



# Cars for Employees

The current regime for taxing employer provided cars (commonly referred to as company cars) is intended:

- to encourage manufacturers to produce cars which are more environmentally friendly and
- to give employee drivers and their employers a tax incentive to choose more fuel-efficient and environmentally friendly vehicles.

We set out below the main areas of importance. Please do not hesitate to contact us if you require further information.

## The rules

Employer provided cars are taxed by reference to the list price of the car but graduated according to the level of its carbon dioxide (CO<sub>2</sub>) emissions.

## Percentage charges

The percentage charge for the majority of cars is between 10% and 35%. The emissions table for 2014/15 is set out below.

2014/15	
CO <sub>2</sub> emissions in grams per kilometre (round down to nearest 5gm/km except *)	% of car's price taxed
0*	0
75 or below*	5
76 – 94*	11
95	12
100	13
105	14
110	15
115	16
120	17
For every additional 5g thereafter add 1%	
210 and above	35 (max)

## Examples

Jane was provided with a new company car, a Mercedes CLK 430, on 6 April 2014. The list price is £50,000. The CO<sub>2</sub> emissions are 240 gm/km.

Jane's benefit in 2014/15 and later years will be £50,000 x 35% = £17,500

Phil has a company car, a BMW 318i, which had a list price of £21,000 when it was provided new on 6 April 2014. The CO<sub>2</sub> emissions are 117 grams per kilometre. Note: The CO<sub>2</sub> emissions are rounded down to the nearest 5 grams per kilometre - in this case 115.

Phil's benefit for 2014/15 is: £21,000 x 16% = £3,360

## Diesels

Diesel cars emit less CO<sub>2</sub> than petrol cars and so would be taxed on a lower percentage of the list price than an equivalent petrol car. However, diesel cars emit greater quantities of air pollutants than petrol cars and therefore a supplement of 3% of the list price generally applies to diesel cars. For example, a diesel car that would give rise to a 22% charge on the basis of its CO<sub>2</sub> emissions will instead be charged at 25%. The maximum charge for diesel is capped at 35%.

## Obtaining emissions data

The Vehicle Certification Agency produces a free guide to the fuel consumption and emissions figures of all new cars. It is available on the internet at <http://carfueldata.direct.gov.uk>. These figures are not however necessarily the definitive figures for a particular car. The definitive CO<sub>2</sub> emissions figure for a particular vehicle is recorded on the Vehicle Registration Document (V5).

## The list price

- The list price of a car is the price when it was first registered including delivery, VAT and any accessories provided with the car. Accessories subsequently made available are also included (unless they have a list price of less than £100).
- Employee capital contributions up to £5,000 reduce the list price.

## Employer's Class 1A national insurance contributions

The benefit chargeable to tax on the employee is also used to compute the employer's liability to Class 1A (the rate is currently 13.8%).

## The exceptions

### Imports

Some cars registered after 1 January 1998 may have no approved CO<sub>2</sub> emissions figure, perhaps if they were imported from outside the EC. They too are taxed according to engine size.

Engine size (cc)	% of list price charged to tax
0 - 1400	15%
1401 - 2000	25%
Over 2000	35%

## Private fuel

There is a further tax charge where a company car user is supplied with or allowed to claim reimbursement for fuel for private journeys.

The fuel scale charge is based on the same percentage used to calculate the car benefit. This is applied to a set figure which is £21,700 for 2014/15. As with the car benefit, the fuel benefit chargeable to tax on the employee is used to compute the employer's liability to Class 1A. The combined effect of the charges makes the provision of free fuel a tax inefficient means of remuneration unless there is high private mileage.

The benefit is proportionately reduced if private fuel is not provided for part of the year. So taking action now to stop providing free fuel will have an immediate impact on the fuel benefit chargeable to tax and NIC.

Please note that if free fuel is provided later in the same tax year there will be a full year's charge.

## Business fuel

No charge applies where the employee is solely reimbursed for fuel for business travel.

