

2016/17 P11D GUIDE

haysmacintyre
chartered accountants & tax advisers

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PART 1

INTRODUCTION

This guide is intended to assist with the reporting of expenses and benefits-in-kind (BIKs) via forms P11D and P11D(b) for the 2016/17 tax year. It should help you identify the data contained in, for example, nominal and purchase ledgers and petty cash records which you should be looking to report.

The guide is not exhaustive given the volume of legislation, HM Revenue & Customs (HMRC) guidance notes and case law. However, it is intended to help you prepare the forms and answer questions that you or your employees might have regarding expenses and benefits reporting.

(All references made to "employee(s)" in this documents includes directors, unless otherwise so stated.)

The 2016 - 17 guide is based upon enacted legislation as at 5 April 2017.

The one significant change which came into effect from 6 April 2016 is the Business Expenses Payments Exemption (BEPE) which has replaced the dispensation regime. This was introduced to help reduce some of the administration related to form P11D reporting. However, in return for this freedom, employers will need to ensure that they have a robust process for determining allowable and non-allowable costs before reimbursing expenses.

PART 2

COMPLIANCE FOR NON-CASH BENEFITS AND EXPENSES REPORTING

1. P11D REPORTING

Employers are required to prepare form P11D for any employee to whom it has:

- reimbursed, or paid expenses on their behalf; and/or
- provided non-cash BIKs, or services.

Under the new regime starting 6 April 2016 employers that meet the conditions of the new reporting exemption (see Part 3) do not need to report expenses where employees are entitled to tax relief in full.

However, employers should be aware of the conditions where reporting exemptions apply. Furthermore, the £8,500 threshold for P11D reporting no longer applies, albeit there are two exceptions which are considered in Part 3 of this guidance.

Following the introduction of the BEPE employers should only be reporting items which will be subject to tax and National Insurance. Amounts reported on a form P11D are considered to be subject to tax. This does not preclude an employee from making any claim for tax relief or use of an exemption form. Details of how employees can do this can be found in section N of Part 5.

2. P11D(b) REPORTING

Employers are required to report the total of all taxable BIKs and expenses subject to Class 1A National Insurance Contributions (NIC) on the form P11D(b).

Class 1A NIC is due where the employer has provided a non-cash benefit. These items are clearly indicated on the form P11D itself. Class 1A NIC is due at a rate of 13.8% on the value of the BIKs.

Once completed the form P11D(b) needs to be signed and submitted along with forms P11D to HMRC if submitting these by paper. However, where the forms are submitted electronically (or online) no signature is required, and both forms P11D and P11D(b) are submitted simultaneously.

The due date for filing both forms P11D and P11D(b) is 6th July following the end of the tax year. Payment of the liability is due by the 19th July (22nd where payment is made electronically).

3. COST/VALUATION OF EXPENSES AND BENEFITS

The value of a benefit or facility is the cost, inclusive of VAT (regardless of whether the employer is able to recover any or all of the VAT), incurred by the employer in providing that benefit, less the amount made good by the employee.

If a benefit is shared then the value maybe apportioned based upon a fair and reasonable basis.

Employers may provide employees with goods and services of their business. These will be valued at the marginal cost to the employer and will normally need to be agreed with HMRC.

Special valuation rules apply to certain benefits (e.g. company cars) and details of the rules are included elsewhere in this guidance.

4. PAYE SETTLEMENT AGREEMENT (PSA)

A PAYE Settlement Agreement (PSA) is an optional agreement between an employer and HMRC for the employer to settle the tax and NIC on the employees' behalf.

An employer may choose to enter into this contract on the basis that it is difficult to attribute a cost to an employee, or where a tax liability arises on the employee which the employer did not intend for them to suffer when providing them with BIKs.

For example, if an employer decides to reward their employees for successful work by taking them out for a celebratory drink the drinks are viewed as BIKs, and it may also be difficult to tally the final expenses against each individual at the end of the night. Entering into a PSA means that the employee does not suffer a reduction from their net pay as a result.

One of the following conditions need to be met before HMRC will agree to a PSA being adopted, namely, the benefit and expense must be:

- minor in nature; or
- irregularly incurred; or
- impractical for the employer to pass on the tax and NIC liability to the employee.

Tax is calculated on the items covered by the PSA and will depend on how many employees pay tax at basic rate (20%), higher rate (40%), and, for those earning over £150,000 per annum, at the additional rate (45%). The tax due is then grossed-up. Class 1B NIC at 13.8% are calculated on the total value of the items and the grossed-up tax.

The PSA must be renewed each year and must be agreed before a tax or NIC liability is due. Consequently, the PSA should ideally be in place before the start of the new tax year.

PART 3

5. BUSINESS EXPENSE REPORTING – LEGISLATION CHANGES

NEW REGIME – BUSINESS EXPENSES PAYMENT EXEMPTION ('BEPE')

From 6 April 2016 P11D dispensations are no longer valid and have been replaced by a more general exemption 'BEPE'. Employers do not need to apply to have dispensation from reporting tax exempt business expenses. Instead employers will no longer need to report business expenses on form P11D where they meet the following criteria:

- the employer operates a checking system to ensure that employees are incurring cost can expense equal to the amount they claim, for example, through the production of receipts and bank statements to back up the claim; and
- the employer checks that a 'fully matched' deduction is available for the employee expense submissions under the current legislation.

Where an employer satisfies themselves that an exemption applies (a 'fully matched' deduction), no reporting of these expenses is required on a form P11D. If a submission is not 'fully matched', then it is either reportable on the form P11D, or must be processed through the payroll for tax and Class 1 NIC (please see Part 5 for details).

While this will reduce compliance reporting companies should satisfy themselves that their expenses policy is up to date, and that their record keeping demonstrates that checks are in place.

Where employees are unable to provide evidence that a 'fully matched' deduction is available at the time of submission they can later make a personal claim for relief. However, the employer is required to pay Class 1 NIC at the time the expense is paid. Based upon the current Social Security regulations neither the employer nor the employee will be able to reclaim any overpaid NIC should a subsequent claim for the payment to be treated as tax exempt be substantiated.

