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## Benefits in Kind

### A SIMPLE GUIDE TO BENEFITS IN KIND

This is a basic guide and should not be used as a definitive guide, since individual circumstances may differ, in which case specific advice should be obtained, where necessary.

### Expenses and Benefits in Employment - Overview

Expenses and benefits received by reason of employment (whether paid by the employer or another person (e.g. tips) are generally taxable.

The way in which a benefit in kind is provided will determine its tax treatment and the manner in which it should be reported, as follows:

Manner in which provided:	Tax/NIC due:	Report on:
Employer arranges and pays directly for benefit	Class 1A	P11D/P9D
Employee arranges benefit; employer pays for it	Class 1 (employee and employers)	Account for NIC through payroll; report benefit on P11D/P9D
Employee arranges and pays for benefit; employer reimburses cost	PAYE Tax and Class 1 NIC (employees and employers)	Through payroll; P35

### RETURNS

- P11D in respect of an employee earning £8,500 or more or
- P9D in respect of an employee earning less than £8,500.
- P11D(b) return of Class 1A contributions due on all benefits in kind for all employees.

A copy P11D or P9D must be given to the employee before 7 July after the tax year and the P11D/P9D returns must be submitted to HMRC by the same date.

Note: the £8,500 threshold includes the normal pay plus the amount of any benefit *without* deduction for business use, superannuation contributions or profit related pay.

## TAX TREATMENT OF BENEFITS

### Value of benefit

The normal value of a benefit is cost to the employer, less any contribution made by the employee. This cost includes VAT, even if the employer can reclaim the input VAT.

Where the benefit is shared facilities, only the additional (marginal) cost is charged (e.g. a schoolmaster whose child attends the school at which he teaches).

HMRC have a useful facility on their website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)) which gives an "A-Z" of benefits in kind and the associated tax treatment. To use this, visit, <http://www.hmrc.gov.uk/payee/exb/a-z/a/index.htm>

### Special Rules

There are special rules for:

- Vans, cars and petrol
- Mileage allowances
- Beneficial loans
- Directors' tax paid by employer
- Scholarships
- Shares acquired at undervalue.

### Exemptions

The following do not have to be included:

- Mobile phones. From April 2006 only one mobile lent to an employee – not his family - is exempt (this does not affect arrangements entered into prior to April 2006). NB. HMRC previously used to regard iPhone, Blackberries and other smartphones as mini-computers rather than mobile phones and therefore not eligible for the exemption. HMRC has, however, recently changed its view. (Visit <http://www.hmrc.gov.uk/briefs/income-tax/brief0212.htm> for details).
- In-house recreational benefits – extended to other persons working on the premises from 2005-06.
- Accommodation on employer's premises to enable employee to carry out his duties in very limited circumstances.
- Lump sum pension/gratuity on death/retirement of an employee.
- Canteen meals if available for all staff.
- Workplace nurseries, accommodation on employer's premises or approved premises arranged by him. This must not be in a private dwelling.
- Childcare vouchers up to £55 per week. Note that for employees taxed at the higher rate or the additional rate of tax, who join a childcare voucher scheme after 5 April 2011, income tax relief is restricted to the basic rate.
- Hospitality from third persons if not for specific services.
- Medical treatment or insurance in respect of overseas business trips.
- Parking facilities (car, motor cycle, or cycle) at or near workplace.
- Incidental overnight expenses
- Security assets and services
- Contribution to employees working from home towards additional household costs.
- Pension advice and information, up to £150 per year.

### **Minor benefits**

These can be exempted. Under current regulations, the following are exempted:

- Cycles and safety equipment and cyclists' breakfasts
- Lunchtime use of works' buses
- Welfare counselling
- Hearing aids, services and facilities available to disabled employees to enable them to fulfil their duties.

### **Assets transferred**

Assets transferred to 'lower paid' (under £8,500) employees are normally valued at second-hand value, less any contribution from the employee.

The value of an asset transferred to a 'higher paid' employee or director will depend upon whether the asset has been used or depreciated prior to the transfer.

A new asset is valued at the greater of:

- Cost or
- Second-hand value

less any contribution by the employee.

Used assets transferred are valued at market value at the date of transfer less any contribution made by the employee.

Assets previously made available to the employee are charged at the *higher* of:

- Market value at the date of transfer, and
- Market value when first made available to the employee, *less* any amounts already charged in respect of that use, *less* any contribution from the employee.