HMRC have published guidelines on fuel only mileage rates for employer provided cars. The advisory rates are not binding and an employer may be able to agree higher rates with HMRC via a dispensation, perhaps where employees need to use particular types of car such as 4x4s to cover rough terrain. Employers can adopt the rates in the following table but may pay lower rates if they choose.

	PETROL			DIESEL		
	1400cc or less	1401 to 2000cc	Over 2000cc	1600cc or less	1601-2000cc	Over 2000cc
<b>From 1 December 2013</b>	14p	16p	24p	12p	14p	17p

Separate rates are available for cars which run on LPG these can be found on HMRC's website at [http://www.hmrc.gov.uk/cars/advisory\\_fuel\\_current.htm](http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm)

## Employees' use of own car

There is also a statutory system of tax and NIC free mileage rates for business journeys in employees' own vehicles.

The statutory rates are:

	Rate per mile
Up to 10,000 miles	45p
Over 10,000 miles	25p

Employers can pay up to the statutory amount without generating a tax or NIC charge. Payments made by employers are referred to as 'mileage allowance payments'. Where employers pay less than the statutory rate (or make no payment at all) employees can claim tax relief on the difference between any payment received and the statutory rate.

## How we can help

We can provide advice on such matters as:

- whether a car should be provided to an employee or a private car used for business mileage
- whether employee contributions are tax efficient
- whether private fuel should be supplied with the car.

Please contact us for more detailed advice.

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# Employer Supported Childcare

Employer supported childcare, commonly by way of childcare voucher, is for many employers and employees and tax and national insurance efficient perk. We consider the implications of this type of benefit on the employer and employee.

## Background

The workplace nurseries exemption was introduced many years ago. This exempts from tax and NIC the provision to an employee of a place in a nursery at the workplace or in a facility wholly or partly financed and managed by the employer.

Whilst these sorts of arrangements are not that common, the later introduction of a limited tax and NIC exemption for employer-contracted childcare and employer-provided childcare vouchers has been very popular with both employers and employees alike.

## Salary sacrifice

Many employers use these childcare exemptions as part of salary sacrifice arrangements; for example, the employee gives up pay, which is taxable and NIC-able, in return for childcare vouchers, which are not. This may save tax and NIC for the employee and NIC for the employer. Such arrangements can be attractive; however care needs to be taken when implementing a scheme to ensure that it is set up correctly. Also, for those on low rates of pay, such arrangements may not be appropriate.

## How much childcare can be provided tax and NIC free?

This depends on when the employee joined the employer's scheme. For those who joined the employer's scheme prior to 6 April 2011 the limit is currently £55 a week.

If the employer-contracted care exceeds £55 per week the excess will be a benefit in kind and subject to Class 1A NIC. However, with vouchers, although any excess is also a benefit in kind it is subject to Class 1 NIC via the payroll. As the tax and NIC issues are complex many employers limit their employees' potential entitlement to a maximum of the exempt limit (currently £55 a week).

The exempt limit of £55 applies to the full face value, rather than the cost, of providing a childcare voucher, which would normally include an administration fee.

An employee is only entitled to one exempt amount even if care is provided for more than one child but it does not matter that another person may also be entitled to an exempt amount in respect of the same child. As always, there are various conditions to meet but these rules have led to many employers providing such care, particularly childcare vouchers, to their employees.

## What about those who join a scheme from 6 April 2011 onwards?

The limit on the amount of exempt income associated with childcare vouchers and employer-contracted childcare for employees joining an employer's scheme will be restricted in cases where an employee's earnings and taxable benefits are liable to tax at the higher or additional rate.

Anyone already in a scheme before 6 April 2011 is not affected by these changes as long as they remain within the same scheme.

## What do employers have to do?

To identify the rate of tax an individual employee pays in any one tax year, an employer needs to carry out a 'basic earnings assessment' for any employee who joins an employer-provided childcare scheme on or after 6 April 2011.

Employers who offer or provide employer childcare are required, at the beginning of the relevant tax year, to estimate the 'employment income amount' that the employee is likely to receive during that year.

This is basically the contractual salary and benefits package (not discretionary bonuses or overtime) less the personal allowance if appropriate.

