Draft Order laid before the House of Commons under section 160(7) of the Finance Act 2008, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

INCOME TAX

The Enactment of Extra-Statutory Concessions Order 2014

Made - - - - ***

Coming into force in accordance with article 1

The Treasury make the following Order in exercise of the powers conferred by section 160 of the Finance Act 2008(**1**).

In accordance with section 160(7) of that Act, a draft of this instrument was laid before the House of Commons and approved by resolution of that House.

Citation and commencement

1. This Order may be cited as the Enactment of Extra-Statutory Concessions Order 2014 and comes into force on the day after the day on which it is made.

Exemption or deduction for travel expenses

2.—(1) In Part 4 of ITEPA 2003(**2**) (employment income: exemptions), in Chapter 3 (other transport, travel and subsistence), after section 241 insert—

"**Travel by unpaid directors of not-for-profit companies**

241A.—(1) No liability to income tax arises in respect of a sum if or to the extent that it is paid wholly and exclusively for the purpose of paying or reimbursing travel expenses in respect of which conditions A to C are met.

(2) Condition A is that—

(a) the employee is obliged to incur the expenses as holder of the employment, and

(b) the expenses are attributable to the employee's necessary attendance at any place in the performance of the duties of the employment.

(3) Condition B is that the employment is employment as a director of a not-for-profit company.

(**1**) 2008 c. 9.
(**2**) 2003 c. 1. "ITEPA 2003" is defined in section 165(1) of the Finance Act 2008.

(4) Condition C is that the employment is one from which the employee receives no employment income other than sums to which Chapter 3 of Part 3 applies (expenses payments).

(5) In this section—

(a) "director" has the same meaning as in the benefits code (see section 67), and

(b) "not-for-profit company" means a company that does not carry on activities for the purpose of making profits for distribution to its members or others.

Travel where directorship held as part of trade or profession

241B.—(1) No liability to income tax arises in respect of a sum if or to the extent that it is paid wholly and exclusively for the purpose of paying or reimbursing travel expenses in respect of which conditions A to D are met.

(2) Condition A is that the employee is obliged to incur the expenses as holder of the employment.

(3) Condition B is that the employment is employment as a director of a company.

(4) Condition C is that the employee carries on a trade, profession or vocation (alone or in partnership).

(5) Condition D is that, in calculating the profits of that trade, profession or vocation for income tax purposes, a deduction is allowed under ITTOIA 2005(**3**) for the expenses, but no such deduction is to be made.

(6) In this section "director" has the same meaning as in the benefits code (see section 67).".

(2) In Part 5 of ITEPA 2003 (employment income: deductions allowed from earnings), in Chapter 2 (deductions for employee's expenses), after section 340 insert—

"**Travel between linked employments**

340A.—(1) A deduction from earnings from an employment is allowed for travel expenses if conditions A to E are met.

(2) Condition A is that the employee is obliged to incur and pay the expenses.

(3) Condition B is that the travel—

(a) takes place within the United Kingdom, and

(b) is for the purpose of performing duties of the employment at the destination.

(4) Condition C is that the employee has performed duties of another employment at the place of departure.

(5) Condition D is that—

(a) at least one of the employments is as a director of a company ("company X"), and

(b) the other employment is also with a company ("company Y") but not necessarily as a director of it.

(6) Condition E is that the employee was appointed as a director of company X because company Y, or a company in the same group as company Y, has a shareholding or other financial interest in company X.

(7) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

(8) In this section—

(**3**) Part 1 of Schedule 1 to ITEPA 2003 provides that "ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005 (c. 5).

"director" has the same meaning as in the benefits code (see section 67), and

"group" means a company and its 51% subsidiaries.".

3. In section 72(3) of ITEPA 2003, after "section 340 (travel between group employments);" insert "section 340A (travel between linked employments);".

4. The amendments made by articles 2 and 3 have effect in relation to expenses incurred on or after 6 April 2014.

Lump sums paid under foreign pension schemes

5.—(1) Part 6 of ITEPA 2003 (employment income: income which is not earnings or share-related) is amended as follows.

(2) In Chapter 2 (employer-financed retirement benefits), after section 395A(**4**) insert—

"**Exemption or reduction for foreign service**

395B.—(1) This section applies if—

(a) a benefit to which this Chapter applies is provided to or in respect of an employee or former employee in the form of a lump sum,

(b) the employer-financed retirement benefits scheme under which the lump sum is provided is established in a country or territory outside the United Kingdom,

(c) the lump sum is received by the employee or former employee or a related person,

(d) all or part of the lump sum ("the relevant part") would, but for this section, count as employment income by virtue of section 394(1)(**5**) or be chargeable to income tax under section 394(2) (account having been taken of section 394(4B) and section 395), and

(e) the service in respect of which rights to receive the relevant part of the lump sum accrued (referred to as "reckonable service") is or includes foreign service.

(2) Section 394(1) or, as the case may be, section 394(2) does not apply to the relevant part of the lump sum if the condition in subsection (3) is met.

(3) The condition is that—

(a) three-quarters or more of the period of reckonable service is made up of foreign service,

(b) if the period of reckonable service exceeds 10 years, the whole of the last 10 years of that period is made up of foreign service, or

(c) if the period of reckonable service exceeds 20 years, one-half or more of that period, including any 10 of the last 20 years, is made up of foreign service.

(4) If the condition in subsection (3) is not met, the amount that counts as employment income by virtue of section 394(1) or, as the case may be, is chargeable to income tax under section 394(2) is to be reduced by the appropriate proportion.

(5) The appropriate proportion is a proportion of the relevant part of the lump sum equal to the proportion that the period of foreign service included in the reckonable service bears to the period of reckonable service.

(**4**) Section 395A was inserted by S.I. 2009/730.
(**5**) Section 394 was amended by section 249 of the Finance Act 2004 (c. 12), paragraph 595 of Schedule 1 to ITTOIA 2005, paragraph 14 of Schedule 2 to the Finance Act 2011 (c. 11), section 1(4) of the Finance Act 2012 (c. 14), and paragraph 65 of Schedule 45 to the Finance Act 2013 (c. 29).