

Umesh Modi

Employment benefits

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

Umesh Modi explains...



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?

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.

Reporting

Employers are required to notify HMRC of benefits provided to directors and most employees by completing forms P11D annually and by 6th July.

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

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

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.

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

A statutory exemption applies 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.

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

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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 13% - 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.

• **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 £23,400 for 2018/19 (£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 £3,350 for 2018/19 (£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 £633 (£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 has introduced new rules which 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 taxable value or the value of the cash forgone.

These rules will not affect employer-provided pension saving, employer-provided pensions advice, childcare

vouchers, workplace nurseries, Cycle to Work schemes or Ultra-Low Emission Vehicles.

This change took 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.

Employers may wish to review their car policy in light of these rules.

Source: Practice Track

This article is based on current legislation and practice and is for guidance only. Specific professional advice should be taken before acting on matters mentioned here. Umesh Modi BA ACA is a chartered accountant, tax adviser and a partner at Silver Levene LLP. He can be contacted on 020 7383 3200 or umesh.modi@silverlevene.co.uk

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