If no expenses or BIKs are reportable on its employees an employer does not need to complete forms P11D or P11D(b).

THE ABOLITION OF THE £8,500 THRESHOLD AND THE P9D FORM, AND EXCEPTIONS TO THIS

Prior to 6th April 2016 where employers provided BIKs and expenses to employees with incomes of the less than £8,500 the employers were required to complete a P9D form. P9D employees were not personally subject to tax and NIC on the BIKs and expenses reported. From 6 April 2016 all employees will need to have their BIKs and expenses reported on the form P11D regardless of their income level. This change may result in a charge to tax on the individuals if their total taxable income exceeds the personal allowance (£11,000) in 2016/17. However, employers will be liable to Class 1A NIC due on all reportable BIKs unless they have already been subject to a Class 1 NIC charge.

An exception to this reporting change exists for the following two types of employment:

- ministers of religion whose income falls below £8,500 are exempt from tax and NIC on the payment or reimbursement of any expenses from qualifying premises they occupy; and
- carers whose income falls under £8,500 are exempt from tax and NIC on any board and lodging they receive.

In both cases there is no requirement to report these benefits through a form P11D.

BENEFITS REPORTING – LEGISLATION CHANGES

TRIVIAL BENEFITS

The statutory exemption from income tax and NIC for trivial BIKs provided by employers to employees came into effect from 6 April 2016. Previously these fell under a non-statutory exemption as part of HMRC guidance, and could not be relied on.

The trivial benefits exemption will only apply to trivial BIKs which meet the following criteria:

- is not provided in recognition of services performed by the employee as part of their employment, or in anticipation of such services;
- the benefit does not comprise of cash or a cash-voucher;
- costs £50 (inclusive of VAT) or less;
- is not provided as part of a salary sacrifice or other contractual arrangement; and
- is capped at £300 per annum for directors of close companies including members of their families or households.

Where the above conditions are met, details of the benefit do not need to be reported to HMRC.

VOLUNTARY PAYROLLING OF BENEFITS

Employers can now process BIKs directly through the payroll. Some employers may have already informally processed some BIKs in this way to account for the tax due on certain benefits. BIKs processed in this manner also need to be reported on the employees form P11D. However, from 6th April 2016 employers were able to register their BIKs for payrolling and consequently do not report these on a form P11D.

Registration of the BIKs must take place before the start of the tax year in which the benefit is received i.e. registration for 2018/19 must be done before 6 April 2018.

Employers intending to payroll their BIKs and taxable expenses must enrol to use HMRC online service – Payrolling Benefits in Kind service. Unregistered BIKs and expenses still need to be put on form P11D.

All benefits can be payrolled except:

- employer provided living accommodation;
- interest free and low interest (beneficial) loans.

Where the payrolling of BIKs is in place, the employer is no longer required to report those BIKs as part of an employee's form P11D. Class 1A NIC will continue to be due for payment by the 19th July (or 22nd where paying electronically).

PART 4

THE GUIDE

6. IMPORTANT BENEFITS AND EXPENSES TERMINOLOGY

Whether you are experienced in business expense reporting or not, the following will help to explain some of the common terminology which is regularly used:

Allowable expenses – Expenses upon which tax relief is available via the legislation. The main areas of expenditure which are eligible for relief are:

- business travel;
- subsistence costs (these need to be associated with a cost of business travel);
- accommodation costs (where required for overnight stays while on business travel); and
- business Entertainment (costs of entertaining a client), these should be proportionate and relevant to the circumstances of the meeting.

Non-allowable expenses – expenses where no relief is available and will be subject to tax and NIC at the time of payment.

Business expenses – are allowable on the basis that they are “wholly, exclusively and necessarily” incurred in the performance of the employment.

‘Fully matched’ deduction – is where the full cost of an expense is allowable, and therefore non-taxable. However, as part of the requirements of BEPE, employers need to satisfy themselves that an expense was incurred by an employee and that it is eligible as a deduction from taxable income.

Not a ‘fully matched’ deduction – represents an expense which has not been incurred “wholly, exclusively and necessarily” in the performance of the employment.

Mixed use – Some expenses submissions may have costs which relate to both business and private expenses, these are called ‘mixed use’ because a fully matched deduction is not available. A few common examples of expenses which are not fully matched are:

- a petrol expense (as opposed to a mileage claim – section E in the reportable items);
- personal mobile;
- home phone bill;
- an oyster card top-up; and
- credit card expenses (not itemised).

The above items may have an element of the total cost which is allowable, but if the employee is unable to provide a breakdown of the allowable costs, the employer must report the full amount and account for tax and Class 1 NIC (as a cash payment) via the payroll.

PART 5

7. THE FORM P11D

A. ASSETS TRANSFERRED

Where the ownership of goods (i.e. cars, property, furniture, clothes, etc.) is transferred to an employee which can be sold for cash, the employee will be chargeable on the market value of the benefit. The market value is defined as the amount the employee could receive if they sold it on the open market.

A Class 1A NIC liability will typically arise on assets given or transferred to employees.

Please note that specific guidance has been published in respect of the sale of bicycles in the "bike/cycle to work" scheme.

INFORMATION REQUIRED

The cost or market value (whichever is the higher) at the date of transfer; the amount of any payment by the employee or from which tax has already been deducted, with the difference being the cash equivalent.

OTHER POINTS:

1. When you give or sell a new asset to an employee the value of the benefit is the higher of the cost or the market value at the date of transfer.
2. It is important that you actually purchase the asset and you do not merely settle an employee's pecuniary liability, as this would create a liability to Class 1 NIC and fall to be reportable in section B.
3. If you give or sell a used or depreciated asset then the value of the benefit is the market value at the date of transfer.
4. Assets firstly loaned and then transferred to the employee will be valued on the higher of the market value at the date of transfer or the cost when first provided, less any amount that has been assessed as a benefit in earlier years.
5. Assets such as cars, vans, bicycles, living accommodation or computer equipment previously made available for private use will be valued based on the market value on the date of transfer.
6. Any amount paid by the employee towards the private use of the asset is deducted from the cost or market value to arrive at the cash equivalent.
7. When you buy an asset from an employee for more than its market value, the premium you have paid counts as earnings which will be subject to tax and Class 1 NIC through payroll.

