

## Introduction

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Non-cash benefits are an important element of most employees' remuneration package. Many companies incur heavy expenditure on items such as pension contributions, sickness cover, company car costs, staff canteens and expense allowances.

Benefits are provided not only because employees consider them attractive, but also because they are thought to have some tax and national insurance advantages. This is not always the case, and it is important that both employers and employees understand the tax and national insurance rules covering employee benefits.

Where benefits are provided as part of a salary sacrifice arrangement to take advantage of tax and/or national insurance exemptions on offer, it is important that the arrangement is effective and the implications are thoroughly understood. HM Revenue and Customs (HMRC) are looking closely at salary sacrifice arrangements and employers should keep abreast of changes in this area to ensure such arrangements remain worthwhile.

## Distinction between P11D and lower-paid employees

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The extent to which a non-cash benefit is taxable depends on whether the employee is a P11D employee or a director or whether the employee is in a lower-paid employment.

### P11D employees

Broadly, P11D employees are employees who are remunerated at a rate of at least £8,500 a year (including benefits) and directors, irrespective of their earnings rate. HMRC form P11D, which is the return for employees' benefits and expenses, has to be completed each year for which non-cash benefits are provided to these individuals.

Directors are not treated as P11D employees if they:

- Work full-time,
- Earn at a rate of less than £8,500 a year, and
- Together with any associates, control 5% or less of the ordinary share capital of the company.

Directors of a charity or other company not formed with a view to profit are not regarded as P11D employees if they satisfy only the second and third conditions above. In other words, they do not have to work full-time.

### The £8,500 threshold

In calculating whether an employee earns at a rate of less than £8,500 a year, the cash-equivalent value of benefits provided is added to the employee's salary and other cash earnings.

The cash equivalent value is calculated as if the employee were a P11D employee. All expenses paid to an employee must also be added to salary, including business expenses on which the employee does not in effect pay tax.

The only payments that do not need to be included in testing whether the employee earns at a rate of £8,500 a year or more are:

- Benefits that are tax-free for all employees, such as contributions to an approved pension scheme.
- Expenses paid under a dispensation arranged with HMRC (see page 15, 'Dispensations').
- Reimbursement of business mileage not in excess of the approved amount (see page 15, 'Mileage allowances').

### Example

A part-time employee receives salary and benefits from his employer in 2010/11 as follows:

	£
Salary	5,500
Company car, cost £29,200, CO <sub>2</sub> emissions 154g/km	
Cash equivalent of car benefit (see page 8, 'Company cars and fuel for private motoring') (19% of £29,200)	5,548
Fuel for private motoring (see page 8, 'Company cars and fuel for private motoring') (19% of £18,000)	3,420
	<b>14,468</b>
Reimbursed business entertaining expenses	500
Total	<b>14,968</b>

Despite the fact that the employee's cash salary is less than £8,500, the employee will be treated as a P11D employee, as once benefits are taken into account the employee earns at a rate of more than £8,500 a year. As regards part-time employees, it should be noted that the actual salary is used in the calculation, not the full-time equivalent. However, if the employee only works for part of the year, the annualised figure is used.

Although the business entertaining expenses are tax-deductible, this employee will be classified as a P11D employee, and the car and fuel for private motoring will be taxed on that basis, as set out on page 7, 'Benefits taxable only on P11D employees'.

## Taxation of benefits – general principles

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Some benefits are fully or partially exempt from tax. These are covered on page 10, 'Benefits fully or partially exempt from tax'. Taxable benefits are covered in this subsection and on page 7, 'Benefits taxable only on P11D employees'.

### Categories of benefits

The rules for taxing benefits in kind fall into three categories:

- Rules that apply to all employees.
- Rules that apply only to lower-paid employees.
- Special rules that apply only to P11D employees – see page 7, 'Benefits taxable only on P11D employees'.

Living accommodation has its own more complex provisions, which apply to all employees but with modifications for P11D employees.

These rules are covered at the end of this subsection.

## How benefits are taxed

The way in which tax and national insurance contributions (NICs) are collected on benefits depends on the type of benefit.

