

CLIENT MEMORANDUM

TAX-EFFICIENT BENEFITS

There are many benefits in kind which an employer can provide to an employee.

Some of them are treated very harshly by the tax system. For instance, if an employer provides free fuel for private use of a company car, the taxable benefit for the fuel can be up to £5,915 per annum. From 6 April 2010 this will again increase to £6,300.

However, there are a number of benefits which are lightly taxed. This occurs especially in situations where the Government is keen to encourage the provision of certain benefits, e.g. childcare.

The purpose of this Memorandum is to highlight some of these lightly taxed benefits, to help you decide whether to provide some of these for your staff. Alternatively, if you are an employee, you may wish to consider whether you should try to persuade your employer to offer these benefits!

TRAVELLING EXPENDITURE

a. Vans

Although private use of a company car is nowadays taxed fairly heavily, the rules for taxing the private use of a van are currently quite favourable. Normally, the use of an employer's vehicle for travel between home and work is regarded as private use. However, there is no taxable benefit if the employee's private use of a company van is restricted to travel between home and work. If there is no such restriction on the use of the van, the benefit for 2009-10 is £3,000 for a van with an additional £500 benefit if private fuel is provided. (£550 from 6 April 2010).

b. Parking

There is no taxable benefit if the employer provides "workplace parking" for an employee. This covers parking for a car, motor cycle or bicycle. It covers situations where the employer pays directly for parking or reimburses the employee for parking charges.

c. Travel by Bus

Where an employer provides a works bus (seating 9 or more) to enable employees to travel to or from work, there is no taxable benefit. A similar position applies if the employer subsidises a public bus service and the employees are carried free or at reduced fares. (There are various detailed conditions which have to be complied with in both cases).

d. Travel by Bicycle

There is no taxable benefit if an employer lends a bicycle to an employee, and the bicycle is used mainly for travel between home and work provided such bicycles are available generally to employees.

e. Late-Night Working

When an employer pays for an employee's travel between workplace and home, this is normally taxable. However, in certain circumstances, these payments will escape taxation. The conditions are:-

- i)** The journey must relate to an occasion when the employee is required to work later than usual and until at least 9pm.
- ii)** These occasions must occur irregularly.
- iii)** Public transport is not available by the time the employee ceases work, or it would not be reasonable to expect the employee to use available public transport.
- iv)** The transport is by taxi or similar private road transport.

The expenditure can be paid directly by the employer or reimbursed to the employee.

f. Annual parties or similar functions.

Annual parties at Christmas or alternative functions of a similar nature, such as an annual dinner dance, which are open to staff generally and which cost no more than £150 per head to provide are non-taxable. Where there is more than one annual function and their total cost per head exceeds £150, only functions that total £150 or less will not be taxed.

PERSONAL COSTS

a. Mobile Phones

An employer can provide an employee with the use of a mobile phone without any benefit arising, including situations where the employer pays the cost of private calls.

b. Beneficial Loans

Where an employer provides an employee with a loan at nil interest or at a low rate of interest a taxable benefit will normally arise. However, a loan of up to £5,000 can be provided interest-free (or at a low rate of interest) without any benefit being taxable.

c. "In-house" Benefits

If an employer provides an employee with an "in-house" benefit and charges the employee the cost of providing that benefit, then there will be no tax charge, even if

the true value of the benefit exceeds the cost to the employer. For instance, a law firm may normally charge clients £750 for conveyancing a house. However, if the cost to the employer of providing that service is £450, it can charge an employee £450 or more for conveyancing his (or her) house and no taxable benefit will arise. A similar rule applies if the employer deals in goods, rather than services.

d. Meals and Food vouchers

Free or subsidised meals provided on the employer's business premises, or in any canteen where meals are provided for the staff generally are free of tax. This includes a ticket or token used to obtain such meals, if the meals are provided on a reasonable scale, and **either** all employees may obtain free or subsidised meals on a reasonable scale, (whether on the employer's premises or elsewhere), or the employer provides free or subsidised meal vouchers for staff for whom meals are not provided.

This exemption does not apply in the case of a hotel, catering or similar business, to free or subsidised meals provided for its employees in a restaurant or dining room at a time when meals are being served to the public, unless part of it is designated as being for the use of staff only.

