



Tax alert:

Updated guidance on the changes to UK benefit and expense reporting from 6 April 2016

HM Revenue & Customs (“HMRC”) have recently issued guidance in relation to the new rules from 6 April 2016 on the payrolling of benefits, the exemptions replacing P11D dispensation agreements and the treatment of trivial benefits.

Payrolling of benefits

Our previous tax alert outlined that from 6 April 2016, the government is introducing a voluntary framework to allow employers to payroll most Benefits in Kind (“BIKs”).

The main advantage of payrolling employee benefits is that an employer does not need to also prepare Form P11Ds for those benefits. This should help reduce employer administration and potentially also help reduce some issues around coding of benefits by employees. Note, however, that where Class 1A National Insurance Contributions (“NICs”) are due on an employee benefit, an employer will still have to work out the Class 1A NICs on the cash equivalent and complete Form P11D(b) in the usual way. This is regardless of whether they are payrolling the benefits or reporting them to HMRC on Form P11D.

Further guidance has now been released and employers that want to payroll employee benefits for the tax year beginning 6 April 2016, **must register by 5 April 2016 using the HMRC online Payrolling Benefits in Kind (“PBIK”) service.**

If you use this service, the only benefits you will not be able to payroll are:

- vouchers and credit cards
- living accommodation
- interest free and low interest (beneficial) loans

An employer must also ensure their payroll software allows them to collect the right amount of tax on benefits and expenses. If you need more time, an employer can register after this date but will have to wait until the tax year beginning 6 April 2017 to start payrolling benefits.

Employers already payrolling under an agreement with HMRC will still need to register. Failure to register means an employer will be required to continue to submit P11Ds.

From April 2017, an employer will need to submit details of company cars that have been payrolled and we understand HMRC will be providing more details about this process later in the year.

Dispensations

From 6 April 2016, where an employee is entitled to claim a fully matching tax deduction then an employer will no longer need to apply for a dispensation agreement or report those expenses on Form P11D. All other non-allowable expenses will still be subject to tax and NICs as they are now. Employees will still be able to claim available tax relief from HMRC in respect of non-reimbursed expenses.

Note, the new exemption does not apply to expenses or BiKs provided under a relevant salary sacrifice agreement.

If an employer has previously agreed a dispensation with HMRC it will no longer apply after 5 April 2016. Most expenses or benefits that were covered by a dispensation should be within the new statutory exemption and employers will no longer need to report them to HMRC or include them on Form P11D.

Per Diem benchmark scale rates

The new exemption provides an option for employers to agree their own scale rate with HMRC where they do not want to use the standard benchmark rates. These bespoke rates can be used for up to five years. Employers will need to provide HMRC with evidence, based on a sampling exercise, to demonstrate that the proposed rates are a reasonable estimate of expenses actually incurred by the relevant employees.

A scale rate paid after 5 April 2016, which has not been approved by HMRC, will need to be treated in the same way as part of an employee's salary with PAYE and NICs deducted.

Checking systems

With the introduction of the new exemptions, an employer will still need to have a robust system in place for checking an employee's expense payments. Employers will need to be able to demonstrate that the system that they use allows them certainty that:

- their processes are working;
- they only pay claims on qualifying occasions; and
- the amount that they pay reasonably reflects the costs that employees are actually incurring.

HMRC have published guidance on the type of system that they will accept as meeting the requirements of the exemption.

Trivial benefits

From 6 April 2016, an exemption relating to 'trivial' benefits paid to employees will be introduced. Under this exemption, if an employer provides a benefit to its employees, the benefit is exempt from tax as employment income provided certain conditions are satisfied, such as the cost of providing the benefit does not exceed £50 including VAT.

Recommended Actions

- Review how the new rules will impact your business.
- Review if payrolling of benefits is right for you, and register with HMRC by 6 April 2016.
- Review whether your expense policy and checking processes are compliant with the new tax rules.

- Perform a 'sampling' exercise and apply to HMRC for approval where you pay per diems greater than the standard benchmark rates.
- Review how the change in the treatment of trivial benefits may impact you and identify possible planning requirements.
- Determine if you need to update your staff handbook, your expense policy or the payroll/P11D software on your expense system.

Blick Rothenberg LLP

Blick Rothenberg regularly advises employers on employee tax and benefits to help minimise the cost for both them and their employees, and to ensure they are compliant with strict employer tax obligations.

Our employer tax services team can:

- Help employers understand how the changes will impact them and what they can do to manage the changes.
- Perform a health check on current benefit and expense reporting, providing advice on what is done well and what needs fixing, including helping identify possible savings. This is ideal preparation for any upcoming audits or proposed changes.
- Assist with employer annual compliance obligations, including:
 - Form P11D and P11D(b)
 - PAYE Settlement Agreements ("PSAs")
- Help employers manage on-going PAYE audits and negotiate with HMRC on settlements.

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