- A few benefits are taxed as if they were salary.
- The value of these benefits is added to gross pay for the pay period (eg the month or week) and tax and Class 1 NICs are calculated on the total.
- A very few benefits are added to salary only for the purpose of calculating (employer's and employee's) NICs, and not for calculating income tax.
- Most benefits are notified to HMRC on forms P11D and P9D. The associated tax is collected via an adjustment to the employee's tax code. Where the deductions in the tax code are more than the employee's allowances and tax reliefs, there are special procedures that limit the tax deducted from the employee's pay in any period to 50% of gross cash pay.
- If benefits not taxed as pay have not been deducted in the tax code, they may be deducted in a tax code for a later year or taxed under self-assessment after the end of the tax year.
- Most taxable benefits provided to P11D employees are liable to Class 1A NICs. These are employer-only contributions. No employee NICs are payable. No Class 1A NICs arise in respect of benefits provided to lower-paid employees and reported on form P9D. The employer must show the total value of the benefits liable to Class 1A NICs in the year on form P11D(b) and pay the NICs by 19 July after the end of the tax year.
- Taxable benefits not taxed as pay have to be included on form P11D for P11D employees. Non-pay benefits that are taxable on lower-paid employees have to be shown on form P9D. Benefits taxed as pay and non-taxable benefits do not have to be shown on forms P11D and P9D.
- Benefits and expenses that are covered by a dispensation or included within a PAYE settlement agreement do not need to be returned on forms P11D or P9D.

## Benefits taxable on all employees

Some benefits are taxable whatever the level of the employee's earnings.

The main benefits that fall into this category are readily convertible assets, vouchers, credit cards and other credit tokens, the meeting of an employee's private expenses, and living accommodation.

### Readily convertible assets

Payments in the form of readily convertible assets must be added to pay for tax and NIC purposes and pay as you earn (PAYE) applied.

If the PAYE deductions are more than the employee's cash pay, the employer must recover the excess from the employee.

A readily convertible asset is one that the employee can easily turn into money, such as:

- An asset capable of being sold on an investment exchange or commodity market. Examples are shares and gold bullion.
- A right over a debt or right enabling an employee to obtain money in some other way, for example, an interest in a trust that comes to an end shortly after being assigned to an employee.

- An asset subject to trading arrangements.
- Enhancement of an asset already owned by an employee, such as payment of an additional premium to an employee's life assurance policy which can then be turned into cash.

## **Shares**

If shares, whether listed or not, are acquired by reason of the employment, any difference between their market value and the amount the employee pays for them is treated as a taxable benefit whether the shares concerned are sold or kept. Listed shares and any other shares that are readily convertible assets are treated as pay and charged to tax and NICs under PAYE.

Other tax charges can arise in connection with shares and share options. These are outside the scope of this section.

Shares awarded to employees under the various approved share and share option schemes are not normally taxable benefits at the time they are transferred to the employee (see page 14, 'Employee share and share option schemes').

## **Vouchers**

Vouchers that can be exchanged for cash alone, for goods or cash, or for goods that can readily be converted to cash are referred to as 'cash vouchers'. These are essentially treated in the same way as if the employee had received the cash for which they can be exchanged. The amount of cash received in exchange for the vouchers is added to salary and charged to tax and NICs under PAYE at the time the voucher is given. Some vouchers can only be exchanged for goods or services and do not have a cash surrender value. These are known as 'non-cash vouchers'.

- Non-cash vouchers are liable to Class 1 NIC and added to earnings for NIC purposes.
- For tax purposes, non-cash vouchers must be reported as a benefit in kind on the P11D or P9D, as appropriate.
- The value of such a non-cash voucher for tax and NIC purposes is the cost to the employer of providing it, less any part of the cost made good by the employee. Where the voucher is provided by a third party, the value is the cost to the third party of providing it, again less any part of the cost made good by the employee. In either case, this includes the cost of buying the goods or providing the services and any directly related costs such as selecting, testing, storing, distributing, installing and servicing the goods or services.
- Non-cash vouchers are not taxable if the goods or services for which they can be exchanged are exempt, for example, vouchers for sports and recreational facilities available to all employees.
- Vouchers that can be exchanged for readily convertible assets are treated as pay for tax and NIC purposes.

## **Credit cards**

Where an employer provides an employee with a company credit card on which the employer pays the bill, the benefit is not normally taxed through PAYE, although NICs are due through PAYE where the credit card is used other than for authorised business expenditure.

Employees who buy goods or services with company credit cards are liable to tax on the cost incurred by the employer on transactions carried out by the employee in the tax year. If the credit card is used for allowable business expenditure, the employee should submit a claim for a tax deduction in respect of the business element.

## Private expenses

Employees are taxable on the full amount of any private expenses met by an employer.

- If reimbursement is made direct to the employee, the amount reimbursed must be included in gross pay for PAYE and Class NIC purposes.
- If the employer pays the employee's bill for goods or services bought by the employee, the amount is treated as pay for NIC purposes only. Examples are where an employer takes over the employee's liability to meet costs such as rent, school fees, garage bills, club subscriptions or accountancy, legal or other professional fees. Even if a motoring conviction arose from a business trip, defending it is regarded as a personal expense (but see page 14, 'Employee share and share option schemes'). For tax purposes, the amount paid on the employee's behalf is returned on the P11D or P9D, as appropriate.

## Termination benefits

Settlements made in connection with the termination of an employment may include non-cash benefits, such as use of a company car for a period after termination or the transfer of assets.

