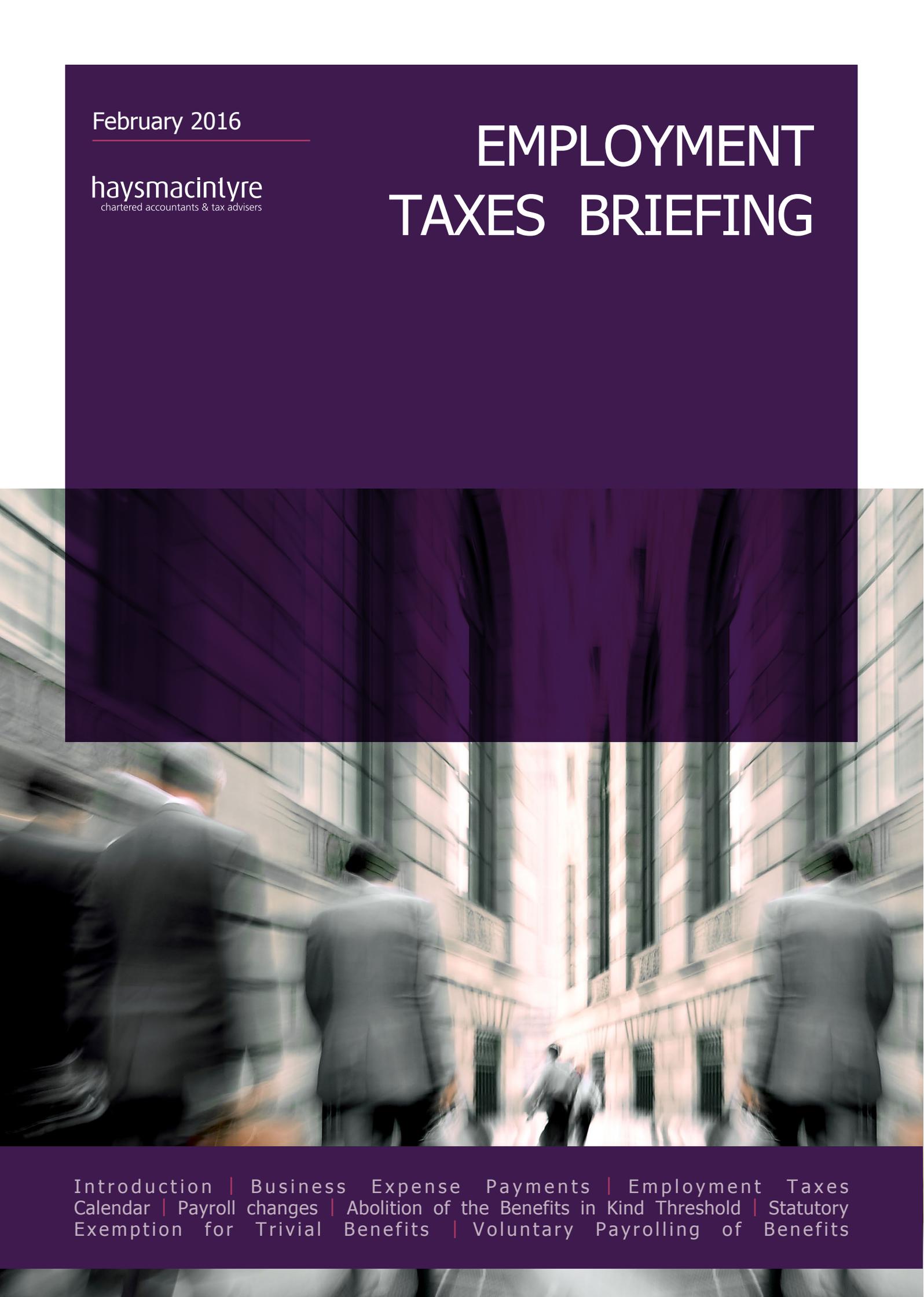


February 2016

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haysmacintyre  
chartered accountants & tax advisers

# EMPLOYMENT TAXES BRIEFING



Introduction | Business Expense Payments | Employment Taxes  
Calendar | Payroll changes | Abolition of the Benefits in Kind Threshold | Statutory  
Exemption for Trivial Benefits | Voluntary Payrolling of Benefits

We see the  
**big picture...**  
and spot the  
**tiniest detail**

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# INTRODUCTION



## **Welcome to this special Employment Taxes Briefing.**

Following the Office of Tax Simplification's review of benefits and expenses, we are now seeing a number of their recommendations being introduced into the legislation. The purpose of this briefing is to provide you with an overview of the changes which are being introduced from 6 April 2016 and affect all employers regardless of size.

