



EMPLOYMENT ISSUES

Benefits in Kind

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 emoluments 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 or reimbursed expense must be reported on this form. However, where the reimbursed amounts represent genuine business expenses a claim can be submitted by the taxpayer on his or her tax return, (or in writing to HMRC if they do not receive a tax return) thus resulting in a nil liability.

Dispensations

Many expense payments do not involve a tax liability as a corresponding claim is made by the employee for amounts expended wholly, exclusively and necessarily for business purposes.

A dispensation, granted by HMRC, allows certain expenses to be ignored when completing P11Ds. Commonly, a dispensation covers travelling and subsistence expenses and routine entertaining.

Correspondingly, the employee cannot make an expenses claim to HMRC.

National Insurance

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

Most benefits in kind are subject to Class 1A NIC payable by the employer. As this amounts to 12.8% 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 an approved 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 and, since April 2006, certain other employer-supported childcare up to £55 per week
- 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).

Taxable Benefits

The following benefits are taxable on all employees:

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

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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.

- **Company cars** - this is probably the most common benefit and the taxable amount will generally be based on a range of 15% - 35% 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 a company 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 (currently £14,400) is multiplied by this percentage to determine the taxable benefit.
- **Cheap or interest free loans** - no benefit will be taxed where the loan does not exceed £5,000.
- **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.
- **Telephones** - private home telephone bills, including rental charges, which are paid for by the employer will be taxed as a benefit. There is no charge for private calls using a company mobile phone (limited to one per employee for phones provided from 6 April 2006).
- **Social functions for employees** - HMRC will not tax as a benefit a Christmas party and other annual functions provided the total cost of all events in a tax year is less than £150 per head.

• **Childcare**

- Employees are exempt from both tax and NICs where an employer provides a place in a workplace nursery.
- There is a tax and NI exemption for childcare vouchers limited 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 is exempt from both tax and NI up to £55 per week.
- Where schemes operate they should be open to all employees.

How We Can Help

The taxation of benefits in kind 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 efficiency
- planning flexible and tax efficient remuneration packages for key employees within your organisation
- advising on systems for reimbursing expenses and applying for dispensations
- 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.

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