Think Ahead ACCA

Technical factsheet

Treatment of Benefits in kind – P11D guidance

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How are benefits in kind calculated?

When an employer provides payments to an employee in a form other than cash, this will normally give rise to a benefit in kind.

Broadly speaking, benefits in kind are calculated at their 'cash-equivalent value' which is defined as the 'expense incurred in or in connection with provision of the benefit', inclusive of VAT.

There are special rules relating to certain kinds of benefit. However, in the absence of specific rules, additional two general methods 'cost to the employer' and 'money's worth' can be used to calculate the taxable value of benefit in kind.

If the employees opt for salary sacrifice arrangement in return for a non-cash benefit, then the value of the benefit in kind is the higher of the:

- amount of the salary given up
- earnings charge under the normal benefit in kind rules

For cars with CO2 emissions of no more than 75g/km, employers should always use the earnings charge under the normal benefit in kind rules until 6 April 2021.

Irrespective of the method used for calculating the value of the benefit, any amount made good by the employee towards that benefit is deducted from the taxable value and only the balance is taxable and subject to NIC.

Returns and time limits for submission of forms

Any benefits and expenses payments made to an employee or director are reported on a form P11D. Copies of the form must be provided to HMRC and to the employee.

Unless the benefits are payrolled, benefits in kind do not go through the payroll and do not attract class 1 NICs. An employer must register for payrolling before the start of the tax year (6 April). There is no P11D form to submit if the benefits are payrolled but a form P11D(b) must be completed to pay any Class 1A NICs.

Benefits in kind are subject to a special class of NIC, known as Class 1A. Class 1A NICs are payable by the employer only; there is no employee NIC liability on BIKs. The rate of Class 1A NIC for 2021/22 is 13.8%.

Any employer who provides either BIKs or expenses payments to their employees is required to submit a P11D for each employee.

The employer must also submit a form P11D(b) to HMRC with the forms P11D. The form P11D(b) is a return of the Class 1A NICs due on benefits provided to all employees during the tax year.

The way in which a benefit is provided is important for determining its tax treatment and how to report it, as follows:

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

For 2016/17 onwards, due to the abolition of the £8,500 threshold, all expenses and benefits (which are not payrolled) must be notified on form P11D. Form P9D is obsolete from 2016/17.

HMRC has set up a dedicated post room for submission of P11Ds. Forms should be sent to:

P11D and P11D(b) Team
HM Revenue and Customs
BX9 1WE

As an alternative to filing paper return forms, the return can be filed electronically by following methods:

- commercial payroll software
- HMRC's PAYE Online service
- HMRC's Online End of Year Expenses and Benefits service
- You can also download and fill in forms P11D and P11D(b) and send them to the HMRC P11D support team.

If no forms P11D are required for the year, a nil declaration can be made online.

Time limits for submission of forms

The due dates for submission of the forms and payment dates are:

Task	Deadline
Submission of forms P11D to HMRC	6 July following the end of the tax year
Provide employees with copies of their information from their P11D	6 July following the end of the tax year
Submit form P11D(b) to HMRC	6 July following the end of the tax year
Payment of any Class 1A NICs on benefits provided	Must reach HMRC's bank account by 22 July (19 July if you pay by cheque)
Payment of tax and Class 1B NICs owed under a PAYE Settlement Agreement (PSA)	Must reach HMRC by 22 October (19 October if you pay by cheque)
Pay any PAYE tax or Class 1 National Insurance owed on expenses or benefits	Pay monthly through payroll

PAYE Settlement Agreements (PSA)

This is another helpful scheme that allows an organisation to settle any PAYE and NICs 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 (eg small gifts to employees);
- irregular items (eg non-qualifying business trip for spouse);

- items which are impractical or difficult to value for P11D purposes (eg 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.

If you are applying for a new PSA, this must be done before 6 July following the end of the tax year at the latest.

For further details on PSAs, including how to calculate the tax and Class 1B NIC, please visit the HMRC's website section on 'PAYE in real time'.

Provision of accommodation and home-working benefits

- Accommodation
- Home phones, internet and homeworking
- Use of an asset owned by the employer
- Relocation expenses

Accommodation

The provision of living accommodation to an employee represents a taxable benefit.

No benefit in kind arises where the accommodation is:

- for the proper performance of the employee's duties eg agricultural workers, pub managers etc; or
- for the better performance of the employee's duties and it is customary for employers to provide accommodation eg police officers, managers of public houses living on the accommodation, managers of traditional off-licence shops etc; or
- provided if there is a special threat to the employee's security.

If the accommodation cost less than £75,000, the benefit is the higher of:

- annual value (gross rateable value)
- rent paid for it by the provider.

Where the accommodation cost the employer more than £75,000, there is an 'additional charge', calculated as follows:

(Cost* less £75,000) x 'Official rate'

For these purposes, the official rate is the same as the beneficial loan rate, ie 2% from 6 April 2021 onwards.

*Note: if the employer has held an interest in the property for at least six years prior to it first being provided to the employee, 'cost' is substituted by market value in the above calculation.