Meal vouchers issued to employees provided that the vouchers are non-transferable are used for meals only and the value of vouchers issued to employees does not exceed 15p for each working day (this has NOT changed for many years!). Where any restriction is placed on their issue to employees they must be available to lower-paid staff. Where the value of the vouchers exceeds 15p for each working day, the excess is taxed. The value of any voucher that does not comply with the above conditions is taxed in full.

e. Home-Working

Many employees nowadays carry out work at home under home-working arrangements. In these circumstances an employee may incur additional household expenses, e.g. insurance and heating. The employer can reimburse these additional expenses on a tax-free basis as long as supporting evidence is kept or from 6 April 2008 you may pay up to £3 per week without the need to keep evidence. (previously £2 per week)

f. Personal Incidental Expenses

Where an employee is required by the employer to stay away from home while on business, he (or she) can claim from the employer up to £5 per night on a tax-free basis to cover incidental expenses. This amount can be increased to £10 per night spent outside the UK.

g. Childcare

If the employer makes a cash allowance relating to childcare for an employee's child or children, this is fully taxable. Conversely, there is no tax liability if the employer provides workplace nursery care for such children (provided that the facility is open to all employees and the nursery is staffed by approved or registered child-minders). The employer may alternatively offer staff childcare vouchers. There will be no Income Tax or NIC liability on the first £55 (previously £50) per week per employee

in this connection. There are restrictions on how the childcare voucher is used: it will not normally be possible to obtain childcare from a relative in these circumstances (unless they are registered or approved **and** carrying on business as a child minder).

h. Medical Check-Ups

The Revenue accepts that no taxable benefit arises if the employer provides health checks or medical screening for staff. The same applies where the employer provides eye care tests and/or special glasses for employees who use VDUs.

OTHER MATTERS

a. Protective Clothing

Normally tax relief cannot be claimed by an employee for clothing. However, the Revenue will grant relief for specialist clothing (including a uniform in certain circumstances) if the employer requires the employee to provide this at his (or her) own expense. Tax relief may also be available to the employee on the cost of repairing and cleaning this kind of clothing.

b. Pension Contributions

There is an interesting point to bear in mind in connection with pension contributions. This can best be explained by way of an example. Let us suppose that X Ltd employs Mr A and Mr B. Mr A is paid a salary of £60,000 per annum, and Mr A personally pays annual pension contributions of £5,000 (on which he obtains tax relief). Mr B is paid £55,000 per annum and the company pays a pension contribution of £5,000 in connection with Mr B. Although Mr A and Mr B appear to be in the same overall position, the employer pays 12.8% National Insurance contributions on £54,956 in the case of Mr A, but 12.8% on £49,956 in the case of Mr B. Mr A's own National Insurance contributions would be £50 more than Mr B's on these figures (£5,000 @ 1%). Obviously, if Mr A's salary was lower, he could be suffering an even higher differential, as he might be liable at the 11% rate for National Insurance contributions.

c. Parties

There is no taxable benefit if the employer invites the employee to a party or function, as long as the cost is no more than £150 per head per tax year. If the cost exceeds this amount, the full amount is taxable, not just the excess over £150. When deciding whether the expenditure has gone above the limit, ancillary expenses must be taken into account, e.g. taxi fares to and from the function.

d. Recreational Benefits

An employer can provide an employee (including members of the family) with sporting and/or other recreational benefits without any tax liability arising for the employee. There are a number of conditions to be met: for instance, the benefit must be available generally to all the employees and the facilities must not be available to members of the public.

e. Outplacement Counselling and Retraining

This benefit can be provided tax-free where certain conditions are met. In particular, the employee must have worked for the employer for at least two years prior to leaving the employment. The exemption covers both full-time and part-time employees.

f. Training

If an employer provides an employee with “work-related training”, this is tax-free for the employee. Generally related travel and subsistence expenses may also be paid or reimbursed on a tax-free basis. “Work-related training” is widely defined.

WARNING

We would stress that the above is not intended to be a comprehensive list of attractive benefits and there may be others which would be suitable in your particular circumstances. We would be happy to advise you in this connection.

We have not dealt with benefits for employees who are paid at a rate below £8,500 per annum.

Also, we would mention that it would not normally be possible for an employee to save tax by asking the employer to reduce his (or her) salary by (say) £500 per annum and to replace it with tax-efficient benefits. This is known as a “salary sacrifice”, and the Revenue would tax the employee as if the salary sacrifice had not been made. However, there is no reason why an employee should not take certain benefits instead of a salary increase.

Since the precise circumstances of benefits differ from employer to employer, it may be advisable to discuss the matter with the Revenue (or – if appropriate – to seek a dispensation) before implementing any of the above ideas.

FOR GENERAL INFORMATION ONLY

Please note that this Memorandum is not intended to give specific technical advice, and it should not be construed as doing so. It is designed merely to alert clients to some of the issues. It is not intended to give exhaustive coverage of the topic.

Professional advice should always be sought before action is either taken or refrained from as a result of information contained herein.