If such benefits would not otherwise be taxable, they are taxed under the special rules for termination benefits.

Under these rules, the taxable value of a non-cash benefit is the higher of:

- Its convertible or realisable value, and
- Its cash equivalent.

In most cases, the cash equivalent is calculated in the same way as for benefits provided for P11D employees – see page 7, 'Benefits taxable only on P11D employees'.

However, all employees are liable to tax on termination benefits, not just P11D employees.

If the total value of an employee's termination package including non-cash benefits is £30,000 or less, the benefits will often not be taxable – see page 13, 'Compensation for loss of office and other terminal payments'.

## Benefits taxable on lower-paid employees

If a lower-paid employee receives a benefit other than those listed on page 3, 'Benefits taxable on all employees', tax is charged only if the item can be turned into money or money's worth. In such a case, the amount of the benefit is generally the second-hand value of the item. If the benefit cannot be turned into money or money's worth, it is not subject to tax.

- For example, a suit given to an employee as part of his wages might have cost the employer £500, but if the second-hand value is £100 this would be the taxable value of the suit for a lower-paid employee.
- There is no second-hand value for the right to use a company asset or to the supply of most services. So for lower-paid employees, use of a company car is not taxable.
- If, instead of giving goods to the employee, the employee buys the goods and passes the employer the bill, the employee is taxable on the full cost paid by the employer (see above).
- The determining factor is who contracts for the supply of the goods, the employer or the employee.

## Living accommodation

Where an employee occupies rent-free accommodation or pays only a very low rent, the benefit is taxable unless the arrangement falls within one or more of three exemptions – see below.

This benefit is not treated as pay for tax or NIC purposes but is liable for Class 1A (employer-only) NICs.

### The accommodation benefit

The taxable value of the benefit of employer-provided living accommodation consists of two elements:

- The annual value or, if greater, the rent actually paid by the employer. The annual value is the gross rateable value, even though domestic rates have been replaced by council tax. Estimated annual values are used for properties built since the abolition of domestic rates. Anti-avoidance rules prevent reducing the tax charge by paying a lease premium to keep the rent paid (and the value of the benefit) low.
- If the cost of providing accommodation owned by the employer is more than £75,000, there is an additional charge. The charge is calculated by multiplying the excess of the cost of the accommodation over £75,000 by the official rate of interest in force at the beginning of the tax year.
- The official rate of interest on 6 April 2010 (start of the 2010/11 tax year) was 4%.
- The cost of accommodation is:
  - The total price paid by the employer for the accommodation concerned, including improvements, or
  - The market value of the accommodation when it was first provided to the employee, where the accommodation had been owned by the employer for over six years at the time it was first provided to the employee.
- Any rent paid by the employee is deducted from the taxable value of the benefit.

### Exemptions

- A company house or flat provided for an employee is exempt from tax in the following circumstances:
  - The accommodation is necessary for the proper performance of the employee's duties, eg as a caretaker, or
  - The accommodation helps the employee to perform their duties better, and the provision of such accommodation is customary, or
  - There is a special threat to the employee's security and the employee lives in the accommodation as part of special security arrangements.
- Part-time directors, and full-time directors who own more than 5% of the employing company's equity, are only exempt if the accommodation is provided for reasons of security.

### Furnished accommodation

The accommodation benefit only covers the unfurnished property. If the employer provides furniture and equipment, P11D employees are also taxable each year on 20% of the market value of the furniture when first installed. Lower-paid employees are not taxed on the use of furniture.

## Services connected with the accommodation

P11D employees are taxed on expenditure met by the employer, such as repairs (unless structural), heating, cleaning, lighting and maintenance.

## Upper limit for exempt accommodation

Where a P11D employee occupies exempt accommodation, there is an upper limit on the amount that is taxed in respect of services and furniture.

- The limit is 10% of the employee's total remuneration including all other benefits in kind, but after deducting some amounts that are allowable deductions for tax purposes, eg pension contributions.
- The limit applies to expenditure on heating, lighting, cleaning, repairs, maintenance, decoration, the supply of furniture and normal costs of domestic items.
- No tax arises where the employer pays council tax or water rates for an employee in exempt occupation.

## Overseas accommodation

There is no tax on accommodation abroad provided by a company for a director or members of the director's family, if the sole or main purpose and activity of the company is to own the property.

This provision ensures that individuals who have bought a home abroad through a company are not taxed under the benefit rules for living accommodation. The exemption does not apply if the company's shares are held indirectly, eg via a trust.

## Benefits taxable only on P11D employees

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Specific rules exist covering most other benefits received by P11D employees. These benefits are not taxed under PAYE as pay and are liable to Class 1A employer's NIC.