The cash equivalent of the benefit is the total of:

- the cash equivalent as calculated for property costing £75,000 or less; plus
- additional yearly rent – the excess of the cost (including the cost of any improvements) over £75,000 multiplied by the 'official rate' of interest; minus
- any rent payable by the employee to the extent that it exceeds the annual value, or the total of any rent payable and any amount attributed in respect of a lease premium.

From the 2017/18 tax year, any amount paid as rent must be paid by 6 July following the tax year when the accommodation was provided for it to be classed as making good payment when calculating the cash equivalent.

A **director** (including members of their families) of the company is not able to take the above exemptions (except the third) if they have material interest (5% or more control) and is not either a full-time working director of the company or the company is non-profit making or is a charity.

Mobile phones, phone lines and call costs

Mobile phones

One mobile phone per employee is a tax-free benefit. The employer should be named on the contract and there should be no transfer of ownership to the employee.

If the employee's name is on the contract and the employer pays for the phone, a reportable benefit in kind arises.

Calls made from employee's private phone

Reimbursed business calls should be shown in an itemised statement in order to not attract income tax.

If the employer pays the full phone bill, the amount is taxable as earnings via PAYE.

A round sum allowance paid to an employee for the calls is a reportable benefit in kind, unless agreed with HMRC.

Use of an asset owned by the employer

Where an employee has use of an asset which the employer owns (excluding cars, vans and mobile phones), a benefit arises. The amount of the benefit is the greater of 20% of the market value of the asset when first provided to the employee and any actual rental payments paid by the employer less any contributions paid by the employee.

The amount of benefit should be adjusted for periods when the asset was not available for use or was shared and available to other employees.

Mobile phones and devices provided for work purposes are tax free. Please refer to "Mobile phones and devices" section of this guide.

Covid-19 exemption for home working

There is no benefit in kind if the employer has to support employees who are working from home and need to purchase home office equipment as a result of the coronavirus outbreak. A temporary tax exemption and national insurance disregard is in place to ensure that the expense will not attract tax and NICs liabilities where reimbursed by the employer. The expenditure must meet the following two conditions to be eligible for relief:

- Equipment is obtained for the sole purpose of enabling the employee to work from home as a result of the coronavirus outbreak
- The provision of the equipment would have been exempt from income tax if it had been provided directly to the employee by or on behalf of the employer (under section 316 of ITEPA 2003).

The exemption was a temporary measure to have effect from the day after the regulations come into force until the end of the tax year 2020/21, but has been extended to the end of tax year 2021/22.

Relocation expenses

Qualifying removal expenses and benefits up to £8,000 per move in connection with job-related residential moves are not taxable. The exemption is due to employees who change residence as a result of starting a new job or because of a transfer within an employer's organisation.

To qualify, removal expenses and benefits must fall within specific categories of expenses and benefits (see below), and the change of residence must satisfy a number of conditions.

The most important condition is that the employee must change their only or main residence as a result of:

- starting a new employment
- a change of the duties of the employment
- changing the place where the duties are usually performed

It is not necessary for the employee to dispose of the old residence in order to qualify for relief. But there must be a change of their main residence. If a relocation is cancelled so that the employee does not in fact change the main residence, any expenses reimbursed, or benefits given in connection with the cancelled relocation will be taxable.

The new residence must be within reasonable daily travelling distance of the new normal place of work. The old residence must not be within reasonable daily travelling distance of the new normal place of work.

Expenses and benefits which qualify for exemption can be grouped into 6 categories:

- disposal or intended disposal of old residence
- acquisition or intended acquisition of new residence
- transporting belongings
- travelling and subsistence
- domestic goods for the new residence
- bridging loans

More details of these categories of exempt expenses and benefits can be found at Appendix 7 of HMRC's Guide to Benefits and Expenses 480.

Where the employee uses the services of a relocation management company the administration fees charged by the company are part of the costs to the employer of providing benefits for the employee.

To the extent that the benefits provided are qualifying removal benefits, the administration fee also qualifies for relief.

Vehicle and subsistence benefits

- Cars and fuel
- Vans
- Buses to shops
- Congestion charges
- Cycles and cyclists' safety equipment
- Emergency vehicles
- Mileage allowance payments
- Parking spaces
- Transport for disabled employees
- Travelling and subsistence
- Meals

Cars and fuel

The provision of a car to an employee, which is ‘available’ for private use, represents a taxable benefit. Note, the car only has to be available for private use for a benefit to arise. The basic rule for calculating company car benefit is as follows:

[List price of car + value of any optional extras] x percentage based on the car's CO_2 emissions.

The Finance Act 2020 introduced a two-tier system of taxation for company cars: those registered before 6 April 2020 and those registered on or after that date. The government introduced a new regime for calculating a car’s CO_2 emissions, known as the Worldwide Harmonised Light Vehicles Test Procedure (WLTP). This applies to all cars first registered from 6 April 2020 onwards and replaces emissions testing under the New European Driving Cycle (NEDC). NEDC emissions values will still apply to cars first registered between 1 October 1999 and 5 April 2020 inclusive.