The changes are intended to reduce much of the "red tape" which burdens employers. However, this does not remove the obligation placed upon employers to ensure they comply with the legislation. We believe it is important for our clients to be aware of these changes and how haysmacintyre can help you to better understand what they will mean to you as an employer.

We consider the impact on the removal of P11D Dispensation Agreements and the changes you may need to consider as we move across to Business Expense Payments Exemption legislation.

A further question for employers to take into account is whether you are providing benefits to employees who earn less than £8,500 on an annualised basis. If you do, then from 6 April 2016 you will need to prepare a P11D for the employee and pay additional National Insurance on the benefit provided.

We will also see the introduction of a statutory exemption in respect of small or trivial benefits. However, there are specific exclusions which family owned (close companies) will need to consider in more detail.

Finally, employers will be able to voluntarily deduct tax and National Insurance in respect of the benefits they provide to their employees. We look at the steps which need to be taken leading up to 6 April 2016 and the benefits which will be "outside" the scope of the legislation.

## **FUTURE DEVELOPMENTS**

The Government is still considering its position in respect of salary sacrifice arrangements and in response to some "aggressive" planning arrangements we have seen a gradual reining in of the benefits which can be included within such arrangements.

We are also waiting to see what changes will be made to the tax and National Insurance treatment of employer provided living accommodation. HM Revenue and Customs' "call for evidence" closed in early February and further clarification on the matter may be included in the Chancellor's Budget Speech which is due to be delivered on 16 March 2016.

## **EMPLOYMENT TAX CALENDAR**

We have also developed an Employment Tax calendar to help you meet your deadlines.

We hope you will find it a helpful tool. Should you have any questions, please do not hesitate to contact a member of the Employment Taxes team or your usual haysmacintyre contact.

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# EMPLOYMENT TAXES CALENDAR

## KEY

 General

 Employment

## MARCH 2016

**16** The Chancellor's Budget

## APRIL 2016

**1** **National Living Wage** (NLW) comes into effect for workers aged 25 and above.

**5** **Notify** changes in company car or fuel benefits for the quarter to 5 April, using electric form P46 (Car).

**6** **First day** of the 2016/17 tax year;  
**Use** new approved mileage rates, if appropriate;  
**Check** that new year procedures are in place and payroll has been updated for the new tax year.  
**New** employment allowance rate of £3,000 applies.

**19** **Deadline** for postal payments to reach HMRC Accounts Office for any outstanding PAYE and Class 1 NICs for the 2015/16 tax year;  
**Last date** for making RTI final submissions by means of FPS and EPS.

**22** **Deadline** for electronic payments to reach HMRC Accounts Office for any outstanding PAYE and Class 1 NICs for the 2015/16 tax year.

## MAY 2016

**3** **Notify** changes in company car or fuel benefits for the quarter to 5 April, using printed form P46 (Car).

**19** **Deadline** for postal payments for month ended 5 May to reach HMRC Accounts Office;  
**Last date** for submitting RTI final submission for 2015/16 if late filing penalty is to be avoided.

**22** **Deadline** for electronic payments for month ended 5 May to reach HMRC Accounts Office.

**31** **Last day** to provide copy of P60 to employees.

## JUNE 2016

**19** **Deadline** for postal payments for month ended 5 June to reach HMRC Accounts Office.

**22** **Deadline** for electronic payments for month ended 5 June to reach HMRC Accounts Office.

## JULY 2016

**6** **Deadline** for filing forms P9D, P11D and P11D(b) for 2015/16 and to provide copies to relevant employees.

**6** **Deadline** to finalise 2015/16 PAYE Settlement Agreement contracts.

**6** **Deadline** for notifying HMRC of any redundancy and termination packages paid during 2015/16 where the total package exceeds £30,000.

**19** **Deadline** for postal payments for month/quarter ended 5 July to reach HMRC Accounts Office;  
**Deadline** for postal 2015/16 Class 1A NIC payment to reach HMRC.

**22** **Deadline** for electronic payments for month/quarter ended 5 July to reach HMRC Accounts Office;  
**Deadline** for electronic 2015/16 Class 1A NIC payment to reach HMRC.

**31** **Submit** 2015/16 PAYE Settlement Agreement computations to HMRC.

## AUGUST 2016

**2** **Notify** changes in company car or fuel benefits for the quarter to 5 July, using form P46 (Car).

**19** **Deadline** for postal payments for month ended 5 August to reach HMRC Accounts Office.

**22** **Deadline** for electronic payments for month ended 5 August to reach HMRC Accounts Office.

## SEPTEMBER 2016

19 **Deadline** for postal payments for month ended 5 September to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month ended 5 September to reach HMRC Accounts Office.