B. PAYMENTS MADE ON BEHALF OF EMPLOYEES

Contracts for the supply of goods or services held in the name of the employee (i.e. gas, electricity, council tax, water rates and telephone bills, etc.) gives rise to taxable BIKs where the supplier is paid directly by the employer.

Entries into these boxes do not give rise to Class 1A NIC, however, the benefit should also be reported through the payroll for Class 1 NIC purposes.

INFORMATION REQUIRED

A description of the payment and the amount paid.

OTHER POINTS:

1. Where the employer pays the provider directly, but where the employee has entered into the contract, the amount is reported on the form P11D, but Class 1 NIC is due. This should be processed at the time of payment.
2. Where the employer reimburses the employee for their costs then the amount paid by the employer is deemed to be earnings and should be processed through the payroll for tax and Class 1 NIC at the time of payment.

TAX ON NOTIONAL PAYMENTS

PAYE applies to benefits provided in the form of readily convertible assets and to payments made in certain circumstances by intermediaries and foreign employers (i.e. notional payments). The tax due through the PAYE system may in itself form a taxable benefit.

INFORMATION REQUIRED

The tax due on a notional payment not paid by the employee either by deduction from salary or reimbursement to the employer within 90 days of the end of the tax year in which the notional payment was made.

OTHER POINTS:

1. If the employee does not make good the full amount within 90 days of the end of the tax year, then the shortfall is treated as earnings from the employment for the tax year in question.
2. Amounts not made good within 90 days of the end of the tax year must be reported as further remuneration on form P11D after the end of the tax year in which the event occurred.

C. VOUCHERS AND CREDIT CARDS

A taxable BIK arises where an employer provides a voucher, token or credit card to an employee.

INFORMATION REQUIRED

Detail of the cost incurred by the employer of providing benefits or paying expenses by way of the provision of a voucher, token or credit card exchangeable for goods or services.

OTHER POINTS:

1. Company credit cards or charge cards provided to employees to pay business expenses such as hotel bills, air travel or meals; or to obtain goods or services on behalf of the company will not give rise to a tax or Class 1 NIC liability.
2. Goods purchased for private use will be liable to tax and Class 1 NIC.
3. Subscription charges relating to company credit cards, provided to an employee by reason of their employment, are exempt from a tax charge upon the employee.
4. Non-cash vouchers provided to an employee in recognition of a particular event (i.e. marriage, birthday, birth of a child) will not give rise to a taxable BIK where the conditions of the trivial benefits exemption are satisfied.
5. Cash voucher will be taxable as earnings and will be liable for tax and Class 1 NIC through payroll at the time of payment.

D. LIVING ACCOMMODATION

If a house, flat or any property that is owned or rented by the employer is made available for use by an employee, there will be a BIK for the employee whether or not they are higher or lower paid employees. The BIK is based on two components – a basic charge and an additional charge.

BASIC CHARGE

The benefit is based on the greater of the rent paid by the employer or the Gross Rateable Value (GRV) as at 1973 (England and Wales) of the property. The benefit is then reduced by any rent paid by the employee.

ADDITIONAL CHARGE

An additional charge exists where the cost of the property is more than £75,000.

The BIK charge is calculated on the basis that the excess is a notional loan and subject to the official rate of interest as at the beginning of the tax year which is 3% for the 2016/17 tax year (2.50% for the 2017/18 tax year).

Again the benefit is mitigated by the amounts made good by the employee.

INFORMATION REQUIRED

The cash equivalent of the accommodation provided.

OTHER POINTS:

1. Employees may be exempt from a tax charge and the employer from a Class 1A NIC liability on the accommodation benefit if the accommodation is:
 - a) **"necessary"** for the **"proper performance"** of the employee's duties; or
 - b) **"customarily"** provided for a type of job and is for the **"better performance of duties"**; or
 - c) provided by the employer because there is a threat to the employee's physical **"security"**.
2. Employers should not assume that an employee is exempt under these rules. Guidance should always be obtained as to whether the accommodation satisfies one of the above conditions.
3. Non job related accommodation is a taxable BIK for all employees.
4. Where the accommodation is job related, council tax and water rates are exempt from charge. However, any other household expenses paid by the employer will give rise to a taxable BIK.
5. Where accommodation is not job related, household expenses paid by the employer will give rise to a taxable BIK.
6. Particular rules apply on the valuation of properties which the employer has owned or leased for more than 6 years. The valuation of the property may change where the property is provided to a different employee.

E. MILEAGE ALLOWANCE AND PASSENGER PAYMENTS

Mileage allowances are payable where an employee uses their own car for work purposes.

The following are the 'Approved Mileage Payments Allowance' (AMAP) limits and these can be paid tax free to employees:

Approved mileage rate from for the year to 5 April 2017		
	First 10,000 Business Miles	Over 10,000 business miles
Cars and vans	45p	25p
Motorbikes	24p	24p
Bicycles	20p	20p
Employee Passenger	5p	5p

Employees are taxed on any amounts in excess AMAP rates. The rules for Class 1 NIC's differ from those for tax in a number of ways and take into account a wider range of expenses.

Different rates apply for company cars and vans and these are based on the price at the pump. These change every quarter and can be found here:

<https://www.gov.uk/government/publications/advisory-fuel-rates>

INFORMATION REQUIRED

The amount of allowances paid by the employer to the employee less any amount made good by the employee.

The approved amount is the number of business miles driven in the employee's own vehicle multiplied by the approved mileage allowance payment rate, as set out above.