For cars and vans measured under the WLTP, most appropriate percentages were reduced by 2 percentage points in 2020/21, compared with the appropriate percentages for cars with emissions measured under the NEDC. The appropriate percentages are then increased by one percentage point for each of the tax years 2021/22 and 2022/23. This means that in 2022/23, the increase will bring the appropriate percentages back into line, at which point they will be frozen until 2024/25.

Changes are also made to the appropriate percentage figures for all cars classified as being zero emission vehicles under both the NEDC and WLTP test procedures. The appropriate percentage was reduced to 0% for the tax year 2020/21 and increases by **one percentage point for the tax years 2021/22 (to 1%) and 2022/23 (2%).**

HMRC booklet 480, Appendix 2 includes CO2 emissions tables for petrol.

From 6 April 2018, the diesel surcharge is 4% for those diesel cars that do not meet the Real Driving Emissions 2 (RDE2) standard. Where cars are certified to the RDE2 standard, then the diesel surcharge is removed completely.

CO_2 emissions table – cars registered prior to 1998 or no CO_2 rating

The appropriate percentage for cars first registered before 1 January 1998 and cars registered after that date with no approved CO_2 emissions figure is based on the car's engine size as follows:

Engine size	2021/22
0-1,400cc	16%
1,401cc-2,000cc	27%
over 2,000cc	37%
Rotary engine	37%

It is the list price of the car and not the actual price paid that is used as the basis of calculation.

Special rules apply for classic cars where:

- the car is at least 15 years old at the end of the tax year of assessment
- the market value of the car for the year is £15,000 or more and
- the original list price is less than the market value of the car for the year.

If the above conditions apply, cost is replaced with market value for the purposes of calculating car benefit. Values of classic cars may be determined by recent valuations for insurance purposes, prices in the 'market' or published prices.

In all cases, where the employee makes a capital contribution to the car (up to £5,000), the capital contribution is deducted from the list price (or market value, if appropriate) for the purposes of calculating car benefit.

When an employee is provided with fuel for private purposes, an additional benefit arises. Fuel benefit is arrived at by multiplying a fixed base figure, £24,600 for 2021/22 (£24,500 for 2020/21), by the same percentage rate used to calculate the car benefit.

An important point to note with car fuel benefit is that the normal rule whereby the benefit is reduced by a contribution made by the employee does not apply. Car fuel benefit is an ‘all or nothing’ charge; e.g. if an employer provided an employee with £2,000 worth of fuel for private motoring and the employee reimbursed £1,950 of the cost of the fuel, the full fuel benefit still applies. Conversely, if the employee reimbursed the full cost of £2,000, no fuel benefit will arise.

Vans

Where an employee is provided with a van that is used purely for business journeys or as a pool van, there are no tax implications and no reporting obligations.

If the van is available for private use or has been provided as part of a salary sacrifice arrangement, there is a fixed benefit in kind. Ordinary commuting and some insignificant private use can be disregarded for this purpose such as:

- making a slight detour to pick up a newspaper on the way to work
- a journey that is incidental to a business journey, eg driving home to allow an early start the next morning

HMRC examples can be found within **EIM22745**, which illustrate the above principles involved.

For the tax year 2021/22, the annual van benefit in kind amount is £3,500. Where fuel is also provided for private use, an additional fixed benefit of £669 applies. The annual benefit values can be reduced or apportioned if the following applies:

- the employee cannot use the van for 30 days in a row
- the employee pays for private use of the van
- the employee pays for the private fuel usage
- the van or fuel benefit was stopped during the year
- other employees use the van (the benefit is then divided by the number of employees who use the van)

If the provision of the van is under a salary sacrifice arrangement, the benefit in kind charge is the higher of the benefit values as above and the amount of salary given up.

From 6 April 2021, there is no tax to pay if the company van is propelled solely by electricity.

Congestion

Since introduced in London from 17 February 2003, the congestion charges apply if a motor vehicle is used or kept on a road in the charging zone during the hours in which the scheme operates. Almost all vehicles are liable to pay the congestion charge if they are driven or parked on a public road in the zone.

The value of the benefit to use is the actual amount paid in congestion charges.

Some congestion charges are covered by exemptions (which have replaced dispensations). This means you won't have to include them in your end-of-year reports.

Congestion charge paid or reimbursed by an employer

If an employer pays the charge (or reimburses the employee for payment), the tax treatment of the payment or reimbursement depends on who was liable, or potentially liable, for the charge. For instance:

a) A vehicle (which incurred the charge) registered in the name of the employer would not create any tax benefits for the employee, hence no reporting obligations exist

b) A vehicle (which incurred the charge) registered in the name of the employee would create a taxable benefit if the employer pays the charge direct to the relevant authority. The reimbursement to the employee is subject to tax as earnings within section 62 or as expense payments within section 70 of ITEPA 2003.