Employers must keep a record of the basic earnings assessment. These records do not need to be sent to HMRC but must be available for inspection by HMRC if required.

The employer must re estimate the 'employment income amount' for each tax year.

## What is the position for the employee?

For 2014/15, the personal allowance for most employees is £10,000 and the basic rate limit will be £31,865, a combined figure of £41,865. The higher rate limit is £150,000.

If the level of estimated earnings and taxable benefits is equal to or below the equivalent of the sum of personal allowances and the basic rate limit for the year (generally £41,865 as explained above), the employee will be entitled to relief on £55 exempt income for each qualifying week.

If the level of estimated earnings and taxable benefits exceed the equivalent of the sum of personal allowances and the basic rate limit for the year (generally £41,865 as above) but falls below the limit at which tax becomes payable at the 45% rate limit for the year (currently £150,000), the employee is entitled to relief on £28 exempt income for each qualifying week.

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If the level of estimated earnings and taxable benefits exceed the equivalent of the additional tax rate limit for the year (currently £150,000), the employee is entitled to relief on £25 exempt income for each qualifying week.

Similar rules apply for NIC purposes.

As the employer has to estimate the employee's tax position each year, the amount of exempt income they can receive may change throughout their period of employment.

The rules are modified where employees join the scheme part way through a tax year. In that case, the earnings review has to be carried out at the point of joining. Basically, the joining employee's salary and taxable benefits need to be pro-rated upwards to estimate the notional annual earnings figure for the employee.

## Gaps in payment

An employee can ask to stop receiving childcare vouchers temporarily whilst staying in the employer's scheme; for example, if an employee only works during school term time and doesn't need the vouchers during the school holidays. Basically, as long as the gap in providing the vouchers doesn't exceed 12 months the employee can still be classed as an existing member of the employer's scheme.

This also applies to employees who are on maternity leave, sick leave and those who wish to take a career break, provided that the total length of absence does not exceed 12 months.

## Further information

HMRC have provided many questions and answers on their website to help both employees and employers and these can be viewed at [www.hmrc.gov.uk/thelibrary/esc-qa.htm](http://www.hmrc.gov.uk/thelibrary/esc-qa.htm)

## New Tax-Free Childcare scheme

In Budget 2013, the Government announced new tax incentives for childcare. Following consultation on the design and operation of the scheme, the Government has announced improvements.

The relief will be 20% of the costs of childcare up to a total of childcare costs of £10,000 per child per year. The scheme will therefore be worth a maximum of £2,000 per child. The original proposal had a cap of 20% of £6,000 per child.

The scheme will be launched in autumn 2015. All children under 12 within the first year of the scheme will be eligible. Under the original proposal only children under five would have been eligible in the first year of the scheme.

To qualify for Tax-Free Childcare all parents in the household must:

- meet a minimum income level based on working eight hours per week at the National Minimum Wage (around £50 a week at current rates)
- each earn less than £150,000 a year, and
- not already be receiving support through Tax Credits or Universal Credit.

## Self-employed

Self-employed parents will be able to get support with childcare costs in the Tax-Free Childcare scheme, unlike the current employer supported childcare scheme. To support newly self-employed parents, the Government is introducing a 'start-up' period. During this period a newly self-employed parent will not have to earn the minimum income level.

The current system of employer supported childcare will continue to be available for current members if they wish to remain in it or they can switch to the new scheme. Employer supported childcare will continue to be open to new joiners until the new scheme is available.

## Online account

It is proposed that parents register with the Government and open an online account. The scheme will be delivered by HMRC in partnership with National Savings and Investments, the scheme's account provider. The Government will then 'top up' payments into this account at a rate of 20p for every 80p that families pay in.

## How we can help

If you would like to discuss setting up a childcare scheme in further detail, please do not hesitate to contact us.

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# Employment Benefits

Today the remuneration of many directors and employees comprises a package of salary and benefits.

Essentially two tests must be applied in determining the tax implications of any benefit.

- Is the benefit taxable?
- If the benefit is taxable, what is its taxable value?