OTHER POINTS:

1. Employers should not report any details of any mileage payments where the amounts paid to the employees are equal to or less than the approved amounts.
2. Where business mileage rates are paid at a level below the approved rate, or if no mileage payment is paid at all, employees are entitled to claim mileage allowance relief.
3. All payments reported that are in excess of the approved amounts are taxable. In addition, the excess payments will also be liable for Class 1 NIC through payroll.
4. An allowance for passenger payments benefits from a separate exemption of 5p per passenger per business mile which is distinct from the mileage allowance payments.
5. When reimbursing employees, details of the journeys start point and end point should be provided, detailing the mileage covered. Where this information is not available HMRC may not accept that a valid journey has occurred and any reimbursement should be processed via the payroll for tax and NIC.

F. COMPANY CARS AND FUEL

The provision of a company car to an employee (or to members of their family or household) gives rise to a BIK charge and a Class 1A NIC liability. The benefit is based on a percentage of the car's list price (the list price of a car will usually be the UK list price of the car on the day before the date of first registration, including standard accessories, VAT, car tax and delivery charges) over the period of availability. The percentage is determined by the level of the car's carbon dioxide (CO₂) emissions as shown in the car's registration document (V5C certificate).

Where free fuel for private motoring is provided to an employee in a company car, the employee will be assessed on a fuel benefit in addition to the car benefit mentioned above. The fuel benefit charge is based on the car's CO₂ emission rating multiplied by the base figure for 2016/17 which is £22,200. However, no charge to tax will arise where employees make good the full cost of the fuel for private use within 90 days of the end of the tax year.

Car and car fuel charges are not proportionately reduced for all periods the vehicle is unavailable for private use. They are reduced only if the car is incapable of being used at all (for example, because of repairs) for a period of 30 consecutive days or more, or has been withdrawn completely.

INFORMATION REQUIRED

For P11D purposes the make, model and the date the car was first registered will initially be required. Employers must then indicate the CO₂ emissions figure for cars registered on or after 1 January 1998, unless this is not available and then an alternative box is ticked. Next indicate the engine size and the fuel or power. There are three key letters to use when entering the fuel or power type description: E (Zero emission cars – including electric cars), D (Diesel cars – all Euro standards) and A (all other cars).

The employer will be required to enter the dates the car was available (or ceased to be available) to the employee, together with the list price and cost of all non-standard accessories. Further boxes are provided for any capital contributions and any payments for private use made by the employee, as well as for adding details about the withdrawal (or reinstatement) of free private fuel.

Finally, enter the total car fuel benefit where appropriate.

OTHER POINTS:

1. A car is defined as a 'mechanically propelled road vehicle' and excludes:
 - a goods vehicle;
 - a motor cycle;
 - an invalid carriage; or
 - a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.
2. Special tax rules apply to '**pooled cars**' (also known as 'pool cars'). Pool cars are treated as being unavailable for private use if all of the following conditions apply:
 - a) the vehicle was made available to more than one employee by reason of their employment; and
 - b) it was not ordinarily used by one employee to the exclusion of the others; and
 - c) any private use in the year by any of the employees concerned was 'merely incidental' to his business use in the year; and
 - d) the car was not normally kept overnight near the home of an employee (unless an employee happens to live near to the premises of the person making the car available and the vehicle is parked overnight on those premises).
3. Employees in the motor trade are taxed in the same way as any other employees where a car is made available to them for private use.
4. As employees in the motor industry often drive many cars calculating and keeping track of the car benefit charge may be very difficult for an employer. HMRC recognises this and have therefore published detailed guidance explaining a separate procedure – called the 'Averaging Arrangement' that may be used by businesses such as car dealerships, leasing companies and daily rental operators.
5. Employers within the motor industry can adopt the averaging arrangements to ensure that each employee is deemed to drive a single notional car instead of the multitude of cars actually available to them.
6. The term 'made available to' includes anytime the car is available for the employees use, even if circumstances dictate that the employee is unable to use the vehicle e.g. if an employee goes on holiday they may be unable to use the car while they are away, but it is still treated as being 'available' for the employees' use. A car may be deemed 'unavailable' if it is permanently withdrawn from the employee or where a repair requires that it be off the road for more a period of more than 30 consecutive days.

G. VANS

Where an employer allows an employee (or members of their family or household) exclusive use of a company owned van, there will be a taxable BIK.

A van with unrestricted private use has a flat reportable value of £3,170. As well as the benefit for the company van, there will be an additional annual scale charge of £598 where free or subsidised fuel is provided by the employer for private use by the employee.

The standard van charge is reduced pro rata for periods where the van is unavailable for use or is incapable of being used for 30 or more consecutive days. Contributions for private use made by the employee will reduce the charge by an equivalent amount.

Class 1A NIC is payable on the value of the van and van fuel benefit.

INFORMATION REQUIRED

The total cash equivalent for all the van(s) and van fuel provided.

To calculate the cash equivalent you need the dates the van was available (or ceased to be available) to the employee and details of any payments for private use made by the employee.

To calculate the cash equivalent for fuel you need details about the withdrawal (or reinstatement) of free private fuel.

OTHER POINTS:

1. A van is defined as:
 - a mechanically propelled road vehicle;
 - of a construction primarily suited for the conveyance of goods or burden of any description;
 - of a design weight which does not exceed 3,500kg; and
 - not (broadly) a motorcycle as defined in the Road Traffic Act 1988; in essence, this means that it must have at least four wheels.
2. The standard van benefit charge is divided, on a reasonable basis, among the employees who had shared use of the van for the period it was available.
3. The cash equivalent of zero emission vans for the 2016-17 tax year is 20% of the van benefit charge.
4. No van benefit charge will arise for vans made available for business use only, where private use is insignificant or where private use is restricted.
5. Insignificant private use means an occasional journey, for example, a trip to the rubbish tip once or twice a year to dispose of old furniture. An employee who uses the van to do weekly shopping at the supermarket is not insignificant and a tax charge will apply.
6. Employers should be able to provide evidence regarding the use of the vans, for example, a vehicle log of journeys undertaken. Additionally, where practical, and to prevent a chargeable benefit in kind charge arising on the driver, employment contracts should include a clause or terms and conditions which formally specify that the van is not available for general and private usage.
7. The treatment for 'Pooled Vans' is identical to that of pooled cars and no tax charge will arise where the conditions are met.
8. The tax treatment for privately owned vans used for business purposes is exactly the same as that of privately owned cars, including the figures of 45p per mile for the first 10,000 miles and 25p per mile thereafter.