- If the employee is using their own vehicle to *travel on business*, the employer must report the cost on P11D but there is no deduction or pay any national insurance or tax.
- If the charges are paid directly for the *employee's private travel*, the employer must report the cost of P11D and deduct and pay Class 1 national insurance (but not PAYE tax) through payroll.
- If the employer *reimburses* congestion charges for an employee's private travel**,** this counts as earnings, so it must be included within the value of the benefit to employee's other earnings and deduct and pay Class 1 national insurance and PAYE tax through payroll.

Any penalties paid for the non-payment of the congestion charges are treated the same way as above.

Salary sacrifice arrangements

If the employee is driving a company vehicle for private purpose as part of a salary sacrifice arrangement, it must be reported on P11D.

Cycles and cyclists' safety equipment

There is no chargeable benefit in respect of the provision of cycles and cyclists' safety equipment provided:

- there is no transfer of ownership of the cycle or equipment in question; subsequent transfer at market value does not give rise to a charge to tax
- the employee uses the cycle mainly for qualifying journeys, ie between home and a workplace
- the facility is available to all employees
- where the facility is convertible into cash, eg a salary sacrifice arrangement, no charge to tax on general earnings arises

The exemption also covers the provision of a voucher for hiring bicycles and equipment.

Employees are not expected to keep detailed records of time spent cycling or miles travelled for the purpose of this 'main-use' test. The test is satisfied if it is clear evidence to suggest that more than half of the use of the cycle or equipment is on qualifying journeys.

Emergency vehicles

There is no charge to tax for the private use of an emergency vehicle where ***all*** the following conditions are met:

- all of conditions 1, 2 and 3,

AND

- either both parts of condition 4 **OR** both parts of condition 5.

Conditions for exemptions:

1. The person must be *employed in an emergency service* ie police, fire and rescue services and ambulance or paramedic services.

2. The emergency vehicle which is used to respond to emergencies, has fixed to it a lamp designed to emit a flashing light for use in emergencies (or would have such a lamp fixed to it but for the fact that a special threat to the personal physical security of those using it).

3. The emergency vehicle must be made available on *terms* which *prohibit* its private use otherwise than when the person is on call or engaged in on call commuting. If no private use at all is permitted and there is none, there is no charge to tax (EIM23400). Finance Act 2019 extends the scope of the emergency vehicles tax exemption by disregarding ordinary commuting.

4. Person is "on call"

    a) Part 1: meaning of on call: at the time they use the emergency vehicle, the person must be liable, as part of normal duties, to be called on to use it to respond to emergencies.

    b) Part 2: permitted use while on call: use is not limited to ordinary commuting etc, but such use as is permitted can only be reasonably local to the area in which the employee lives and works (they are unlikely to be in a position to meet Part 1 of this condition otherwise).

5. Person is engaged in “on-call commuting”

    a) Part 1: meaning of on-call commuting: at the time they use the emergency vehicle, the person must be required to use it in order that it is available for their use, as part of normal duties, for responding to emergencies.

    b) Part 2: permitted use while engaged in on-call commuting: the emergency vehicle can only be used for ordinary commuting, or for travel between two places that is for practical purposes substantially ordinary commuting (see EIM32055 and succeeding pages for the meaning of these phrases).

The type of emergency vehicle is not defined, so it could (in its non-emergency vehicle form) be a car or a van.

Mileage allowance payments

Mileage allowance payments are allowable under section 236(2) ITEPA 2003 and may also be claimed by an employee where no allowances (or smaller allowances) are paid by an employer. They are:

- 45p per mile for the first 10,000 miles
- 25p per mile thereafter.

In addition to the above, if the driver is accompanied by a passenger (for business purposes), then he may claim an additional 5p per mile.

The passenger payment only provides for a tax-free amount. If this is not paid by the employer, then the employee cannot make a claim under ITEPA 2003, s336 in respect of this.

Any amount paid in excess of this is chargeable to tax.

Example case:

Pook v Owen [HL1969, 45 TC 571]
A doctor carried on his practice from his home. He also had appointments as an obstetrician and an anaesthetist at a hospital 15 miles away and was required to be on stand-by duty at certain times.

His income from these appointments was assessed as earnings. He received a mileage allowance from the hospital which covered only 10 miles of the journey each way.

He was assessed on the allowance and appealed against the assessment, contending that the allowance should not be treated as earnings and if it were assessable, the travelling expenses should be allowed as a deduction.
He claimed that his duties began when he received the telephone call from the hospital, as he was already considering the diagnosis, so the amount by which the

expenses exceeded the reimbursement should be allowed as a deduction. The House of Lords agreed.

Parking spaces

There is no tax charge on a director or employee within the benefits code on the provision of a car or motorcycle parking space at or near his place of work. Facilities for parking bicycles are also exempt.

Parking facilities can be said to be within a reasonable distance from the place of work having regard to the nature of the locality. The exemption is not denied simply because there is a car park nearer to the place of work.

Parking spaces for use on business journeys

If parking spaces for business journeys are included on the exemptions (which have replaced dispensations), the employer does not have to include them in the end-of-year reports.

If there is no exemption, the employer must report the cost of providing the parking space on form P11D, but it does not have to pay tax or National Insurance on these parking spaces.