## OCTOBER 2016

5 **New** National Minimum Wage (NMW) rates come into force for workers aged 24 and under.

19 **Deadline** for postal payments for month/quarter ended 5 October to reach HMRC Accounts Office;  
**Final date** for postal payments to reach HMRC for any outstanding tax and Class 1B NIC liabilities due under the 2015/16 PSA.

22 **Deadline** for electronic payments for month/quarter ended 5 October to reach HMRC Accounts Office;  
**Final date** for electronic payments to reach HMRC for any outstanding tax and Class 1B NIC liabilities due under the 2015/16 PSA.

## NOVEMBER 2016

2 **Notify** changes in company car or fuel benefits for the quarter to 5 October, using form P46 (Car).

19 **Deadline** for postal payments for month ended 5 November to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month ended 5 November to reach HMRC Accounts Office.

## DECEMBER 2016

TBA The Chancellor's Autumn Statement.

19 **Deadline** for postal payments for month ended 5 December to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month ended 5 December to reach HMRC Accounts Office.

## JANUARY 2017

19 **Deadline** for postal payments for month/quarter ended 5 January to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month/quarter ended 5 January to reach HMRC Accounts Office.

31 **Revised date** for submitting forms P11D and P11D(b) for certain internationally mobile employees where prior agreement has been reached with HMRC.

## FEBRUARY 2017

5 **Notify** changes in company car or fuel benefits for the quarter to 5 January, using form P46 (Car).

19 **Deadline** for postal payments for month ended 5 February to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month ended 5 February to reach HMRC Accounts Office.

## MARCH 2017

TBA The Chancellor's Budget

19 **Deadline** for postal payments for month ended 5 March to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month ended 5 March to reach HMRC Accounts Office.

## APRIL 2017

5 **2016/17 tax year end;**  
**Final** FPS submission for the 2016/17 tax year to be made on or before date of last payment to employees in the tax year.

19 **Deadline** for postal payments for month ended 5 April to reach HMRC Accounts Office.

22 **Deadline** for electronic payments for month ended 5 April to reach HMRC Accounts Office.

# BUSINESS EXPENSE PAYMENTS EXEMPTION

From 6 April 2016 P11D Dispensation Agreements will no longer apply. Instead employers will be required to “self-assess” the tax and National Insurance treatment of benefits and expense payments paid to or on behalf of employees. Where an employer is satisfied that an expense has been incurred “wholly, exclusively and necessarily” in the performance of the employee’s duties, details of those expenses do not need to be reported within an employee’s P11D. However, where the costs incurred do not fulfill any part of the above test, details of those costs incurred must be reported to HM Revenue & Customs (HMRC) on a P11D.

Whilst the underlying test has not changed, under the Business Expense Payments Exemption regime the onus is firmly placed upon the employer to “get it right”. Consequently, it is important to ensure your systems and controls can cope with the demands being placed on you as an employer. If you are unable to correctly determine the tax and National Insurance treatment of your employees’ expenses, you are potentially putting your organisation at risk.

It will be prudent for you to have robust controls and procedures in place to ensure that, for example:

- You have an up to date staff expenses policy in place;
- All employees are aware of the policy and the basis upon which expenses are paid/reimbursed to them;
- There is no self-authorisation of expenses; and
- You are able to distinguish those expenses which have been incurred “wholly, exclusively and necessarily” in the normal course of the employment.

Without these controls you will potentially have some difficulties submitting accurate forms P11D to HMRC, you will need to bear this in mind. HMRC can seek to recover any underpaid tax and National Insurance together with interest and penalties where there has been a failure to submit complete and accurate forms P11D.

Furthermore, HMRC can seek to revoke any previously agreed P11D Dispensation agreement for the four years prior to 6 April 2016, where they are not satisfied the terms of the agreement have been met.

## BENCHMARK SCALE RATES

One exception to the Business Expense Payments Exemption regime is where an employer pays employees fixed rates for the provision of meals whilst travelling which are in excess of the HMRC Benchmark rates. Any new rates will need to be re-negotiated with HMRC before 6 April 2016. We will be able to assist you with your application.

It must be possible to be able to demonstrate to HMRC that the rates are reasonable and are intended to meet the actual costs incurred. It will be necessary to undertake a random sampling exercise to demonstrate the amounts which will be reimbursed are reasonable. HMRC typically expect any sampling exercise to be based upon:

- a random sample;
- 10% of the eligible employees; and
- a minimum period of one month.