H. INTEREST-FREE AND LOW INTEREST LOANS

When an employer lends money to an employee (or members of their family or household), it may give rise to a taxable BIK. The cash equivalent of the benefit is calculated using HMRC's official rate of interest of 3% for 2016/17 (2.50% for the 2017/18 tax year). Any interest paid by the employee during the tax year will reduce the loan benefit.

The employee will have no taxable benefit if the aggregate of all loans outstanding throughout the tax year is £10,000 or less. Where an employer makes available two loans to the employee and throughout the tax year these loans in total do not exceed £10,000, there is no taxable benefit.

Drawings by a company director on the company funds which are not processed by the payroll will be treated as a loan by the company to the director in the first instance.

Class 1A NIC is payable on the value of the loan benefit.

INFORMATION REQUIRED

- the number of joint borrowers (if applicable);
- amount outstanding at 5 April 2016 or at the date loan was made (if later);
- amount outstanding at 5 April 2017 or at the date loan was discharged (if earlier);
- maximum amount outstanding at any time in the year;
- total amount outstanding at any time in the year;
- total amount of interest paid by the borrower in 2016/17 (enter nil if none was paid);
- date loan was made in 2016/17 (if applicable); and
- date loan was discharged in 2016/17 (if applicable).

OTHER POINTS:

1. A loan is defined to include 'any form of credit'.
2. Do not disclose details if the aggregate of all loans to the employees does not exceed £10,000 at any point in 2016/17.
3. If the loan is one where any interest payments fully qualify for tax exemption, no P11D disclosures are required e.g. loans to participators (where a loan is required in order to buy into a business).
4. There are two ways of calculating the taxable benefit. The first is the normal ('averaging') method and the second is referred to the alternative ('precise') method.
5. The employee or HMRC may elect for the alternative precise method for tax purposes.
6. A tax charge arises where an employer writes off a loan made to an employee. The benefit being equal to the amount written off. For tax purposes the amount written off is reportable on the form P11D. For Class 1 NIC purposes the amount written off is included in gross pay.
7. No tax charge arises if the loan is released or written off on or after the death of the employee.

I. PRIVATE MEDICAL TREATMENT OR INSURANCE

A BIK will arise on the cost to the employer in providing either medical treatment or the payment of an insurance premium.

INFORMATION REQUIRED

Cost of all medical and dental expenses paid by the employer and/or all premiums paid for insurance against such treatment during the tax year, including Insurance Premium Tax (IPT).

The BIK will be reduced by any amount made good by the employee.

Class 1A NIC is payable on the value of the benefit.

OTHER POINTS:

1. Where the employee contracts for private health insurance and the premium is paid direct by the employer, a Class 1 NIC charge will arise which will need to be accounted for via the payroll. The benefit is reportable on the employee's form P11D for tax purposes.
2. Any amount reimbursed to the employee for the cost of the insurance must be treated as earnings and should be processed through payroll for both tax and Class 1 NIC purposes.
3. No liability arises in respect of periodic medical check-ups or health-screening assessments.
4. The cost of eye tests for employees who use a VDU for work and the cost of, or a contribution towards the cost of, spectacles where prescribed specifically for VDU work are not a taxable BIK.
5. The costs of expenses incurred in providing medical treatment to assist an employee return to work after an absence of at least 28 consecutive days and following a recommendation by a health professional will be exempt from tax. The exemption applies to expenditure up to a cap of £500 per tax year per employee.

J. QUALIFYING RELOCATION EXPENSES PAYMENTS AND BENEFITS

The provision of qualifying removal expenses and benefits is exempt, up to a maximum amount of £8,000.

Qualifying relocation payments in excess of the £8,000 limit are taxable and liable to Class 1A NIC.

For removal expenses and benefits to be exempt the following qualifying conditions need to be met:

1. Change of main residence
The most important condition is that the employee must change their main residence because they are starting a new employment; or there is an alteration in the duties of their employment; or the normal place where their duties are performed has changed.

The **new** residence **must** be within reasonable daily travelling distance of the new normal place of work. The old residence must not be.
2. Timing of expenditure
In order to qualify for exemption the benefit must be provided, before the 5 April, following the year in which the employee started working in their new location.

3. Nature of expenditure

Qualifying removal expenses include legal fees, estate agents' charges, temporary accommodation costs, removal costs and travel costs between the old and the new locations.

Non-qualifying relocation expenses are any expenses which do not meet the conditions for exemption. Matters are considered in more detail in sections M and N below.

4. Information required

The excess over £8,000 of the total amount of all qualifying expenses payments (the gross amount) and benefits (cost to you as the employer less anything paid toward the cost by the employee) and provided accommodation.

OTHER POINTS:

1. Ensure that the relocation benefits and expenses are receipted and documented.
2. The £8,000 limit applies to the whole relocation not just to the qualifying expenses or benefits provided during the year.
3. It is necessary to take into account qualifying expenses and benefits from earlier years when working out whether there is an excess over £8,000.
4. Where the employee arranges non-qualifying relocation related benefits and the employer pays the supplier direct, a Class 1 NIC charge will arise which will need to be accounted for via payroll. The benefit is reportable on the employee's form P11D for tax purposes (section N).
5. Where the employer arranges non-qualifying relocation related benefits and pays the supplier direct, the benefit is reportable on the employee's form P11D (section M) and a Class 1A NIC liability will arise on the value of the benefit.
6. Where the employer reimburses the employee with non-qualifying relocation related benefits the amount reimbursed should be processed through payroll for both tax and Class 1 NIC purposes.