Other parking spaces provided

If the parking spaces aren't either at or near the employee's workplace or for use on a business journey, the employer must report the cost on form P11D and pay Class 1A National Insurance on the cost of providing the parking space.

Salary sacrifice arrangements

If the cost of the parking spaces is less than the amount of salary given up, the employer should report the salary amount instead, although different arrangements apply to arrangements made before 6 April 2017.

Transport and cars for disabled employees

The provision of, or payment for transport, for disabled employees for ordinary commuting is tax-free. This also includes instances where the costs are incurred directly by the employee and reimbursed by the employer.

This also applies to the provision of equipment, services or facilities to disabled employees to help them carry out the duties of employment (ITEPA 2003, sections 246 and 247).

Cars adapted for an employee with a disability, including cars with automatic transmission if the employee's disability requires this are exempt subject to the following conditions:

- the only private use is for journeys between home and work (ordinary commuting)
- non commuting travel is limited to business-related travel such as work-related training or travel between two workplaces
- any use outside of the above situations is prohibited by the terms of the employment contract and does not take place in the tax year

Travelling and subsistence

HMRC Booklet 490 is an excellent guide, explaining the extended reliefs relating to travelling and associated expenses. It is available from the HMRC website.

An employee cannot have tax relief for the cost of a journey which is ordinary commuting or private travel. The term 'ordinary commuting' means any travel between a permanent workplace and:

- home
- any other place which is not a workplace

A workplace is a place where the employee's attendance is necessary for the performance of the duties of that employment. For most employees this means that ordinary commuting is the journey they make most days between their home and their normal place of work.

A supply teacher claimed a deduction for the cost of travelling between her home and the schools where she worked. Her claim was rejected and she appealed, contending that the expenses should be allowed, since she used her home for preparing lessons and marking work.

The Special Commissioner rejected her appeal, accepting that she had a 'second place of work', because that location was not a requirement of the job itself. **[Warner v Prior, 2003 SSCD 109]**

Tax will not be charged on the reimbursement to an employee, whose duties are carried on wholly abroad and who retains a home in the UK, of expenses, including hotel expenses necessarily incurred in travelling.

By concession, expenses of a spouse of a director or higher-paid employee who accompanies him on a business journey because his health is too precarious to travel alone are not assessable on the employee. (HMRC ESCA4).

Meals

Subsidised or free meals provided for staff (including directors) generally at the workplace are not taxable. An employer can provide meals through various channels i.e. canteens, meal vouchers, or lunch allowances. If an employer only provides free or subsidised meals to only one class of employee at one location, or provides meals on an unreasonable scale, the exemption cannot be applied.

Canteens

Canteen meals enjoy a total exemption from tax, NIC and reporting if the following requirements are met. These are found in ITEPA 2003, s317 and include:

- the meals should be in a canteen
- on the employer's business premises
- not provided as part of a salary sacrifice arrangement

HMRC has clarified that a restaurant, public house or café cannot be a canteen, if the meals are provided offsite.

However, some employers provide their employees with a fixed amount (in employee's account) in order to purchase meals from a canteen. The amount provided by the employer is fully taxable and subject to NIC as earnings and should be included in the payroll.

Meal vouchers

Meal vouchers are exempt from tax, NIC and reporting if they are used to obtain canteen meals as specified within s317 ITEPA 2003.

Meal vouchers have no reporting requirements and no tax or NIC liabilities.

Lunch allowance

If employers provide a cash allowance for meals taken at the normal workplace, it is taxable as "earnings" within Section 62 ITEPA 2003. Where the cost of a meal is part of the expenses incurred in travelling, see EIM31815.

Childcare provision

No liability to tax arises in respect of provision of childcare services to employees where premises (which are not wholly or mainly used as a private dwelling) are made available by the employer or, where the scheme is provided under arrangements with other persons, by one or other of those persons.

There are further exemptions in the following circumstances:

Statutory exemption

There is a statutory exemption from any charge under employment income provisions in respect of *employer-provided childcare*, provided the following conditions are met:

- The child must be a child or stepchild of the employee maintained (wholly or partly) at the employee's expense, living with the employee or a person in respect of whom the employee has parental responsibility.

- The premises in which the care is provided must not be used wholly or mainly as a private dwelling and any applicable registration requirement must be met.

- The premises on which the care is provided must be made available by the scheme employer alone. 'Scheme employer' means the employer operating the scheme under which the care is provided. The scheme employer need not be the employer of the employee benefiting from the exemption, but there must be a financial responsibility by the employer to fund the childcare facility such as a significant contribution of capital or a specific undertaking to make good losses (where fees fall short of costs and contractor's profits).

- The scheme must be open either to the employer's employees generally or generally to the employer's employees at a particular location, and that the employee concerned must either be an employee of the scheme employer or an employee working at the same location as such employees.

These exemptions do not extend to the employer paying:

- school fees
- additional salary which the employer gives to employees to help with the cost of their own childcare arrangements
- an employee's childcare bills on their behalf.

In these cases, class 1 NIC is due on the amount paid at the time of payment.