### General principles

The general rule is that any benefit provided by the employer to employees or to members of the employee's family or household is taxable unless it is specifically exempt from tax – see page 10, 'Benefits fully or partially exempt from tax'.

- P11D employees are taxed on the cash equivalent of the benefit. As a general rule, the cash equivalent is broadly the cost to an employer of providing the benefit less any contribution made by the employee towards the cost. However, this general definition is overridden by specific rules for calculating the taxable value of several common benefits.
- If an employee has the use of an asset (excluding motor vehicles and accommodation, for which there are special rules), then the cash equivalent is:
  - The 'annual value' of the use of the asset, plus
  - Any expenses incurred by the employer in maintaining the asset.
  - 'Annual value' is taken as 20% of the market value of the asset when it was first provided to the employee. If the employer rents the asset, the employee is taxed on the rent the employer pays if this is more than 20% of the market value.

- If the asset is available to more than one employee throughout the year, the cash equivalent is apportioned between them in a 'just and reasonable' fashion.
- Where an asset is given outright to an employee, tax is generally charged on the market value of the asset at the time of transfer. If employees have had the use of the asset before it was given to them outright, then tax on the transfer is charged on the higher of:
  - The market value of the asset when it was first made available, less amounts already taxed as benefits, and
  - The market value of the asset at the date of transfer.

## **In-house benefits**

Benefits could be provided 'in-house' and not 'bought in'. Examples are:

- Goods and services sold in the normal course of the employer's business that are provided free or at a discount to employees.
- Services and facilities provided in-house, such as a solicitor providing staff with free legal services.
- Assets used in the business and made available for an employee's private use, and such assets if subsequently transferred to employees.

The tax charge on these benefits is limited to the additional or marginal cost to the employer. The marginal cost of in-house benefits depends on each employer's particular circumstances. But as a general guide, HMRC accepts that:

- If employees pay at least the wholesale price for goods, there is no taxable benefit.
- Where teachers pay 15% or more of a school's normal fees, there is no taxable benefit.
- Professional services that do not need additional employees or partners (eg legal and financial services) have no, or negligible, cost to the employer provided the employee meets the cost of any disbursements.
- Rail or bus travel by employees on terms that do not displace fare-paying passengers involves no, or negligible, additional costs, and so no taxable benefit.

If assets used in the business are also used privately, the employee is taxed on an appropriate proportion of the normal annual value (see above) plus any additional expenses that the employer incurs in connection with the private use. The employee is not taxed on a proportion of the employer's fixed costs, such as insurance.

## **Company cars and fuel for private motoring**

Where a car provided to a P11D employee or a member of the employee's family is available for private use, the amount of the taxable benefit is based on the cost of the car and the level of its carbon dioxide (CO<sub>2</sub>) emissions. Fuel for private motoring is taxed as an additional benefit.

The rules relating to the taxation of company cars and fuel are considered in detail in the separate topic 'The Taxation of Company Cars'.

## **Vans**

An employee is liable to tax on a standard charge of £3,000 where a van is made available for unrestricted private use.

- Employees are not liable to tax on a company van if they take their van home from work, but are not allowed other private use of the vehicle.
- If fuel is provided for private mileage, tax is charged on an additional £550 (2010/11).

- The taxable benefit is reduced if the van is not available for a period of 30 days or more.
- The taxable benefit is reduced by any amounts the employee has to pay as a condition for private use of the van.
- If a van is shared, the taxable benefit is calculated separately for each employee, but may be reduced on a reasonable basis to reflect the fact that the van is shared.
- From 6 April 2010 no charge arises in respect of vans (including electric-only) vans that are not capable of producing engine CO<sub>2</sub> emissions in any circumstance ('zero-emission vans').

## **Employment-related loans**

In general, P11D employees who receive interest-free or 'cheap' loans from their employers are taxed on the benefit they receive from the arrangement.

- The benefit of cheap or interest-free loans that do not exceed £5,000 is not taxable. If an employee has more than one employment-related loan, the loans have to be aggregated in determining whether they are exempt from tax.
- Where a benefit is taxable, the amount on which tax is charged is measured as the difference between the amount of interest at the official rate, which varies from time to time, and the amount of interest actually paid, if any.
  - The official rate of interest is normally around 1% higher than bank base rate and is generally fixed at one rate for the whole tax year. However, where the base rate changes frequently or significantly, the rate may be revised during the tax year.
  - For 2009/10, the official rate of interest is 4.75%.
  - From 6 April 2010, the official rate of interest is reduced to 4%.
- If an employee's loan is released or written off, the amount of the loan released or written off is treated as a taxable benefit.

There are some exemptions to the tax charge, for example, advances against expenses, loans to relatives of an employee where the employee derives no benefit, loans made in the normal course of family or personal relationships by an employer who is an individual, and loans made in the ordinary course of business by an employer whose business includes the lending of money.

