <http://www.open.gov.uk/inrev/irhome.htm>

### Recent convictions:

#### John Marcus Gorst

Mr Gorst, a company director was sentenced to 2 years imprisonment at Southwark Crown Court for making false statements to the Inland Revenue. He was found guilty of 12 counts of submitting false tax returns over a period of 12 years and was arrested in 1995 following a 3 year investigation by Special Compliance Office. The tax loss was estimated at £120,000 plus interest of £83,000.

#### Kalwant Singh Bhandal Awtar Singh Bhandal Steven George Cutting

These three Birmingham businessmen pleaded guilty to cheating the Revenue and were sentenced to five, three and one year in jail respectively at Birmingham Crown Court. The Inland Revenue gained access to the relevant documents and HM Customs & Excise searched the premises of all those party to the fraud. It became clear that the accounts seriously understated the company's takings. The Bhandals also admitted paying additional wages outside the PAYE system thereby evading income tax and NICs.

## CAPITAL GAINS TAX REFORM PUBLICATION OF GUIDANCE

The Finance Act 1998 makes a number of fundamental changes to the structure of capital gains tax. We will be publishing guidance for practitioners on these changes.

We aim to publish a detailed booklet in the autumn. This will be supplemented by additions to the CG Manual by the end of the year and by an update of the more general material in leaflet CGT14 "Capital Gains Tax. An introduction".

## INHERITANCE TAX: NEW

### ARRANGEMENTS FOR PAYING IN PERSON IN LONDON

The payment counter in Somerset House has closed down. You can now take cheques to the **London Stamp Office**, on the Ground Floor of South West Wing, Bush House, Strand. The building is directly opposite the main entrance to Somerset House. The London Stamp Office is open Monday to Friday from 9:30 am to 4:30 pm. Their telephone number is 0171 438 7452 or 0171 438 7546. Arrangements for paying by post have not changed.

## SPECIAL INVESTIGATIONS - CHANGE OF ADDRESS

From Monday 17 August 1998 the address of Special Investigation Section 2 (the Section 703 Group) will be :

5th Floor  
22 Kingsway  
London  
WC2B 4NR

The telephone and fax numbers will be unchanged.

Also from 17 August, the Section 703 Group will be called the Section 703 Compliance Unit. All correspondence relating to Section 703, Income and Corporation Taxes Act 1988, including applications for clearance under Section 707, should be sent to the Section 703 Compliance Unit at 22 Kingsway.

Inland Revenue Statements of Practice and Extra-Statutory Concessions issued between 1 June 1998 and 31 July 1998

### **Extra Statutory Concessions**

There have been no Extra Statutory Concessions issued in this period

### **Statements of Practice**

There have been no Statements of Practice issued in this period

*You can get copies of SPs and ESCs from Christine Jordan at the Inland Revenue Information Centre, Ground Floor, South West Wing, Bush House, Strand, London WC2B 4RD. Telephone 0171 438 7772*

## **CONTENT**

The content of Tax Bulletin gives the views of our technical specialists on particular issues. The information published is reported because it may be of interest to tax practitioners. Publication will be six times a year, and include a cumulative index on an annual basis.

- You can expect that interpretations of the law contained in the Bulletin will normally be applied in relevant cases, but this is subject to a number of qualifications.
- Particular cases may turn on their own facts, or context, and because every possible situation cannot be covered, there may be circumstances in which the interpretation given here will not apply.
- There may also be circumstances in which the Board would find it necessary to argue for a different interpretation in appeal proceedings.
- The Bulletin does not replace formal Statements of Practice.
- The Board's view of the law may change in the future. Readers will be notified of any changes in future editions.

Nothing in this Bulletin affects a taxpayer's right of appeal on any point.

Letters on any article appearing in Tax Bulletin should be sent to the Editor, Jeremy Sherwood, Room 402, 22 Kingsway, London WC2B 6NR. We are sorry though that neither he nor our contributors will normally be able to enter into correspondence about Tax Bulletin or its contents.

## **SUBSCRIPTION**

The subscription for 1998 is £20. If you would like to subscribe to Tax Bulletin please send your name and address together with your cheque to Inland Revenue, Finance Division, Barrington Road, Worthing, West Sussex BN12 4XH. Cheques should be crossed and made payable to "Inland Revenue".

If you would like information regarding Tax Bulletin subscription or distribution please contact Ms Nahid Shariff, Assistant Editor, Room 408, 22 Kingsway, London WC2B 6NR, on 0171 438 7842 or at the address below.

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