K. SERVICES SUPPLIED

Any services supplied to an employee (or to members of their family or household), where the contract is between the employer and the service supplier.

Class 1A NIC is payable on the value of the benefit.

INFORMATION REQUIRED

The extra cost to the employer of providing the service, less the amount made good by the employee.

OTHER POINTS:

1. Some employer provided services (whether on premises occupied by the employer or elsewhere) are exempt from charge where the private use of the service is insignificant in the context of its use by the employee in performing their duties.
2. Only use this section if the contract for service is between the employer and the supplier, otherwise use section B.

L. ASSETS PLACED AT THE EMPLOYEE'S DISPOSAL

Company owned assets (televisions, paintings, etc.) made available for use by the employee (or to members of their family or household) gives rise to a BIK charge and a Class 1A NIC liability, unless private use of the asset is insignificant.

INFORMATION REQUIRED

The annual value of the use of the asset (or the rent or hire charge if this was greater) less any amount made good by the employee.

The asset's annual value is 20% of its market value when first provided to the employee as a benefit.

INFORMATION REQUIRED

A description of the asset and its annual value plus any expenses incurred less any amount made good by the employee or from which tax deducted.

M. OTHER ITEMS (INCLUDING SUBSCRIPTIONS AND PROFESSIONAL FEES)

SUBSCRIPTIONS

Subscriptions and professional fees covered by the employer will be exempt from tax and NIC where the organisation is listed on HMRC's "List 3".

Subscriptions and fees paid to organisations not listed on HMRC's list 3 will be taxable and liable to Class 1A NIC. List 3 is available on HMRC's website at: www.hmrc.gov.uk/list3/index.htm

INFORMATION REQUIRED

A description of the organisation, professional body or society. Including the cost of the subscription or fee paid by the company.

Deduct any amount made good or from which tax deducted to arrive at the cash equivalent.

OTHER POINTS:

1. Club memberships have been subject to extensive case law and are deemed a taxable BIK. Where the company pays for membership to the club directly the BIK will be liable to Class 1A NIC.
2. If club membership fees are reimbursed to the employee then the payment should be paid and reported via the payroll with tax and Class 1 NIC deducted.

EDUCATIONAL ASSISTANCE

The payment by an employer of the school fees of an employee's child is a taxable BIK and will be liable to Class 1 NIC.

INFORMATION REQUIRED

The cost of the school fees (or other educational expenses) less any amount made good by the employee or from which tax deducted.

OTHER POINTS:

1. Educational assistance includes scholarships, bursaries and other educational endowments. It also applies to exhibitions.
2. Any amount reimbursed to the employee for school fees (or other educational expenses) will be liable to tax and Class 1 NIC through payroll.
3. A charge to tax does not arise on costs of training for work.

NON-QUALIFYING RELOCATION BENEFITS AND EXPENSES PAYMENTS

The payment of all relocation benefits which are not exempt; or not paid by the 'relevant day'; or which fail one of the other qualifying conditions.

INFORMATION REQUIRED

A description of the removal expense benefit less any amount made good by the employee or from which tax deducted.

OTHER POINTS:

1. Where the employee arranges non-qualifying relocation related BIKs and the employer pays the supplier direct, a Class 1 NIC charge will arise which will need to be accounted for via payroll. The BIK is reportable on the employee's form P11D for tax purposes (section N).
2. Where the employer arranges non-qualifying relocation related BIKs and pays the supplier direct, the BIK is reportable on the employee's form P11D (section M) and a Class 1A NIC liability will arise on the value of the BIK.
3. Where the employer reimburses the employee with non-qualifying relocation related benefits the amount reimbursed should be processed through payroll for both tax and Class 1 NIC purposes.

OTHER BENEFITS

This is a catch all for the cost of expenses incurred in, or in connection with, the provision of any benefits or facilities of whatever nature not returned under any previous heading where the contract to provide the benefit was between the employer and provider e.g. gym membership.

This section covers the provision of staff entertainment costs where the company does not have a PSA in place to report the costs to HMRC.

INCOME TAX PAID BUT NOT DEDUCTED FROM DIRECTOR'S REMUNERATION

This normally covers tax borne by the employer when they failed to deduct tax from a payment of earnings. Normally in the case of directors, where the full amount of tax is not made good by them.

INFORMATION REQUIRED

The amount of tax that has been paid by the employer and not recovered from the director.

N. EXPENSES PAYMENTS MADE TO, OR ON BEHALF OF, THE EMPLOYEE

In prior years box N has been where employers without a dispensation were required to report their business expense costs. From 6th April 2016 where conditions under BEPE are met then business expenses should not be reported on the form P11D. The conditions which need to be satisfied include:

- the employer operates a checking system to ensure that employees are incurring a cost on the expenses equal to the amount they claim (through the production of receipts and bank statements to back up the claim); and
- the employer checks that employee expense submissions meet the requirements for a deduction from tax under the current legislation.
- section N is now used to report the following:
 1. expenses where employers have been unable to deduct tax through the payroll;
 2. mixed-use expenses where business use is not clearly distinguishable from private usage; and
 3. to continue to report expenses that are fully taxable where the employer has not registered for online payroll reporting.

HMRC have indicated that they expect employers to process expenses which do not have a fully matched deduction through the payroll for Class 1 NIC (both employer and employee contributions).

MIXED-USE EXPENSES

If a mixed-use expense is fully reimbursed and the business use can be fully identified then only the taxable private use should be reported for tax and NIC through the payroll.

If the mixed-use expense is fully reimbursed and the business use is not identified the full amount needs to be processed through the payroll for tax and NIC.

However, if the relevant amount has not been processed via the payroll before the final Full Payment Submission (FPS) at the year-end has been made then they should be reported on the form P11D.

TAXABLE EXPENSES TO BE INCLUDED IN BOX N

COMMUTING COSTS

Reimbursement for ordinary commuting costs, between home and the normal place of work, are a taxable expense. Caution needs to be taken on any reimbursements for employees where they have a space to work at the employer's offices, but mainly work from home. (See also the Working from Home section).