In this factsheet, we give guidance on some of the main benefit in kind rules and indicate some common types of benefits.

It is not intended to be an exhaustive guide and any decisions should be supported by professional advice appropriate to your personal circumstances.

## Setting the scene

All earnings of an office or employment are taxable. Where they are not in cash it becomes necessary to put a value on them.

As a general rule unless the benefit can be converted into cash there is no taxable benefit. Where it is convertible into cash the taxable amount is the resale value.

To prevent avoidance, additional legislation charges certain other benefits to tax. The detailed rules are complex. We can advise on structuring remuneration packages, including benefits, in a tax efficient way.

## Reporting

Employers are required to notify HMRC of benefits provided to directors and most employees by completing forms P11D annually.

Penalties can apply where the forms are submitted late or are incorrect.

The full amount of any benefit or reimbursed expense must be reported on this form. However, where the reimbursed amounts represent genuine business expenses a claim can be submitted by the taxpayer on his or her tax return, (or in writing to HMRC if they do not receive a tax return) thus resulting in a nil liability.

## Dispensations

Many expense payments do not involve a tax liability as a corresponding claim is made by the employee for amounts expended wholly, exclusively and necessarily in the performance of their employment.

A dispensation, granted by HMRC, allows certain expenses to be ignored when completing P11Ds. Commonly, a dispensation covers travelling and subsistence expenses and routine entertaining.

Correspondingly, the employee cannot make an expenses claim to HMRC.

## National Insurance

In general employees' national insurance (NIC) is not due on benefits except vouchers, stocks and shares, the discharge of an employee's personal liability and benefits provided by way of 'readily convertible' assets.

Most benefits are subject to Class 1A NIC payable by the employer. As this amounts to 13.8% of the taxable value of the benefit, you always need to consider the tax efficiency of providing benefits.

Please consult us for advice.

## Non-taxable benefits

Certain benefits are not taxable. The most important ones are:

- retirement benefits which are paid by an employer into a registered pension scheme
- meals provided in a staff canteen
- drinks and light refreshments at work
- parking provided at or near an employee's place of work
- workplace nursery places provided for the children of employees
- certain other employer-supported childcare up to £55 per week (the amount may be lower for higher and additional rate taxpayers joining a scheme from April 2011) Any formal registered childcare or approved home childcare contracted for by the employer such as a local nursery, out-of-school club or childminder may be covered by this exemption
- in-house sports facilities
- payments for additional household costs incurred by an employee who works at home
- removal and relocation expenses up to a maximum of £8,000 per move
- the provision of a mobile phone or vouchers to make available a mobile phone (limited to one phone per employee only).
- annual social functions for employees provided the total cost of all events in a tax year is less than £150 per head.

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## Taxable benefits

The following benefits are taxable on all employees:

- any living accommodation provided, unless job related
- vouchers
- credit tokens.

In addition, special rules apply to tax other benefits received by directors and all but the lowest paid employees. Common types of benefits provided are detailed below.

- **Employer provided cars** - this is probably the most common benefit and the taxable amount will generally be based on a range of 10% - 35% of the manufacturer's list price (including accessories) of the car. The taxable benefit depends upon the carbon dioxide emissions of the car.

There are reductions for unavailability of the car and where the employee makes a contribution towards the cost of the car.

Please talk to us for further details on the application of the rules.

- **Private fuel** - a separate charge applies where private fuel is provided for an employer provided car, unless the employee reimburses the employer for all private mileage (including travel between home and work). The charges are determined by reference to the percentage applying to the company car. A set figure of £21,700 for 2014/15 is multiplied by this percentage to determine the taxable benefit.
- **Van** - The scale benefit charge for the unrestricted use of an employer provided van is £3,090 for 2014/15. Where the restricted private use condition is met no benefit arises. Where an employer also provides fuel for unrestricted private use an additional fuel charge of £581 also applies for 2014/15. Please do get in touch if you would like to ensure that employee van use meets the restricted private use condition.
- **Cheap or interest free loans** - no benefit will be taxed where the loan does not exceed £10,000 (£5,000 prior to 6 April 2014).