Once obtained, the agreement to pay the flat rate expenses will be in place for up to five years. This will prove advantageous for employers who incur a high level of subsistence claims.

You will also need to consider how employees are advised of these changes and what information needs to be made available to them.

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Whilst the underlying test has not changed, under the business expense regime the onus is firmly placed upon the employer to “get it right”.

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# PAYROLL CHANGES FROM APRIL 2016

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There are a number of changes which will come into effect from the start of the new tax year which may impact you as an employer. Whether you need to take any action will depend on your circumstances.

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## AUTO ENROLMENT

The law on workplace pensions has changed. Every employer with at least one member of staff now has new duties, including enrolling those who are eligible into a workplace pension scheme and contributing towards it.

450,000 employers will stage in 2016, with more to follow in 2017. If you haven't already staged, act early to ensure you get the advice you need. Capacity in the pensions market will be limited.

## NATIONAL LIVING WAGE

With effect from 6 April 2016 employers will be required to pay employees who are over 25 years of age the National Living Wage at a rate of £7.20 per hour. This effectively replaces the National Minimum Wage (NMW) for employees in this age group. The NMW remains in place for employees 21 to 24 years of age.

## EMPLOYMENT ALLOWANCE

There will be an increase in the National Insurance Employment Allowance from £2,000 to £3,000 which will come into effect from 6 April 2016.

The purpose of the Employment Allowance is to provide an offset against an employer's National Insurance liabilities, with the Government's intention of helping to support employment.

However, it will not be possible for companies to claim the allowance, where the director is the sole employee of the company.

## SCOTTISH RATE OF INCOME TAX

For all individuals who live in Scotland (regardless of where they work) the Scottish rate of income tax will apply to earned income from 6 April 2016. This for 2016/17 will mean paying the same tax as the rest of the UK. HMRC will apply an 'S' suffix to an employee's or pensioner's tax code, for example S1100L. If you have employees who live in Scotland you should be notified of this change but please contact HMRC if you are not notified of the coding change and the employee lives in Scotland.

# ABOLITION OF THE £8,500 BENEFITS IN KIND THRESHOLD

One of the points the Office of Tax Simplification was asked to consider, as part of its review of employee benefits and expenses, concerned the need to provide consistency on the reporting of benefits in kind for all employees, regardless of their earnings level.

The removal of the £8,500 threshold will mean all employees will potentially be liable to tax on the benefits in kind they receive. No tax will be due where the employee's income from all sources is less than the personal allowance (£10,800 for the 2016-17 tax year).

However, the employer will be liable to Class 1A National Insurance on benefits in kind reported on forms P11D. Similarly, there will potentially be an increase in the tax and National Insurance liabilities due where employers have entered into a PAYE settlement agreement with HMRC.

The impact may not prove to be significant for the majority of employers. However, the abolition of the £8,500 threshold will affect employers who have encouraged "job-sharing" as well as those organisations who pay a daily allowance together with travel costs which may technically be regarded as "home to work" travel. The tax and National Insurance cost will, in all likelihood, noticeably increase.

## EXEMPTIONS

A new exemption will be introduced in respect of ministers of religion earning less than £8,500 to ensure that the majority of the benefits in kind they receive remain exempt from tax and National Insurance. However, the legislation which determines what the £8,500 limit comprises is complex and needs to be considered on a "case by case" basis.

A similar exemption will apply for board and lodging provided to carers in the home of the person they are looking after.



# STATUTORY EXEMPTION FOR TRIVIAL BENEFITS

## CONTRIBUTIONS LIMIT

Employers are currently reliant upon an HMRC "easement" whereby neither tax nor National Insurance is due on small (often referred to as "trivial") gifts given to employees. The key to HMRC's easement is for gifts to be "trivial" in nature and not in recognition of services provided by the employee.

## PROPOSED LEGISLATION

The recently published Finance Bill 2016 seeks to put the "easement" on to a statutory footing. From 6 April 2016 employers will be able to provide non-cash gifts with a value of £50 or less to employees, without the need to account for either tax or National Insurance.

The exemption will prove invaluable for employers which provide gifts, for example:

- on an employee marriage; or
- on the birth of a child; or
- at Christmas.

## WHAT WILL BE EXCLUDED?

However, there are circumstances when the exemption will not be available and these are considered below.