## **Medical insurance**

Many employers provide medical insurance covering private medical treatment for their employees and members of their family. This is a taxable benefit for P11D employees. When the employer pays the premium for a group of employees, it is apportioned between them on a reasonable basis.

The cost of medical treatment itself is taxable, if paid for by the employer, except when it is necessary for an employee working abroad. The cost of medical examination and screening met by an employer and carried out at the employer's request is not taxable.

There is no tax charge on an employer's provision of eye tests and corrective glasses for employees who use computer screens.

## **Scholarships**

A P11D employee is taxable on payments under scholarship awards to a member of the family or household. The tax charge is extended to awards made under an educational trust set up by the employer. There are some reliefs for awards under 'genuine' scholarship schemes where the connection between the award and the parent's employment is purely coincidental.

## Benefits fully or partially exempt from tax

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The following benefits are generally tax-free to all employees. Where there is a taxable benefit, this is reduced by any contribution made by the employee.

### Pensions

The most popular benefit is probably the company ('occupational') pension scheme. An occupational pension scheme that has been registered by HMRC has several tax advantages:

- A company's contributions are allowed as a deduction against its profits for corporation tax, and are not taxed as benefits on the employees.
- If the employee contributes towards the scheme, then the contribution, up to a maximum of 100% of earnings, is allowed as a deduction against the employee's taxable income.
- The investment returns from the pension fund are free of UK tax on income and capital gains. Fund managers can therefore achieve higher growth rates than most other investors.
- The employee can normally draw a tax-free capital sum of 25% of the fund.
- The scheme can provide dependants' benefits and a tax-free lump sum death benefit.
- There is a lifetime limit on the amount of any individual's tax-exempt pension savings. This is £1.8 million in 2010/11. The lifetime allowance is to remain at £1.8 million up to and including 2015/16. Any excess over this lifetime limit will be subject to a 'lifetime allowance charge' of 25% tax before being applied to provide taxable benefits. If the excess is taken as a lump sum, it will be taxed at 55%.
- There is an annual limit, which is £255,000 for 2010/11. Contributions in excess of the annual limit will be taxed at 40%. The annual limit has been set at £255,000 up to and including 2015/16.
- Rules are to be introduced from 2011/12 to restrict the amount of higher rate relief available to individuals with income of £150,000 or more. Higher rate relief will be tapered away so that for those earning over £180,000 it will be worth the same as basic rate relief.
- Rules apply from 22 April 2009 to prevent individuals making additional pension contributions to take advantage of higher rate relief while this is still available. The rules only apply for 2009/10 and 2010/11 only and impose a 'special annual allowance charge' where someone has income of at least £130,000, increases their normal pension contributions and pension contributions in the year are more than £20,000.

Sometimes employers have pension schemes that are not registered with HMRC. These 'employer-financed retirement benefits schemes' (EFRBS) do not suffer the restrictions that are imposed on registered schemes but have no tax benefits. Employers' payments to an EFRBS are not taxable benefits and are not liable to NIC. However, tax and NIC are normally charged on lump sums and other benefits paid out by an EFRBS.

### Income protection

An employer can enter into an income protection insurance arrangement (previously called permanent health insurance) under which the employer will receive a proportion of the salary of an employee who is unable to work because of ill health.

The employer then pays the amounts involved to the employee.

- The employer's premiums are an allowable expense against corporation tax.
- The premiums are not a taxable benefit for the employee, provided the employer has discretion over whether to pay the amount on to the employee. In practice, the employer

normally has such a discretion, but invariably pays the amounts on to the employee concerned.

- Any payments to the employee are treated as a continuation of normal salary and taxed under PAYE.
- Special rules exist for directors with more than 20% of the shares in the company. Broadly speaking, premiums paid by the employer are not deductible for corporation tax.

## **Meals and luncheon vouchers**

Low-cost or free canteen and dining facilities are not taxable, provided that some form of facility is available for staff generally. This includes light refreshments such as coffee and tea. However, from 6 April 2011, this exemption will no longer apply where the benefit of free or subsidised meals is provided under a salary sacrifice arrangement.

- Luncheon vouchers of up to 15p a day are not taxable (although they are liable to NICs), an amount that has reduced considerably in real value since it was first set.
- Provision of coins or vouchers to obtain drinks or food at work is taxable except for the first 15p of a day's luncheon vouchers.

## **Staff entertaining**

An employee is not taxed on the provision of a Christmas party, or similar event, provided the event is open to staff generally and the cost per head is not more than £150 a year.

## **Workplace nurseries**

The provision of employer-subsidised nurseries or other childminding facilities is wholly tax-free and free of NIC if some conditions are met. In particular, the facility must not be provided primarily for educational purposes. The employer should participate in financing and arranging the provision. The care cannot be provided in premises mainly used as a private home and must comply with local authority regulations.