- **Medical insurance** - the cost of providing medical insurance is a taxable benefit.
- **Use of company assets** - an annual benefit is taxed where employees have the private use of company assets. The annual benefit amounts to 20% of the asset's market value when first made available to any employee. Insignificant private use of certain assets is not taxable.
- **Phones** - private home phone bills, including rental charges, which are paid for by the employer will be taxed as a benefit.

## How we can help

The taxation of employment benefits is a complex area. Ensuring that you comply with all the administrative obligations and plan in advance to minimise tax liabilities is essential. We can help you with the following:

- reviewing existing employees' remuneration packages for tax and NIC efficiency
- planning flexible and tax efficient remuneration packages for key employees within your organisation
- advising on systems for reimbursing expenses and applying for dispensations
- providing advice and assistance with the completion of your PAYE returns
- negotiating with HMRC if disagreements arise and in reaching settlements.

We would welcome the opportunity to assist you with any planning and compliance matters so please do contact us.

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# Homeworking and Tax Relief for Employees

Over the last ten years technology has advanced massively. It was not so long ago that mobile phones were the size of a brick. Now emails and the internet can be accessed on the move. However, whilst technology has moved on, travelling has become more and more difficult. Homeworking has become the answer for many but how have the tax rules kept up with these changes?

## Your status is important

The tax rules differ considerably depending on whether you are self-employed, as a sole trader or partner, or whether you are an employee, even if that is as an employee of your own company. One way or the other though, if you want to maximise the tax position, it is essential to keep good records. If not, HMRC may seek to rectify the tax position several years down the line. This can lead to unexpected bills including several years worth of tax, interest and penalties.

This factsheet considers the position for employees.

## General rules

Generally, any costs paid on behalf of, or reimbursed to, an employee by their employer will be taxable. The employee will then have to claim the personal tax relief themselves and prove that they incurred those costs 'wholly, exclusively and necessarily' in carrying out their job. The word 'necessarily' creates a much tighter test than that for the self-employed.

In addition, the way in which the services are provided can sometimes make a substantial difference to that tax cost. For example, if the employer provides something for the employee, the rules are often much more generous than if the employee bought it themselves and attempted to claim the tax relief. A bit of advice and forward planning can often prove to be fruitful.

## An exemption

The rules for employees in relation to 'use of home as office', contains a specific exemption from a tax charge. They allow payments made by employers to employees for additional household expenses to be tax free, where the employee incurs those costs in carrying out the duties of the employment under homeworking arrangements. 'Homeworking arrangements' means arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home.

The arrangements do not need to be in writing but it is advisable to do this, as the exemption does not apply where an employee works at home informally.

Where these rules are met, the additional costs of heating and lighting the work area and the metered cost of increased water usage can be met. There might also be increased charges for internet access, home contents insurance or business telephone calls and where working at home leads to a liability for business rates, HMRC accept that the additional cost incurred can also be included.

However, unlike the self-employed, HMRC do not accept that a proportion of household fixed costs such as mortgage interest, rent, council tax or water rates are allowable.

HMRC accept that a £4 per week payment from the employer is acceptable without too much formality if the above tests are met. However, to justify a higher payment, the message is prove it!

## Tax relief

The above rules only allow tax free payments to be made in specific circumstances. However, if payments are made outside of these rules or, in fact, no payments are made at all, the employee can claim personal tax relief themselves if they can prove that they incurred those costs or received those payments 'wholly, exclusively and necessarily' for the purposes of their job. In reality this is extremely difficult – some would say impossible – as HMRC require the following tests to be met:

- the employee performs the substantive duties of their job from home (ie the central duties of the job)
- those duties cannot be performed without the use of appropriate facilities
- no such facilities are available to the employee on the employer's premises or are too far away
- and at no time either before or after the employment contract is drawn up is the employee able to choose between working at the employer's premises or elsewhere.

So the moral for employees is to go for tax free payments, not tax relief!

