

Employment Benefits

Today the remuneration of many directors and employees comprises a package of salary and benefits.

Essentially two tests must be applied in determining the tax implications of any benefit.

- Is the benefit taxable?
- If the benefit is taxable, what is its taxable value?

In this factsheet, we give guidance on some of the main benefit in kind rules and indicate some common types of benefits.

It is not intended to be an exhaustive guide and any decisions should be supported by professional advice appropriate to your personal circumstances.

Setting the scene

All earnings of an office or employment are taxable. Where they are not in cash it becomes necessary to put a value on them.

As a general rule unless the benefit can be converted into cash there is no taxable benefit. Where it is convertible into cash the taxable amount is the resale value.

To prevent avoidance, additional legislation charges certain other benefits to tax. The detailed rules are complex. We can advise on structuring remuneration packages, including benefits, in a tax efficient way.

Reporting

Employers are required to notify HMRC of benefits provided to directors and most employees by completing forms P11D annually.

Penalties can apply where the forms are submitted late or are incorrect.

The full amount of any benefit must be reported on this form.

Up until 5 April 2016 employers also had to report payments of expenses on forms P11D unless they had applied for a dispensation. Details of the new expenses rules are included in the Employee Expenses factsheet.

National Insurance

In general, employees' national insurance (NIC) is not due on benefits except vouchers, stocks and shares, the discharge of an employee's personal liability and benefits provided by way of 'readily convertible' assets.

Most benefits are subject to Class 1A NIC payable by the employer. As this amounts to 13.8% of the taxable value of the benefit, you always need to consider the tax efficiency of providing benefits.

Please consult us for advice.

Non-taxable benefits

Certain benefits are not taxable. The most important ones are:

- retirement benefits which are paid by an employer into a registered pension scheme
- meals provided in a staff canteen
- drinks and light refreshments at work
- parking provided at or near an employee's place of work
- workplace nursery places provided for the children of employees
- certain other employer-supported childcare up to £55 per week. Any formal registered childcare or approved home childcare contracted for by the employer such as a local nursery, out-of-school club or childminder may be covered by this exemption
- in-house sports facilities
- payments for additional household costs incurred by an employee who works at home
- removal and relocation expenses up to a maximum of £8,000 per move
- the provision of a mobile phone or vouchers to make available a mobile phone (limited to one phone per employee only)
- annual social functions for employees provided the total cost of all events in a tax year is less than £150 per head
- trivial benefits up to £50 or £300 per annum in close company situations.

Trivial benefits

For many years HMRC had been prepared to accept that trivial benefits were not taxable under certain circumstances. A statutory exemption applies from April 2016 for trivial benefits in kind. The exemption sets out a number of conditions that must be met for a benefit to be exempt which are that the:

- cost of providing the benefit does not exceed £50
- benefit is not cash or a cash voucher
- benefit is not provided under salary sacrifice arrangements or any other contractual obligation
- benefit is not provided in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.

In addition where qualifying trivial benefits are provided to directors and other office holders of close companies they will be subject to an annual cap of £300. In a case where the benefit is provided to a member of the employee's family or household who is not an employee of the employer, this benefit will count towards the £300 exempt amount. Where the director's or other office holder's family or household member is also an employee of the company, they will be subject to a £300 cap in their own right.

Please contact us for advice on how the exemption operates.

Taxable benefits

The following benefits are taxable on all employees:

- any living accommodation provided, unless job related
- vouchers
- credit tokens.

In addition, special rules apply to tax other benefits received by directors and all but the lowest paid employees. Common types of benefits provided are detailed below.

- **Employer provided cars** - this is probably the most common benefit and the taxable amount will generally be based on a range of 7% - 37% of the manufacturer's list price (including accessories) of the car. The taxable benefit depends upon the carbon dioxide emissions of the car.

There are reductions for unavailability of the car and where the employee makes a contribution towards the cost of the car.

Please talk to us for further details on the application of the rules.

- **Private fuel** - a separate charge applies where private fuel is provided for an employer provided car, unless the employee reimburses the employer for all private mileage (including travel between home and work). The charges are determined by reference to the percentage applying to the company car. A set figure of £22,200 for 2016/17 (£22,600 for 2017/18) is multiplied by this percentage to determine the taxable benefit.
- **Van** - The scale benefit charge for the unrestricted use of an employer provided van is £3,170 for 2016/17 (£3,230 for 2017/18). Where the restricted private use condition is met no benefit arises. Where an employer also provides fuel for unrestricted private use an additional fuel charge of £598 for 2016/17 (£610 for 2017/18) applies. Please do get in touch if you would like to ensure that employee van use meets the restricted private use condition.
- **Cheap or interest free loans** - no benefit will be taxed where the loan does not exceed £10,000.
- **Medical insurance** - the cost of providing medical insurance is a taxable benefit.
- **Use of company assets** - an annual benefit is taxed where employees have the private use of company assets. The annual benefit amounts to 20% of the asset's market value when first made available to any employee. Insignificant private use of certain assets is not taxable.
- **Phones** - private home phone bills, including rental charges, which are paid for by the employer will be taxed as a benefit.

Salary sacrifice

The government will legislate to limit the income tax and employer NICs advantages where:

- benefits in kind are offered through salary sacrifice or
- where the employee can choose between cash allowances and benefits in kind.

The taxable value of benefits in kind where cash has been forgone will be fixed at the higher of the current taxable value or the value of the cash forgone.

The new rules will not affect employer-provided pension saving, employer-provided pensions advice, childcare vouchers, workplace nurseries, or Cycle to Work. Following consultation, the government has also decided to exempt Ultra-Low Emission Vehicles, with emissions under 75 g/km of CO₂.

This change will take effect from 6 April 2017. Those already in salary sacrifice contracts at that date will become subject to the new rules in respect of those contracts at the earlier of:

- an end, change, modification or renewal of the contract
- 6 April 2018, except for cars, accommodation and school fees when the last date is 6 April 2021.

The legislation will only apply where cash is being given up in exchange for a benefit. So employees with employment contracts which provide a salary with the choice of a basket of benefits on top of the salary will not be taxed on the benefits by reference to the proposed new rules.

How we can help

The taxation of employment benefits is a complex area. Ensuring that you comply with all the administrative obligations and plan in advance to minimise tax liabilities is essential. We can help you with the following:

- reviewing existing employees' remuneration packages for tax and NIC efficiency
- planning flexible and tax efficient remuneration packages for key employees within your organisation
- advising on systems for reimbursing expenses and checking procedures
- help on applying for bespoke scale rates
- providing advice and assistance with the completion of your PAYE returns
- negotiating with HMRC if disagreements arise and in reaching settlements.

We would welcome the opportunity to assist you with any planning and compliance matters so please do contact us.

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