OTHER POINTS:

1. Relief is available under very specific circumstances for late night taxies from work to home. These are:
 - the journey is after 9pm and the employee is not normally required to work after this time;
 - the journeys are irregular; and
 - the total number of such journeys for an employee is less than 60 in a year.
2. Employees who commute into a metropolitan area covered by a single tariff for multiple journeys (i.e. travelcard) can only claim business travel expenses where they actually incur an additional cost for business travel.

INFORMATION REQUIRED

The cost met by the employer less any amount made good by the employee or from which tax deducted.

OYSTER TOP-UPS

The payment or reimbursement of Oyster top-ups are regarded as round sum allowances and will be liable to tax and Class 1 NIC (i.e. through the payroll) where they are not supported by costs for a fully matched deduction. Employees can register their Oyster cards and obtain a journey history which includes the actual costs incurred. HMRC does not accept top-up charges (e.g. £10, £20) as a receipt for a business journey.

INFORMATION REQUIRED

The cost to the employer less any amount made good by the employee or from which tax deducted.

OTHER POINTS:

For incidental overnight expenses such as newspapers, laundry or mini bar, a tax free amount of £5 per night (UK) or £10 a night (outside the UK) is allowed when travelling on business.

STAFF ENTERTAINMENT

There is no statutory definition as to what is considered to comprise staff entertainment. Practical examples suggest staff entertainment is where only staff members are present at an event or other occasion and includes:

- working lunches;
- employee social gatherings (informal drinks, etc.);
- team building events (where there is no associated business reason for it, such as a training course); and
- drinks/food purchased for consumption in the office which are not generally available to all employees.

The provision of staff entertainment is a taxable BIK. Class 1/1A NIC is payable on the value of the benefit depending upon whether the payment is made directly by the employer or the employee is reimbursed for the costs incurred.

INFORMATION REQUIRED

A description of the expense or BIK less any amount made good by the employee or from which tax deducted.

OTHER POINTS:

1. An exemption applies to annual events (for example, a Christmas party), or similar annual functions (for example, a summer barbecue) where the event is available to all employees at one or more locations and the total cost per head is £150 or less per annum.
2. Where the limit is exceeded the full cost of the event (not just the excess) will be taxable and liable to Class 1A NIC. The employee's portion of the cost is reportable on their form P11D for tax purposes.
3. The £150 limit is VAT inclusive and includes associated costs of, for example, travel and overnight accommodation.
4. The provision of tea and coffee is deemed trivial and is exempt, therefore not reportable on a form P11D.
5. Staff gifts and staff celebrations should also be considered in the context of the trivial benefits legislation.
6. Any amount reimbursed to the employee will be liable to tax and Class 1 NIC through payroll.

INFORMATION REQUIRED

The total of all payments made exclusively for business entertainment less any amount made good by the employee or from which tax deducted.

Indicate whether the organisation is trading and the business entertaining costs have, or will be, disallowed for corporation tax purposes.

OTHER POINTS:

All types of payments should be considered, including:

- round sum allowances for entertaining;
- cash reimbursements;
- company credit cards;
- payments on personal credit cards paid by the employer; and
- expenses charged to clients.

PERSONAL BILLS

The reporting treatment of personal bills will vary depending upon who is the contracting party with the service provider. Typical examples where personal contracts (bills) may be paid by the employer include mobile phones, broadband, home telephone and utility bills.

EMPLOYER CONTRACTS WITH PROVIDER

Where the contract is between the employer and service provider a BIK will arise and will need to be reported on the employee's form P11D. Both tax and Class 1A NIC will be due on the amount declared on the form P11D. Where the BIK is exempt or qualifies for tax relief then no reporting is required. This would cover, for example, an employer provided mobile phone.

EMPLOYEE CONTRACTS WITH PROVIDER, EMPLOYER PAYS PROVIDER

The costs are reportable on the form P11D in box N, but need to be processed through the payroll for Class 1 NIC purposes.

EMPLOYEE CONTRACTS WITH PROVIDER, EMPLOYER REIMBURSES EMPLOYEE

The payment is treated as a cash payment and should be reported via the payroll and subject to tax and Class 1 NIC.

The current guidance from HMRC indicates that where there are home working arrangements, and the employer provides a home phone and broadband at an employee's home solely for work purposes, and private use is not significant, no BIK arises. HMRC have provided the following examples:

- there is clear business need for the employee to have a telephone;
- making and receiving calls from a phone is vital and central to the employees duties;
- the employer has a procedure to monitor private usage; and
- the employee has no intention of rewarding the employee.

Furthermore, HMRC has identified the following types of employee where the above will apply:

- ministers of religion;
- teleworkers based at home; and
- 'live-in' careworkers in a residential home.

This list of employments does not exclude other employments from the exemption, however, the criteria must be met. In each case an arrangement between the employee and the employer to work from home must be agreed. It is not enough that the employee chooses to work from home.

Where an employer covers other personal bills it should ensure that it is able to monitor private usage; that there is a business need; and that the employee does not already have the service provided to them.

INFORMATION REQUIRED

The cost of all private bills less any amount made good by the employee or from which tax has been deducted.

NON-QUALIFYING RELOCATION EXPENSES

The cost of any non-qualifying relocation expenses met by the employer where the employee contracted directly with the supplier.

INFORMATION REQUIRED

The cost to the employer less any amount made good by the employee or from which tax deducted.

OTHER POINTS:

1. Where the employee arranges non-qualifying relocation related BIKs and the employer pays the supplier direct, a Class 1 NIC charge will arise which will need to be accounted for via payroll. The benefit is reportable on the employee's form P11D for tax purposes (section N).
2. Where the employer arranges non-qualifying relocation related BIKs and pays the supplier direct, the benefit is reportable on the employee's form P11D (section M) and a Class 1A NIC liability will arise on the value of the benefit.
3. Where the employer reimburses the employee for non-qualifying relocation related BIKs the amount reimbursed should be processed through payroll for both tax and Class 1 NIC purposes.