Alternatively, employers can provide up to £55 a week of tax-free childcare subject to less restrictive conditions than the exemption for employer-subsidised nurseries. Any excess over £55 is taxable. The limit applies in total to subsidised care and vouchers.

- Employees will qualify where their employer provides vouchers to pay an approved childcarer or contracts directly for the service.
- The childcare must be registered, or approved home childcare.
- Nurseries, after-school clubs and local authority children's centres accept the vouchers.
- The tax concession is available until 1 September after the child's 15th birthday.
- Any arrangements the employer makes must be available to all employees, or all those at a particular location.
- The vouchers are also free of NIC up to £55 a week (£243 a month).
- From 6 April 2011, higher rate relief will no longer be available to employees who are provided with nursery vouchers for the first time on or after that date. The restriction of relief is given by reducing the tax-free amount to £28 a week for 40% taxpayers and to £22 a week for 50% taxpayers.

## Long service awards and suggestion schemes

Awards for long service (20 years or more) consisting of tangible articles, or of shares in the employing company, are not taxed provided:

- The cost to the employer is not more than £50 for each year of service, and
- No similar award has been made to the same individual within the previous ten years.

Encouragement awards (£25 or less) can be made without tax consequences for suggestions which have some merit, provided:

- There is a formal suggestion scheme, and
- The suggestions are outside the scope of the employee's normal duties.

Larger awards (up to £5,000) are not taxed if, in addition to the conditions for encouragement awards, the suggestion is implemented and the award is not more than:

- 50% of the net financial benefit of the suggestion to the employer in the first year, or
- 10% of the expected net benefit over a period of up to five years.

Any excess of the award over these limits is taxable.

## Incentive schemes

Incentive schemes often provide benefits such as vouchers that can be exchanged for goods or services, or holidays, etc. As outlined on page 3, 'Benefits taxable on all employees', all employees receiving such benefits are taxed on the cost incurred by the employer in providing them.

Under the Taxed Award Scheme, employers and other providers can arrange with HMRC to settle the tax liability on behalf of the employees. This liability is based on the grossed up amount of the benefit.

## Work-related training

Work-related training is exempt from tax except where the purpose is to reward the employee, provide an employment inducement (eg to take up a new position) or to enable the employee to enjoy the training facilities for entertainment or recreational purposes.

Where an employee is about to leave or has left in the previous year, no tax is charged if the employer pays for the employee to attend outplacement counselling and retraining intended to help the employee get another job, provided certain conditions are met.

## University courses

Employers can pay up to £15,480 a year free of tax and NIC to an employee who attends a university course full-time.

- The employee must attend a full-time course at a recognised educational establishment for at least 20 weeks a year.
- In determining whether payments to the employee exceed the £15,480 limit, any lodging, subsistence and travelling allowances must be counted but not any university fees.

## Relocation and removal expenses

If an employee is required to move on taking up a new job or is moved by an employer, up to £8,000 of qualifying removal expenses paid by the employer is exempt from tax. Any excess is taxable. Qualifying expenses include costs of purchase and sale of properties, removal costs,

travel and subsistence, domestic goods for the new residence, and the cost of bridging loans. It is not necessary to have sold the previous home to qualify.

## **Compensation for loss of office and other terminal payments**

This is a highly complex area, but it is possible for up to £30,000, including the value of any benefits, to be paid tax-free, provided the payment is not made under a contractual liability to the employee. Statutory redundancy pay is generally tax-free but is included in the £30,000 limit for termination payments.

- Compensation payments made to employees at or near retirement age are likely to be taxable in full if the employee is a member of an approved pension scheme.
- Where an employee is not a member of an approved pension scheme, ex-gratia payments totalling up to £8,800 can be made tax-free to a retiring employee. Higher amounts may be payable tax-free with the agreement of HMRC Savings, Pensions, Share Schemes (Nottingham).

## **Computer equipment**

Computer equipment provided to an employee is exempt from tax only where it is provided primarily for business use, such as working at home or while travelling, and any private use is not significant. If the equipment was made available before 1 April 2006, it can be provided tax-free and used for private purposes provided that the value of the equipment is less than £2,500.

## **Mobile phones**

A single mobile telephone provided by an employer to an employee is tax-free, regardless of private use. Any further mobile phones provided to employees or members of their family are taxable.

## **Works buses**

No tax is charged where an employer provides a works bus to take employees to and from work or between workplaces. The bus must be available to employees generally and have a seating capacity of at least nine people.

No tax is charged where an employer subsidises public transport services that take employees to and from work, even if employees can travel free or at a reduced fare.