No charge is made where employees/directors buy computers or bicycles from their employer, provided they pay market value.

### **Assets made available to employees**

Where an asset is made available to an employee for private use, the benefit is the higher of:

- 20% of the market value when first made available; and
- the annual rent or hire charge of the asset,

together with any additional costs in association with the provision of the asset ( minus any amount made good by the employee).

### **Living accommodation and related expenses**

Living accommodation provided by the employer is a taxable benefit whatever the rate of pay, but there are exceptions.

Where a director or 'higher paid employee' has the normal expenses of occupation paid by the employer, that will be a normal chargeable benefit.

For further details on accommodation benefit, visit <http://www.hmrc.gov.uk/payee/exb/a-z/l/accommodation.htm>

## Job-related occupation

The amount of benefit charged for occupation is partially exempt where the employee is in job-related occupation. The partial exemption reduces the charge on what would otherwise be the full cost of expenses such as repairs, heating and lighting, cleaning, maintenance up to an amount not more than 10% of the emoluments of the employee, less any contribution made by the employee. 'Emoluments' includes any emoluments of employment with an associated company.

## Vans used by employees

- Where an employee has to take a van home and is not allowed any other private use, there is no benefit charge.
- Where private use is unrestricted, a fixed benefit charge of £3,170 applies.
- If the employer provides fuel for unrestricted use, a fuel charge of £598 will also apply.

## Shared vans

Where vans are shared (other than pool vans, where there is no benefit), the employees are charged on their share of the use of all the employer's vans. Maximum charge £3,170, is reduced by any period of 30 days when a van was not available for use.

For further details of van benefit, visit <http://www.hmrc.gov.uk/payex/a-z/v/vans.htm>

## Company cars

The charge is based on a percentage of the car's list price, graduated according to the car's carbon dioxide emission levels, maximum 35%. <http://www.vcacarfueldata.org.uk/>

- For a petrol car, the benefit is calculated by the percentage charge of the car's price and the appropriate percentage, based upon the car's CO2 emissions. Note that prior to 6 April 2011, the cost of the car was capped at £80,000 but this no longer applies for 2011/12 onwards.
- Where a disabled driver must use an automatic car, the benefit is that for an equivalent manual car.
- If the car is unavailable for part of the year, the charge is proportionately reduced.
- If the employee makes a contribution towards private use, this will reduce the benefit in kind.
- HMRC have a useful car at fuel benefit calculator on their website at <http://www.hmrc.gov.uk/calcs/cars.htm>

## Classic cars

Classic cars (more than 15 years old at the end of the tax year), where the market value is greater than the list price and is at least £15,000, the chargeable benefit is the relevant percentage of the *greater of* list price and market value.

## Fuel benefit

Where an employer provides an employee with free fuel for private purposes, the taxable benefit is linked to carbon dioxide emissions. The percentage used for the fuel benefit is applied to a figure set by the Treasury, currently £22,200 for 2016/17. If the free fuel benefit is withdrawn during the year, the taxable figure is apportioned. If the employee makes a contribution towards private fuel, this will not reduce the fuel benefit unless every drop of private fuel is reimbursed, i.e. it is an "all or nothing" benefit.

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### **Mileage allowances**

There is a tax-free approved amount, currently 45p per mile up to 10,000 miles and 25p thereafter, where an employee uses their own car for business use. If the employer pays more than that, only the excess is taxed.

If the driver of the vehicle carries at least one passenger on a business trip, he may claim an additional 5p per mile.

Mileage payments within the HMRC approved rates do not need to be reported on form P11D.

### **Passenger Payments**

If the driver of a vehicle carries at least one passenger on a business trip, he may claim an additional 5p per mile. This applies whether to both cars and vans and to use of an employee's own vehicle OR a company vehicle.

Note, if the employer pays less than 5p per mile (or nothing at all), there is no equivalent to Mileage Allowance Relief, i.e. the employee is not entitled to claim a deduction under ITEPA 2003,s336 for the shortfall.

### **Works bus services**

- Benefits arising from an employer providing or subsidising a works bus service are exempt.
- Where the benefit is provided by a ticket or voucher, any benefit under the voucher rules is exempt.
- The bus must have a seating capacity of at least 12 and must be available to employees generally.