Other exemptions

Where the above statutory exemptions do not apply, there is a limited exemption in respect of employer-contracted childcare. The exempt amount is the maximum value of any employer-provided childcare that may be provided free of tax and NIC. The current exempt amount is:

- £25 per week where the employee's relevant earnings amount as estimated by the employer is above the higher rate limit (£22 per week between 6 April 2011 and 5 April 2013)

- £28 per week where the relevant earnings amount is estimated to be between the basic rate limit and the higher rate limit

- £55 per week where the relevant earnings amount is estimated to be less than the basic rate limit

Previous exempt amounts were £55 per week from 6 April 2006, regardless of the employee's earnings (ITEPA 2003, s318A(6)).

Childcare vouchers (and directly-contracted childcare) were withdrawn for brand-new applicants from 4 October 2018, this was replaced by the tax-free government childcare scheme. Tax-free childcare is not an employer scheme; the scheme operates directly between the government, parents and childcare providers via an online account.

Staff entertainment and other benefits

- Christmas parties and annual functions
- Vouchers and credit tokens
- Third-party gifts
- Business expenses payments
- Trivial benefits
- Interest-free or cheap loans
- Long-service awards

Christmas parties and annual functions

A staff party or an annual function expenditure is a tax-free benefit for employees, subject to the following conditions.

Tax-free limit

The total cost must not exceed £150 (inclusive of VAT) per attending employee per year. If it is impossible to work out actual attendees, an estimate may be made based on what was budgeted or booked. If actual expenditure is up to the £150 limit, the amounts are not taxable and need not be reported on forms P11D. Sufficient records need to be kept in order to justify a tax-free treatment.

Which events are covered?

The event must be primarily for entertaining staff and must be open to all staff of the business, or all staff of a division. It must not be offered solely for directors, unless all your staff are directors. If external guests are invited, it must be clear that the primary purpose of the party is for entertaining staff. The cost of entertainment of staff must not be incidental to the costs of entertaining guests or clients.

The number of events covered is not limited, as long as the total cost does not exceed the threshold of £150. The limit is not an allowance but a threshold, so any number of events within this threshold would be covered, whilst any events going beyond this threshold would be taxable in full.

Which costs are included?

Qualifying costs are all costs directly attributable to the cost of the event, such as room hire, food, entertainment, prizes etc), the costs of transporting staff and their guests, together with the cost of any accommodation provided.

What is deductible for the company?

The cost of the whole event (rather than just the tax-free amount) is an allowable expense in the accounts of the company under staff expenses, or staff welfare.

VAT incurred is reclaimable, but recovery may be restricted where client entertainment is involved.

Example 1

Summer party cost per head £90
Christmas ball cost per head £145
The ball would be covered by the exemption, and the employees taxed on the £90, as a benefit in kind.

Example 2

Team away day cost per head £40
Christmas dinner cost per head £100
The total cost of the events is £140 and that amount is within the tax-free threshold, none of the events are taxable and therefore not reportable on forms P11D.

All the costs in the above examples are deductible by the company.

Vouchers and credit tokens

Vouchers are taxable and reported as follows:

Cash vouchers (ITEPA 2003 sections 73-80):

- on amount for which voucher can be exchanged
- reported on the payroll with PAYE tax and Class 1 NIC deducted through the payroll

Non-cash vouchers (ITEPA 2003 sections 81-85), including transport vouchers:

- on cost to employer less any contribution from employee
- included in the payroll with only Class 1 NIC deducted through the payroll
- reported on forms P11D for income tax purposes (no Class 1A liability arises)

Note that certain non-cash vouchers are exempt from being treated as earnings, as per the list here.

Where money, goods or services are provided to employees through credit tokens, the cost to the employer, less any employee contribution, is taxable on the employee, except if they were used to buy non-taxable benefits. (ITEPA 2003, sections 90-96A, 363).

If the provision of the tokens is under a salary sacrifice arrangement, the benefit in kind charge is the higher of the benefit values derived as above and the amount of salary given up.

Third-party gifts

Gifts of goods or services, non-cash vouchers and/or credit tokens capable of being exchanged for goods up to a value of £250 per annum are not taxable where provided by a third party unconnected with the employer. The gift must not have been made for services provided in connection with the employment (ITEPA 2003, sections 270, 324).

Exemption for paid or reimbursed expenses

From 6 April 2016, all dispensations stopped. Almost all expenses or benefits that might previously have been covered by a dispensation will be within an exemption and will not need to be reported.

Where the employer is satisfied that either all the expenses or benefits, or both, that they provide would be fully covered by the expenses exemption they do not need to show these on forms P11D and the employee does not need to show them in their tax return.

Common items that will be covered by the exemption include:

- travel, including subsistence costs associated with business travel
- business entertainment expenses
- credit cards used for business
- fees and subscriptions

The exemption does not apply to expenses or benefits that are paid or given under a salary sacrifice agreement.

Benchmark scale rates

Employers wanting to pay or reimburse employee expenses using the Income Tax (Approved Expenses) Regulations – previously the benchmark scale rates – will need to have a checking system in place to make sure payments are only made on occasions where the employee would be entitled to a deduction and incurred an amount for expenses on that occasion.