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## Equipment costs

Capital allowances will be available to the company for the costs of providing equipment to employees who work at home. Provided that the private use of those assets by the employee is insignificant, then there will be no taxable benefit on the employee. Again, this could apply to things such as a laptop, desk and chair, provided that the employer has a written policy making it clear that the provision of the equipment is for work related purposes.

## Travel costs

The rules are so 'simple' that HMRC explain them in a convenient 100-page booklet, IR490! However, the main point to note is that although an employee's home may be treated as a workplace for tax purposes this is not enough, on its own, to allow the employee to get tax relief for the expenses of travelling to another permanent workplace.

Employees are able to claim tax relief on the full travelling cost incurred in the performance of their duties. However, no relief is available for the costs of ordinary commuting or private travel.

The rules are complex but ordinary commuting is defined as travel between the employee's home and a place which is a 'permanent workplace'. A 'permanent workplace' includes places where there is a period of continuous work lasting more than 24 months or the period of attendance is all or most of the period of employment.

HMRC state that, for most people, the place where they live is a matter of personal choice, so the expense of travelling from home to any permanent workplace is a consequence of that personal choice. As a result such travelling expenses will not qualify unless the location of the employee's home is itself dictated by the requirements of the job.

Even if that condition is met, the cost of travel between the employee's home and another permanent workplace is only deductible during those times when the home is a place of work.

Of course, employees who work at home are entitled to a deduction for the expenses of travelling to a temporary workplace, that is anything which is not a permanent workplace. It is as clear as that!

## Example

Jane's duties often involve her working late into the evenings and she has no access to her employer's premises (her permanent workplace) at night, so she takes work home with her. As it is a matter of personal choice where the work is done (there is no objective requirement that it is done at her home) any travel to or from her home cannot be said to be in the performance of her duties and no relief is available for any costs.

However, Jane's husband is an area sales manager who lives in Leicester. He manages his company's sales team in the Midlands and the company's nearest office is in Newcastle. He is therefore obliged to carry out all his administrative work at home, where he has set aside a room as an office. He is entitled to relief for the expenses of travelling to the company's office in Newcastle, as well as for journeys within the Midlands as these should all qualify as temporary workplaces.

## Be reasonable

As you can see, all things are possible but the key is to be clear about the rules, keep good records and be sensible about how much to claim.

## How we can help

If you would like any help about obtaining tax relief on the costs of homeworking, please do contact us.

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# National Insurance

National insurance contributions (NICs) are essentially a tax on earned income. The NICs regime divides income into different classes: Class 1 contributions are payable on earnings from employment, while the profits of the self-employed are liable to Class 2 and 4 contributions.

National insurance is often overlooked yet it is the largest source of government revenue after income tax.

We highlight below the areas you need to consider and identify some of the potential problems. Please contact us for further specific advice.

## Scope of NICs

### Employees

Employees are liable to pay Class 1 NIC on their earnings. In addition a further secondary contribution is due from the employer.

For 2014/15 employee contributions are only due when earnings exceed a 'primary threshold' of £153 per week. The amount payable is 12% of the earnings above £153 up to earnings of £805 a week. In addition there is a further 2% charge on weekly earnings above £805.

Secondary contributions are due from the employer of 13.8% of earnings above the 'secondary threshold' of £153 per week for 2014/15. There is no upper limit on the employer's payments.

### Benefits in kind

Employers providing benefits such as company cars for employees have a further NIC liability under Class 1A. Contributions are payable on the amount charged to income tax as a taxable benefit.

Most benefits are subject to employer's NI. The current rate of Class 1A is the same as the employer's secondary contribution rate of 13.8% for benefits provided for 2014/15.

### The self-employed

NICs are due from the self-employed as follows:

- flat rate contribution (Class 2)
- variable amount based on the taxable profits of the business (Class 4).

Class 2 contributions are currently paid by direct debit at a rate of £2.75 per week from April 2014. Class 4 contributions are collected with the income tax liability payable on the profits of the business.

For 2014/15 Class 4 is payable at 9% on profits between £7,956 and £41,865. In addition there is a further 2% on profits above £41,865.