## **Bicycles**

No tax is charged on the benefit of a bicycle or cycling safety equipment provided by the employer for travel to and from work. The equipment must be available to all employees and mainly used for home to work travel. Free parking for bicycles and motorbikes is also exempt from tax.

Employees who use their own bicycles for business journeys can claim a 20p tax-free mileage allowance.

## **Late-night taxis**

An employer can pay for an employee to go home from work by taxi free of tax if all the following five conditions are met:

- The number of journeys is no more than 60 a year.
- The employee is required to work later than usual and at least until 9pm.
- Such late-night working occurs irregularly.

- By the time the employee stops work, either public transport has ceased or it would not be reasonable to expect the employee to use it.
- The transport is by taxi or equivalent road transport.

## **Employee share and share option schemes**

Employers can enable employees to acquire shares in the company without onerous tax charges through one of the approved schemes or arrangements. These are considered in detail in the separate topic 'Protection Policies', with consideration of Enterprise Management Incentives also in a separate topic.

## **Liability insurance**

No tax is charged when employers pay for employees' liability insurance or meet uninsured liabilities related to work. Employees who pay for their own liability insurance or meet work-related uninsured liabilities get tax relief for the cost. Tax exemption is extended to payments made up to six years after the end of the tax year in which the employment ends. Policies that provide an indemnity to the employer for a liability of a director or employee, and payment by a director or employee of an uninsured liability of the employer, are also exempt.

## **Employees' incidental expenses**

Employees' personal expenses of up to £5 a night in the UK and £10 a night abroad, paid by employers when employees stay away from home on business, are not taxable.

## **Working at home**

Employers can make tax-free payments towards the additional household costs that an employee incurs by working at home under homeworking arrangements.

- Homeworking arrangements are arrangements under which the employee regularly performs some or all of the duties of the employment at home.
- HMRC does not require any supporting evidence for payments of up to £3 a week.
- For payments above this amount, the employer must have supporting evidence that the payment is wholly in respect of additional expenses connected with the running of the employee's home.
- The cost of providing broadband internet access at the employee's home is covered by this exemption provided any private use is not significant and the broadband represents an additional expense, ie the employee was not already paying for a personal home broadband connection. Where there is significant private use, the full cost is taxable. However, unless separate broadband provision is made by the employer for work use, it may be difficult to prove insignificant private use to HMRC.

## **Expenses**

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Expenses payments made to P11D employees are taxable. However, the employee can claim a deduction for expenses incurred 'wholly, exclusively and necessarily' in the performance of their duties.

- Expenses that are the subject of a dispensation are not taxable, nor is reimbursement of business mileage not in excess of the approved amount.
- Taxable expenses payments must be included on form P11D.

- Payment of non-business expenses to lower-paid employees is also taxable and must be shown on form P9D.
- Obviously, employees should keep accurate records of expenses to be offset against assessable income in order to be able to justify them.

## Dispensations

An employer can apply to HMRC for a dispensation. A dispensation is a notice of nil liability. The expenses and benefits covered by the dispensation can then be provided to employees tax-free. Dispensations save time and effort for the employer, who does not have to include the expenses on a form P11D, and for the employee, who does not have to make a claim for an equivalent deduction.

- Dispensations are frequently given for travelling, hotel and business entertaining expenses.
- Dispensations cover only business expenses for which the employee could make an equivalent tax deduction claim.
- HMRC will not grant a dispensation where the effect would be to turn a P11D employee into a lower-paid employee, because the exclusion of business expenses would result in the employee earning at a rate of less than £8,500 as calculated on page 1, 'The £8,500 threshold'.

## Travel expenses

No tax liability arises if the employer meets the cost of business travel. Business travel includes the cost of travelling from home to a temporary workplace for up to 24 months. Site-based employees, who have no permanent workplace but work at a succession of sites, can get tax relief for all their travel to work. Meals and accommodation expenditure incurred in conjunction with business travel are treated as part of the cost of travel.

However, if the employee incurs the expense initially and this is reimbursed by the employer, the employer should seek a dispensation, otherwise the employee would be taxed on the reimbursed expense and would need to claim a corresponding deduction to offset the resulting tax liability.

## Mileage allowances

Employees can be reimbursed for business travel in their own cars.

The approved mileage rates are:

<b>First 10,000 miles</b>	<b>40p</b>
<b>Additional miles</b>	<b>25p</b>

- Mileage payments do not have to be included on forms P9D and P11D, provided the total paid in the year is no more than the approved amount. The approved amount is the amount of reimbursement for total mileage in the year at the approved mileage rates.
- If payments are made in excess of the approved amount, the excess only must be returned on the P11D.
- If an employer pays less than these rates, then the employee can claim the difference as an allowance, but cannot claim a deduction based on the actual motoring costs.
- The rules are modified slightly in their application for National Insurance purposes. The 40p per mile rate applies for all business mileage, not just the first 10,000 miles.