The gift must not be in recognition of any duties or services provided by the employee, for example staff awards. The exemption will specifically exclude any cash payments as well as the provision of cash vouchers. The exemption will not be available in respect of retirement gifts. Similarly, the exemption will not apply to long service awards for which a separate exemption for employees with more than 20 years of service is available.

## CLOSE COMPANY EXCLUSION

The legislation will include an annual cap of £300 to be applied to directors and other office holders of close companies and members of their families and households who are employees of the company.

Where the terms of the exemption are not met, employers will be required to report any gifts provided to staff on either a form P11D or as part of a PAYE Settlement Agreement.

## WEBINAR TRAINING

### P11D: REPORTING EXPENSES AND BENEFITS

#### P11D REPORTING: ARE YOU READY?

As the 2015/16 tax year comes to a close, we prepare for the July 2016 filing deadline for P11D forms. Join our Employment Taxes team for an interactive webinar session which will help you fulfill your filing obligations as an employer.

#### TOPICS TO BE COVERED:

- Who needs a P11D?
- Completing P11Ds
- PAYE Settlement Agreements
- National Insurance contributions
- Changes coming into effect from 6 April 2016
  - Business Expense Payments Exemption
  - Trivial benefits
  - Abolition of the £8,500 earnings threshold

#### EVENT DETAILS

##### DATE:

Tuesday 22 March 2016

##### TIME:

12:30-13:30

##### COST:

This webinar is free to attend.

For more information and to book please visit our website [www.haysmacintyre.com](http://www.haysmacintyre.com) or email [events@haysmacintyre.com](mailto:events@haysmacintyre.com)

# VOLUNTARY PAYROLLING OF BENEFITS

Employers intending to, or who already, payroll benefits and expenses must enrol to use HMRC's online service - Payrolling Benefits in Kind (PBIK). Employers who use this service and payroll benefits and expenses will no longer have to report the amounts on a P11D from 6 April 2016, onwards.

Employers must enrol using the PBIK service before 5 April 2016.

## HOW DO I ENROL TO USE THE SERVICE?

To use the PBIK service, employers will need their Government Gateway ID and password to sign in to HMRC's Online Services and then enrol for employer PAYE.

To enrol for employer PAYE, employers will need their PAYE reference and Accounts Office reference numbers. Once enrolled, HMRC will send an activation code in the post which can then be used to confirm enrolment.

Employers not registered for HMRC's Online Services will need to do so before they can enrol to use the PBIK service.

Once enrolment is confirmed, employers will then be able to:

- Choose which benefits and expenses they want to include in the payroll for the following tax year;
- Add or remove benefits and expenses; and
- Exclude employees who receive benefits or expenses but don't want them payrolled - for these employees, employers must continue to report the benefit or expense on a P11D (employers can exclude an employee at any time in a tax year but once done it cannot be reversed during the year).

HMRC will then be able to identify all employees who have the selected benefits or expenses in their tax codes and issue amended tax codes, after removing the selected benefits or expenses.

## WHICH BENEFITS CANNOT BE PAYROLLED?

The only benefits employers cannot payroll using the PBIK service are:

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

Employers already payrolling these benefits can continue to do so but must still report them on a P11D.

## HOW DO I PAYROLL BENEFITS AND EXPENSES?

Before making the first main relevant payment to an employee in a tax year, the employer will need to:

- Calculate the cash equivalent of the benefit;
- Determine the notional value to be added to the payroll each pay cycle; and
- Account for tax as usual by reference to the employee's tax code.

## P11D SUBMISSIONS

How employers submit forms P11D will depend upon which payments they have processed through their payroll.

Up to 5 April 2016, where an agreement to payroll benefits has been agreed with HMRC, employers must:

- Complete the "amount made good or from which tax deducted" fields where this applies;
- Complete a P11D(b) including the total benefits and expenses provided, even though they have been put through payroll;
- Submit P11Ds for employees and directors electronically. Agreement should be obtained from HMRC prior to electronic submissions by completing their online form; or
- Submit P11Ds by paper and mark the paper submission "PAYROLLED".

## 2015/16 P11D DUE DATES

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

- 6 July 2016 – deadline for filing forms P11D and P11D(b) and for providing copies of the forms P11D to employees.
- 19 July 2016 – deadline for postal payments to reach HMRC's Accounts Office for any outstanding Class 1A National Insurance.
- 22 July 2016 – deadline for electronic payments to reach HMRC's Accounts Office for any outstanding Class 1A National Insurance.

## 2016/17 AND LATER

Employers using the PBIK service will only have to prepare forms P11D for those employees or directors where they are provided with taxable benefits and expenses which are not processed through payroll.



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