



# tax | any mileage in it?

## team



**Andrew Jupp**  
*head of tax - partner*  
020 7969 5508  
ajupp@haysmacintyre.com



**Graham Elliott**  
*VAT partner*  
020 7969 5610  
gelliott@haysmacintyre.com



**Anne Gregory-Jones**  
*tax partner*  
020 7969 5520  
agregory-jones@haysmacintyre.com



**Joanne Hennessy**  
*employment tax manager*  
020 7969 5579  
jhennessy@haysmacintyre.com



**Lorraine Owens**  
*employment tax manager*  
020 7969 5578  
lowens@haysmacintyre.com

## Are You Paying Cash Allowances For Business Mileage? Can You Reclaim National Insurance Contributions?

A recent appeal case at a First Tier Tribunal determined that the cash allowances the employer was paying to employees driving their own cars were not earnings but were in fact a reimbursement of relevant motoring expenses and so were not subject to National Insurance Contributions. The result of the ruling, in broad terms is, that the employer is entitled to a refund of National Insurance Contributions on the cash allowances.

HMRC may yet appeal the decision and so there is no absolute certainty at this time. If you may be affected it is worth considering making a claim to avoid time limitation. In brief, you may be able to claim if you have:-

- Paid a cash allowance to employees which is intended to fund the use of an employee's car for business purposes
- The cash allowance is not linked to salary in any way
- Paid business mileage at less than £0.40p per mile
- Can produce records to evidence business mileage

You may have the opportunity to reclaim employer's Class 1 NIC.

If you wish to explore this further please contact the employment tax team at haysmacintyre.

### refresher

This is an opportune moment to look again at the rules around reimbursement of business mileage.

### employees' own cars

Private car drivers may be reimbursed Authorised Business Mileage Allowance payments (AMAPs), the current rates for tax purposes are as follows:-

- 0 - 10,000 miles at £0.40 p per mile
- 10,001 - onwards at £0.25 p per mile

For NIC purposes there is no restriction to 10,000 miles and no Class 1 NIC is due on payments in excess of 10,000 miles.

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## company car drivers

HMRC regularly updates the advisory fuel rates which are the correct rates to use for mileage paid to company car drivers which can be found at the following link.

[http://www.hmrc.gov.uk/cars/advisory\\_fuel\\_current.htm](http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm)

If the employer reimburses up to these rates no liability to tax or NIC will arise on genuine business mileage reimbursement.

Alternatively, an employer may decide to reimburse actual fuel costs for business mileage. If the only fuel reimbursed relates to business mileage no tax charge will arise.

Fuel provided to company car drivers is taxed differently if there is any element of private mileage. The tax is based on the fuel scale charge which is calculated by applying the relevant CO2 percentage to £18,000 for the 2010/11 tax year. For example, a diesel car with CO2 emissions of 160g/km has a fuel scale charge of  $24\% \times £18,000 = £4,320$

As the above example illustrates, mistakes can be costly. It is therefore crucial, if you wish to avoid the fuel scale charge, to ensure that either any private mileage is reimbursed by an employee or that none is claimed.

Let us put this in perspective; a basic rate employee will pay tax of £864 on the fuel benefit of £4,320 and the employer will pay Class 1A NIC at 12.8% of £553. This gives a combined cost of £1,417. An employee would need to drive in excess of 5,000 private miles to justify the tax charge on him. For example, if an employee drives 5,000 private miles a year and reimbursed the private mileage at £0.11p per mile he would have to repay his employer £550.

The employee must keep an accurate record of all private mileage. Are your procedures and controls adequate in this regard? Are you certain that your employees are not unwittingly claiming for ordinary commuting mileage?

## cash allowance or company car?

Many companies offer their employees the option of cash instead of a company car. In this scenario the cash received, in place of the car is taxable as earnings. Typically, companies only reimburse mileage at the lower advisory fuel rates to employees who take the cash allowance. If this is the case in your organisation you should note that your employees can claim a tax deduction for the difference between the advisory fuel rates you reimburse and the AMAP rates. For example, if an employee drives 5,000 business miles a year and you reimburse at £0.11p per mile the employee may claim a tax deduction of  $5,000 \times (£0.40p - £0.11p) = £1,450$  resulting in a tax saving of £290 per annum for a basic rate taxpayer and £580 for a higher rate taxpayer.

There are some planning opportunities to consider if employees take cash in place of the car and have high business mileage. The employer may be able to swap the taxable cash allowance for the tax free higher AMAP rates so long as matters are properly structured.

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## P11D reporting

No P11D reports are required in respect of mileage reimbursements for private car drivers. A P11D report is, however, required for company car fuel or advisory fuel rate mileage reimbursements, unless you have a P11D reporting dispensation which includes this.

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# haysmacintyre

haysmacintyre  
Fairfax House  
15 Fulwood Place  
London  
WC1V 6AY

t 020 7969 5500  
f 020 7969 5600  
e [marketing@haysmacintyre.com](mailto:marketing@haysmacintyre.com)  
w [www.haysmacintyre.com](http://www.haysmacintyre.com)  
 @haysmacintyre



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