### Voluntary contributions

Flat rate voluntary contributions are payable under Class 3 of £13.90 per week 2014/15. They give an entitlement to basic retirement pension and may be paid by someone not liable for other contributions in order to maintain a full NICs record.

### National Insurance - £2,000 employment allowance

The Government has introduced an allowance of up to £2,000 per year for many employers to be offset against their employer Class 1 National Insurance Contributions (NIC) liability from 6 April 2014.

There will be some exceptions for employer Class 1 liabilities including liabilities arising from:

- a person who is employed (wholly or partly) for purposes connected with the employer's personal, family or household affairs
- the carrying out of functions either wholly or mainly of a public nature (unless charitable status applies), for example NHS services and General Practitioner services
- employer contributions deemed to arise under IR35 for personal service companies.

There are also rules to limit the employment allowance to a total of £2,000 where there are 'connected' employers. For example, two companies are connected with each other if one company controls the other company.

The allowance is limited to the employer Class 1 NIC liability if that is less than £2,000.

The allowance will be claimed as part of the normal payroll process. The employer's payment of PAYE and NIC will be reduced each month to the extent it includes an employer Class 1 NIC liability until the £2,000 limit has been reached.

### Employer NIC for the under 21s

From April 2015 the Government will abolish employer NIC for those under the age of 21. This exemption will not apply to those earning more than the Upper Earnings Limit, which is expected to be £42,285 per annum for 2015/16. Employer NIC will be liable as normal beyond this limit.

### Class 3A Voluntary National Insurance

From October 2015 a new class of voluntary NIC (Class 3A) will be introduced that gives those who reach State Pension age before 6 April 2016 an opportunity to boost their Additional State Pension.

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The Government expects that Class 3A will give pensioners an option to top up their pension in a way that will protect them from inflation and offer protection to surviving spouses. In particular, it could help women, and those who have been self-employed, who tend to have low Additional Pension entitlement.

## Potential problems

### Time of payment of contributions

Class I contributions are payable at the same time as PAYE ie monthly. Class IA contributions are not due until 19 July after the tax year in which the benefits were provided.

It is therefore important to distinguish between earnings and benefits.

### Earnings

Class I earnings will not always be the same as those for income tax. Earnings for NI purposes include:

- salaries and wages
- bonuses, commissions and fees
- holiday pay
- certain termination payments.

Problems may be encountered in relation to the treatment of:

- expense payments
- benefits.

Expense payments will generally be outside the scope of NI where they are specific payments in relation to identifiable business expenses. Round sum allowances give rise to a NI liability.

In general benefits are not liable to Class I NICs. There are however some important exceptions including:

- most vouchers
- stocks and shares
- other assets which can be readily converted into cash
- the payment of an employee's liability by an employer.

### Directors

Directors are employees and must pay Class I NICs. However directorships can give rise to specific NIC problems. For example:

- directors may have more than one directorship
- fees and bonuses are subject to NICs when they are voted or paid whichever is the earlier
- directors' loan accounts where overdrawn can give rise to a NIC liability.

We can advise on the position in any specific circumstances.

## Employed or self-employed

The NICs liability for an employee is higher than for a self-employed individual with profits of an equivalent amount. Hence there is an incentive to claim to be self-employed rather than employed.

Are you employed or self-employed? How can you tell? In practice it can be a complex area and there may be some situations where the answer is not clear.

In general terms the existence of the following factors would tend to suggest employment rather than self-employment:

- the 'employer' is obliged to offer work and the 'employee' is obliged to accept it
- a 'master/servant' relationship exists
- the job performed is an integral part of the business
- there is no financial risk for the 'employee'.

It is important to seek professional advice at an early stage and in any case prior to obtaining a written ruling from HMRC.

If HMRC discover that someone has been wrongly treated as self-employed, they will re-categorise them as employed and are likely to seek to recover arrears of contributions from the employer.

## Enforcement

HMRC carry out compliance visits an attempt to identify and collect arrears of NICs. They may ask to see the records supporting any payments made.

HMRC have the power to collect any additional NICs that may be due for both current and prior years. Any arrears may be subject to interest and penalties.