From 6 April 2019, employers will no longer need to operate a system for checking an employee's expenditure in order to make payments free of tax in relation to expenses paid or reimbursed using benchmark scale rates. Instead, employers will only need to make sure that employees are undertaking qualifying travel and they have no reason to believe that travel was not undertaken.

Employers wanting to use a bespoke rate can apply to HMRC for an approval notice. Approval notices will apply for up to five years but may be subject to review from time to time. If HMRC revokes an approval notice, the employer will need to report these on forms P11D after the end of the tax year or payroll them if they've registered to payroll benefits.

There's a statutory tax exemption for mileage allowance payments (MAPs), which, if paid below a certain amount, will not produce a liability to employees. Consequently, such payments are not covered by the exemption. MAPs in excess of the exempt amount are taxable. The exemption does not apply to 'round-sum' expense allowances.

Trivial benefits

Since 6 April 2016, there is a statutory exemption in place for trivial benefits under ITEPA 2003, sections 323A and 323B.

Unless the benefits are provided as part of salary sacrifice arrangements, trivial benefits are non-taxable, and no reporting is required to HMRC. This exemption also applies where the trivial benefit is provided on behalf of the employer by a third party.

Trivial benefits are those that:

- cost the employer £50 or less to provide
- aren't cash or cash vouchers (this doesn't preclude non-cash vouchers as a trivial benefit as they are often a common form of trivial benefit)
- aren't provided as a reward for employees' work or performance
- aren't provided as part of the terms of the employment contract

HMRC's view on trivial benefits has been clarified in their Employer Bulletin 81 (December 2019), where they consider that any benefit provided on a regular basis may create a 'legitimate expectation' that the benefit will be received, and it is therefore considered to be contractual.

However, this is only HMRC's view, and not everyone will agree that a regular provision of a trivial benefit can be considered contractual. Employers should be reminded that they need to consider whether they are providing what is in effect a contractual benefit, when applying the trivial benefit exemption.

While there is no limit generally on the number of trivial benefits an employee can receive in a year, close company directors or officeholders can only receive trivial benefits up to an annual cap of £300 per person (subject to the usual £50 cap on each exempt trivial benefit). Where the cap is exceeded, none of the benefit that breached the £300 limit is exempt. However, benefits provided earlier in the tax year when the cumulative total of exempt benefit was equal to or less than £300 are exempt. The exemption applies to benefits falling within the limit; it is not a tax-free allowance.

The cost of the benefit to be assessed is the cost (including VAT) of providing that benefit to each employee (not the retail price or market value). If the benefit is provided to multiple employees, the total cost should be divided by the total number of recipients to arrive at the cost per individual employee. HMRC's guidance states that where a benefit consists of more than one item then the aggregate value should be used and advises the use of common sense as to when the averaging method

should be used. Refer to EIM21865 which provides some useful examples for an employer to consider.

Employee loans

An employer may make a tax-free loan to an employee of up to £10,000 for the whole tax year. There is no requirement to report this on P11D.

Interest-free or non-market rate loans exceeding the above thresholds attract income tax on the amount of cash benefit – based on the value of interest not charged. The amount of benefit is reported on P11D.

Loans include cash advances and movements on director loan accounts, including amounts repaid caught under anti-'bed and breakfasting' rules where a loan is repaid by the director and then a similar sum advanced shortly after.

To calculate the cash benefit, two methods can be used:

- averaging method is usually used (based on the opening and closing balances of the loan)
- alternative method (calculated on a daily basis) when elected (usually when the balance of the loan fluctuates).

Current HMRC rates for each tax year can be found here.

If interest is charged on loans over £10,000 and no benefit in kind arises, the amounts are still reported on P11D.

Benefit in kind also arises when loans are written off and the loan was made to an employee (not a director) or a director of a company which is not close (unless alternative treatment as earnings via payroll is used).

Long-service awards

Most employer awards made to an employee are liable to be treated as taxable earnings or benefit as per section 62 or 201 of ITEPA 2003 because they are given as a ‘reward’ by reason of the employment. However, long-service awards are not taxable, provided the employee has at least 20 years’ service and the cost to the employer does not exceed £50 (ITEPA 2003 section 323).

The exemption is subject to the satisfaction of the following conditions:

- the award must be made to mark a period of not less than 20 years’ service with the same employer
- the award must broadly be something other than money such as a physical item (eg a watch or a clock) or shares in the employer

- no similar award has been made to the recipient by the same employer within 10 years prior to this award being made, irrespective of the tax treatment of any earlier award
- the award must not have cost the provider more than £50 per year of the employee's service in respect of which the award was made.

Long-service awards are not exempt if a non-cash award fails to satisfy the conditions for the exemption, or exceeds the £50 per year of service limit, or the employee buys the award and is reimbursed by the employer. If the award is more than £50 for each year of service, then the tax is charged on the excess amount over, eg £1,000 (20 x £50).