## **Travel by bicycle and motorbike**

Employees can claim tax relief for business travel by bicycle or motorbike in the same way as for journeys by car. Likewise, payments made by the employer that do not exceed the approved amount are tax free and do not need to be returned on the P11D or P9D. However, amounts in excess of the approved amount must be declared.

The authorised mileage rates are 20p for bicycles and 24p for motorbikes.

## **Passenger payments**

Employers can also pay a passenger payment of 5p per passenger per mile when an employee undertaking a business journey in his or her own car gives a lift to a colleague for whom the journey is also a business journey.

However, if no passenger payments are made, the employee is not able to claim tax relief.

## **Overseas travel expenses**

Certain tax reliefs are available to UK resident employees.

- In general, travel expenses are not taxed if they are paid or reimbursed by the employer in respect of an employee's journey to take up or return from an overseas appointment.
- Where employees work for a continuous period of 60 days or more outside the UK, the travelling expenses for two outward and return journeys in a tax year by their spouse and/or children are not taxed.

There are similar reliefs for non-UK domiciled employees working in the UK in respect of travel to and from the overseas country in which the employee normally lives. These continue for five years starting with their arrival in the UK.

## **Entertainment expenses**

Allowances for entertaining customers are not allowed against tax as expenses of the employer, but are not taxed on employees, provided the employees can satisfy HMRC that the expenditure was incurred wholly, exclusively and necessarily in the performance of their duties.

## **Other points**

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### **Contractual obligations**

It can be worth inserting provisions into service agreements that require the employee to incur particular types of expenditure. This can help the employee establish that the expense was necessary – a condition of the expense being tax-deductible. This is not necessary for business expenses reimbursed by the employer, but would be helpful in those instances where for some reason an employer does not reimburse necessary business expenses.

### **Benefits provided for others and by others**

Benefits provided for members of the family or household of an employee are treated as provided to the employee for tax purposes, unless that family member is entitled to them in their own right.

Similarly, benefits to the employee provided by someone other than the employer are taxable under the normal benefit rules, if they are provided as a result of the employment.

### **Direct payments by the employer rather than the employee**

Wherever possible, it is advisable for the employer, rather than the employee, to assume direct liability for payments of hotel, travelling and other business expenses. This avoids the employer

having to reimburse expenses to an employee, and may remove the necessity for the employer to return the figures involved on form P11D.

## **Salary sacrifice arrangements**

Salary sacrifice arrangements are frequently used to take advantage of tax and NIC exemptions. Under the arrangements the employee swaps salary, which is subject to PAYE tax and NICs, for an exempt benefit, such as childcare vouchers. The employee saves the associated tax and NICs and the employer saves the employer's NIC that would have been payable on the salary.

When using salary sacrifice arrangements care must be taken to ensure that HMRC regards them as effective. The switch must be permanent. If the employee can revert back to the higher salary at will, HMRC will tax the employee as if the higher salary, rather than the exempt benefit, had been received.

Particular care must be taken if, as a result of the arrangements, the employee's earnings fall below the lower earnings limit for NIC purposes (£97 a week for 2010/11) as this jeopardizes entitlement to the basic state pension and to statutory payments (SSP, SMP, SPP and SAP).

HMRC are looking closely at salary sacrifice arrangements. From 6 April 2011, the exemption for free and subsidised meals is withdrawn where the meals are provided under a salary sacrifice arrangement.

## **Compliance**

Time limits for reporting expenses and benefits in kind on forms P11D and P9D are strictly enforced. All forms for a tax year must be submitted to HMRC by 6 July following the end of the tax year. The information must also be given to employees by the same date.

Employers who miss the time limits may be charged penalties of up to £300 per form. Penalties are also charged for incorrect forms. The maximum penalty is £3,000 per incorrect return.

## **The future of benefits in kind taxation**

In December 2007 HMRC issued a consultation document on the possibility of collecting tax on benefits and expenses directly through the payroll as part of the PAYE process (payrolling). The consultation ended in March 2008. At the time of writing, no announcement had been made as to whether and when payrolling would be introduced.

## **Tax planning key points**

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- Benefits can be an important element of employee remuneration packages. However, it is important to be aware of the rules for taxing benefits, so that both employer and employee receive the best value for money.
- Shareholders in close companies should always remember that the provision of benefits to them could be treated as a distribution, even if they are not otherwise taxable.
- Where a close company writes off a loan to a participator on or after 24 March 2010, a corporation tax deduction is not available for the loan written off.
- Professional advice should be sought before entering into complex arrangements to provide benefits for employees.

*This guide is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking action on the basis of the contents of this publication. The guide represents our understanding of the law and HM Revenue & Customs practice as at May 2010, which are subject to change.*