### **Beneficial loans**

A tax charge arises on the benefit of a loan. Where it is a loan with little or no interest, the benefit is charged on the difference between the interest paid in a tax year and interest payable at the official rate.

In calculating this, the standard way is to multiply the average amount outstanding at the beginning and end of the year and apply the official rate of interest. An alternative method of calculation, based on the day-to-day outstanding balance may be used at the request of either HMRC or the taxpayer.

Small loans totalling £10,000 or less, e.g. season ticket loans, can be disregarded.

For further information on beneficial loans, visit <http://www.hmrc.gov.uk/paye/exb/a-z/l/loans.htm>.

### **Director's tax paid by employer**

Where the company fails to deduct PAYE from a director's emoluments, but accounts to HMRC for the tax, the amount not reimbursed by the director is taxed as a benefit in kind.

### **Scholarships**

Scholarships made to a child of a director or higher paid employee are taxed as benefits where made as a result of 'arrangements entered into by an employer, or a connected person'.

There is an exception, where 75% of scholarships awarded from the fund are to scholars who are not children of employees e.g. where the connection is coincidental.

### **Workplace Nurseries**

Childcare provided by an employer in a workplace nursery or similar facility is exempt:

- The employee must have parental responsibility for the child, or reside with it, or maintain it at his expense;
- The care is provided on premises which are not wholly or mainly used as a private residence;
- Either the care is provided on premises made available by the employer or the care is provided under arrangements by the employer and others and make him responsible or partly responsible for managing and financing the care provision; and
- Where the registration requirement applies, it is met, i.e. either the premises or carer must be registered and they are registered.

In order to satisfy the condition that the employer must be at least partly responsible for managing and financing the care provision, his role must be a real one which makes him accountable if things go wrong.

### **External Childcare**

An employer may pay for employees' childcare with a registered child-minder or nursery. The employee can receive benefit up to £55 per week towards the cost of childcare, in the following circumstances:

- The employer contracts directly with the child-minder or nursery for the provision of the childcare, or
- The employer provides childcare vouchers which the employee may then use to pay for childcare with a registered childminder or nursery.

Prior to 6 April 2011, tax relief on the provision of childcare vouchers was given at the taxpayer's marginal rate of tax. This continues to be the case after 6 April 2011 where the taxpayer was already registered on a scheme.

For those joining a scheme after 5 April 2011, tax relief is restricted to the basic rate and the employer must carry out an assessment of the employer's earnings to determine whether to restrict the tax relief to basic rate at source.

### **Eye tests and spectacles**

The provision of eye tests and /or spectacles for VDU work is exempt if:

- The test or appliances are required by the Health and Safety at Work Act 1974
- The tests and appliances are available generally to employees working with VDUs.

### **Dispensations**

An employer can agree with his tax office that certain benefits e.g. business travel will not be taxable, if for example, only business expenses are reimbursed. This is known as a dispensation. This obviates the necessity for the employee to report the 'benefit' on his return and for the employer to include it on the form P11D or P9D. Obtaining a dispensation agreement with HMRC can significantly reduce the administrative burden of having to report expenses on forms P11D/P11D and for the employee then having to make a claim for the expenses to be non-taxable due to being incurred wholly, exclusively and necessarily in carrying out the duties of employment.

HMRC are keen to encourage the use of dispensations and have introduced a facility to apply for dispensations online at <https://online.hmrc.gov.uk/shortforms/form/P11DX?dept-name=&sub-dept-name=&location=1&origin=http://www.hmrc.gov.uk>

## **PAYE Settlement Agreements**

This is another helpful scheme that allows an organisation to settle any PAYE and NIC's on certain expenses and benefits, directly on behalf of its employees. Items covered by a PSA do not need to be shown on forms P11D or put through the payroll.

The following expenses/benefits may be covered by a PSA:

- minor items (e.g. small gifts to employees)
- irregular items (e.g. non-qualifying business trip for spouse)
- items which are impractical or difficult to value for P9D/P11D purposes (e.g. items difficult to attribute to a single employee)

The employer calculates the tax due on the grossed-up value of the benefits in kind. A special class of NIC, Class 1B is payable on the grossed-up value of the benefit.

For further details, visit <http://www.hmrc.gov.uk/payee/exb/schemes/psa.htm>

This information is provided for general guidance only. Please contact us if you require advice on any specific part thereon.