HMRC example (EIM01510):

An employee receives long-service awards from her employer as follows (all the awards are made on or after 13 June 2003):

- after 20 years' service, an article costing £1,000
- after 30 years' service, an article costing £500
- after 35 years' service, an article costing £625
- after 40 years' service, an article costing £1,000.

Exemption is due as follows:

The 20-year award is not taxed. This is the first award received, the 20-year condition is satisfied, and the cost does not exceed £50 for each year of service (20 x £50 = £1,000). If the article had cost £1,500, tax would have been charged on the excess over £1,000 (see EIM01501).

The 30-year award is not taxed. It satisfies the conditions for exemption (see EIM01500), and it does not matter that the employee has already received a tax-free award.

The 35-year award is taxed in full. It is within the monetary limit (35 x £50 = £1,750), but no exemption is due because the employee received a similar award within the previous 10 years (see EIM01503).

The 40-year award is taxed in full. It is within the monetary limit (40 x £50 = £2,000), but no exemption is due because the employee received a similar award within the previous 10 years. The 35-year award is counted even though it was taxed in full.

Medical support

- Medical check-ups and insurance
- Eye tests and corrective appliances
- Professional subscriptions
- Coronavirus antigen tests

Medical check-ups and insurance

Medical: one screening and one check-up each year are not taxable.

Insurance: premiums paid on behalf of employees (other than ‘lower-paid employees’) are taxable unless paid for treatment outside the UK while the employee is performing duties abroad. (ITEPA 2003 sections 320B, 325)

Eye tests and visual display unit related prescriptions are exempt from tax under certain circumstances under ITEPA 2003, s 320A.

If the conditions for benefit exemptions are not met, there is a good summary of tax and reporting requirements in HMRC manual EIM01550.

Eye tests and corrective appliances

Eye tests and corrective glasses for VDU (visual display unit) such as a work computer or otherwise required by the health and safety at work regulations are a tax and NIC free benefit in kind, when paid for by the employer and available to all relevant employees.

The employer needs to pay the optician directly or provide the employee with a redeemable voucher. Alternatively, the employer may provide the employee who settles the expense, with an authorisation to be tested and an undertaking that the cost would be refunded to the employee by the employer.

If the employee covers the cost without an undertaking from the employer, the amount is taxable income subject to NIC if refunded to the employee. This would then be treated as a personal expense reimbursement and added to normal remuneration in the payroll with PAYE tax and class 1 NIC deducted as normal.

Normal glasses and glass not related to VDUs, including contact lenses paid for directly by the employer, are a taxable benefit in kind and reported on forms P11D or dealt with through the payroll as employment income if reimbursed to employee, as above.

Professional subscriptions

A deduction for fees and subscriptions paid to professional bodies or learned societies under Section 343 ITEPA 2003 is allowable where:

- It is paid in respect of a body that regulates the profession and the duties of the employment involve the practice of the profession to which the fee relates

- Payment of fee is a condition for that profession to be practised in the performance of those duties, and

- The profession is one of the following:

    - Health profession
    - Veterinary profession
    - Legal profession
    - Architects
    - Teachers
    - Patent and Trademark attorneys
    - Certain occupations in the Transport sector
    - Private security industry
    - Gambling industry

Further, a deduction for fees and subscriptions paid to professional bodies or learned societies under Section 344 ITEPA 2003 is allowable where membership of the relevant body is a requirement under the terms of the employment for:

- the advancement or dissemination of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions)

- the maintenance or improvement of standards of conduct and competence among the members of a profession

- the provision of indemnity or protection to members of a profession against claims in respect of liabilities incurred by them in the exercise of their profession, and

- the body is approved by HMRC according to ‘List 3’ of approved bodies.

HMRC approved ‘List 3’ can be found here. You will find ACCA as a listed body by selecting the ‘Ctrl’ and ‘F’ keys on your keyboard and typing in ACCA.

No PAYE, NIC or reporting obligations arise for the above if the employer has paid the fees directly to the relevant body or if the fee has been paid by the employee and later reimbursed by the employer to the employee.

If a fee has been paid or reimbursed in relation to an organisation that is not listed in the List 3 (see above) or with effect from 6 April 2017, the fee has been paid as part of a salary sacrifice arrangement then there a tax and reporting obligations as follows:
Fee paid directly to the body by the employer – include the amount in the payroll in the month that the fee is paid and add it to the employee's general earnings. Class 1 NIC should be calculated and deducted through the payroll. No PAYE tax should be deducted via the payroll, but the amount needs to be reported on a form P11D (under section M with no Class 1A NIC) after the end of the tax year

If the fee has been paid by the employee and reimbursed to them by the employer – include the amount in the payroll in the month that the fee is paid and add it to the employee's general earnings. PAYE tax and Class 1 NIC should be calculated and deducted through the payroll. No entry needs to be made on the form P11D in this case.

In respect of salary sacrifice arrangements, the amount to include in the payroll is the higher of the fee paid or salary given up for that benefit.

Coronavirus antigen tests

Where an employer has paid for this or has reimbursed the cost of such a test to the employee, no tax or NIC is due on the payment for any test taken on or after 25 January 2021 and before 6 April 2022.

May 2022