OTHER EXPENSES

MOBILE PHONES

The provision of **one** mobile phone to an employee where the contract is between the employer and the service provider is exempt from tax and NIC. There is also no requirement to complete a form P11D.

INFORMATION REQUIRED

The cost to the employer less any amount made good by the employee or from which tax has been deducted.

OTHER POINTS:

1. Where the employee contracts with the mobile phone provider and the cost of private calls, rent and/or service charge is paid direct by the employer, a Class 1 NIC charge will arise which will need to be accounted for via the payroll. The benefit is reportable on the employee's form P11D for tax purposes.
2. Any amounts reimbursed to the employee in respect of their private mobile phone charges should be processed through payroll for tax and Class 1 NIC purposes. The employee will be entitled to claim a deduction for business calls in excess of their monthly tariff where supported by an itemised bill.

HOME WORKING COSTS

Only costs which are incurred 'wholly, exclusively and necessarily' in the performance of the employment, which required the employee to work from home can be claimed by employees.

EMPLOYEES CHOOSING TO WORK FROM HOME

Many employers allow employees to work from home. However, where this is a choice (including where an employee moves away from their head office to work in a remote location) employees are only able to claim for costs 'wholly, exclusively and necessarily' incurred in the business. This is likely to be limited to identifiable costs of business calls on a home phone, as costs for the home heating, light, electricity and broadband are not 'exclusive' to business.

EMPLOYEES REQUIRED TO WORK FROM HOME

Employees who are required to work from home can make wider claims for relief depending on circumstances. An employee might be required to work from home because they require specialist equipment for a disability which makes office working impractical. Alternatively, the employer may have closed an office and require the individual to work from home.

An allowance of £4 a week (or £18 a month) can be paid to them to cover their additional household expenses. If the employee can prove that costs are greater, then it is possible to make an additional claim.

Where the employer provides additional equipment and services required for the employee to do their job then these are not taxable. However, reimbursement for existing services, or replacement of existing services (e.g. broadband/telephone) are not allowable.

INFORMATION REQUIRED

A description of the expense less any amount made good by the employee or from which tax deducted.

OTHER POINTS:

1. Where an employee who begins to work from home under a home working arrangement, who does not already have a broadband connection at home and needs one in order to work from home, the costs incurred by them can be reimbursed free of tax and NIC as the cost represents reasonable additional household expenses.
2. Where an employee who begins to work from home under a home working arrangement is already paying for broadband, any costs reimbursed by the employer will be subject to tax and Class 1 NIC through payroll as no additional household expenses were incurred.
3. In the case of point 2 – where the employer pays the provider direct, the payment will represent a BIK and must be reported on the employee's form P11D for tax purposes and included in the employee's gross pay for Class 1 NIC purposes.
4. Where the employer contracts with the provider and provides broadband at the employee's home solely for work purposes and private use is insignificant no BIK will arise on the provision.

8. KEY DATES

As a reminder the key dates employers need to keep in mind are:

6 July	Deadline for filing forms P11D and P11D(b) and for providing copies of the forms P11D to employees, and for arranging a PAYE Settlement Agreement (PSA)
19 July	Deadline for postal payments to reach HMRC account office for any outstanding Class 1A NIC.
22 July	Deadline for electronic payments to reach HMRC account office for any outstanding Class 1A NIC.
31 July	Deadline for submission of PSA calculation to HMRC

9. LATE FILING PENALTIES

The forms P11D and P11D(b) must reach HMRC by 6 July following the end of the tax year. Penalties are charged by HMRC where returns are filed late and/or are fraudulent or incorrectly completed.

Failure to submit form P11D on time may result in a maximum initial penalty of £300 per return, plus a further penalty of £60 per day until the return is submitted. For fraudulent or incorrect returns a maximum penalty of £3,000 per return is chargeable.

Failure to submit form P11D(b) returns on time will give rise to a penalty of £100 per month for every 50 or batch of 50 employees provided with a benefit. If the failure continues beyond 12 months there will be an additional penalty not exceeding the amount of Class 1A NIC paid late.

Incorrect returns made carelessly or deliberately will attract a penalty not exceeding the difference between the amount of Class 1A NIC shown on the return and the amount that should have been paid.

10. INTEREST AND PENALTIES ON LATE PAYMENT OF CLASS 1A NIC

Class 1A NIC payments are due to reach HMRC by 19 July, or 22 July if paid electronically. Statutory interest is chargeable immediately on a daily basis on all payments received after these due dates. In addition penalties for the late payment of Class 1A NIC also apply.

A penalty of 5% will be charged on any amounts not paid in full within 30 days from the payment due date. Further penalties of 5% will be charged on amounts outstanding depending on the length of time it is not paid in full.

11. EMPLOYEE CLAIMS FOR TAX RELIEF

The P11D reporting process is a PAYE requirement on employers to report the benefits and expenses paid to or on behalf of employees. Under BEPE fully exempt expenses are not reportable on a form P11D. However, expenses which are mixed use, or do not have a fully matched deduction are reportable and should be payrolled for NIC and possibly tax.

However, an employee is still able to claim for tax relief either by making a claim through completing a P87 form, or by submitting a Self-Assessment tax return. In such case as a claim is made the employee may be required to provide receipts and other evidence in support of the claim.

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As a mid-tier firm we're large enough to provide a wide range of services, yet small enough to offer a personal, responsive approach.

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We have considerable experience advising clients in terms of employment tax issues. Examples include:

- PAYE and National insurance;
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- Business expense payments exemption;
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All our services are provided by specialist teams with in-depth knowledge of a sector. This means each client benefits from the support of someone who understands their challenges and can give them accurate, appropriate advice. We spend time getting to know our clients well so we can tailor our services to meet their needs.

Over the years we have built strong, close and enduring relationships with our clients and they value us as trusted advisers.

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