Please contact us for advice on NICs compliance and ways to minimise the effect of a HMRC visit.

## How we can help

Whether you are an employer or employee, employed or self-employed, awareness of NICs matters is vital.

HMRC have wide enforcement powers and anti-avoidance legislation available to them. Consequently it is important to ensure that professional advice is sought so that all compliance matters are properly dealt with.

We would be delighted to advise on any compliance matters relevant to your own circumstances so please contact us.

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# Payroll - Basic Procedures

## New employer

In order to set up a Pay As You Earn (PAYE) scheme with HMRC it is necessary to contact the New Employer's Helpline on 0300 200 3211 or register online via the HMRC website.

As an employer you will be responsible for operating PAYE and National Insurance (NI). There are also certain statutory payments you may have to make from time to time which you need to be aware of. These include:

- statutory sick pay (SSP)
- statutory maternity pay (SMP) and
- ordinary and additional statutory paternity pay (OSPP and ASPP).

A vast amount of information is available on the HMRC website detailing the operation of PAYE together with online calculators these can be found on HMRC's website [www.hmrc.gov.uk](http://www.hmrc.gov.uk) and as part of HMRC Basic PAYE tools.

If requested HMRC will send you several booklets and tables to enable you to make the relevant deductions and payments to your employees. The majority of employers however use the HMRC Basic PAYE tools or equivalent software.

## Real Time Information reporting

Under RTI which was implemented from April 2013 employers, or their agents, are generally required to make regular payroll submissions for each pay period during the year detailing payments and deductions made from employees on or before the date they are paid to the employees.

More detailed guidance and information on operating your payroll under Real Time Information can be found at <http://www.hmrc.gov.uk/payerti/index.htm> or in our Payroll Real Time Information factsheet.

## What tax do I have to deduct?

By using the calculators provided on HMRC's website or equivalent software, you should be able to calculate the tax and NI due in respect of your employees.

The tax due for a particular employee is calculated by reference to their gross pay with a deduction for their tax free pay which reflects their particular circumstances (using their coding notice and the pay date). The remainder of the pay is subject to tax and this is calculated using the Basic PAYE tools or software.

Tax is generally calculated on a cumulative basis, looking at the individual's circumstances for the tax year to date.

## What about NI?

NI is payable by the employee and the employer on the employee's gross pay for a particular tax week or month and is calculated on a non cumulative basis. The NI can be calculated using the HMRC Basic PAYE tools or equivalent software.

## When does the tax and NI have to be paid to HMRC?

The tax and NI should be paid to HMRC by the 19th of the month following the payment. Tax months run from the 6th to the 5th of the month, so if an employee was paid on 25 July (tax month being 6 July to 5 August) the tax and NI would need to be paid over to HMRC by 19th August.

Any employer can pay electronically, if they wish, taking advantage of the cleared electronic payment date of 22nd as opposed to the usual 19th.

Employers whose average monthly payments are less than £1,500 are allowed to pay quarterly rather than monthly.

Large employers, with more than 250 employees, must pay tax and other deductions electronically.

## Forms you will need to complete

You will need to complete the following forms or maintain the equivalent digital records:

- P11 Deductions working sheet. This form (or a computer generated equivalent) must be maintained for each employee. It details their pay and deductions for each week or month of the tax year.
- P60 End of year summary. This form has to be completed for and given to all employees employed in a tax year.
- P45 Details of employee leaving. This form needs to be given to any employee who leaves and details the earnings and tax paid so far in the tax year. New employees should let you have the form from their previous employer.
- Starter Checklist. When a new employee starts you will need to advise HMRC so that you can pay them under RTI. Some of the necessary information may be obtained from the P45 if the employee has one from a previous job.

More detailed guidance and information on operating your payroll under Real Time Information can be found at <http://www.hmrc.gov.uk/payerti/index.htm> or in our Payroll Real Time Information factsheet.

## Penalties

HMRC impose penalties on employers who fail to:

- keep the necessary records
- operate PAYE or NI correctly
- make the correct statutory payments
- provide HMRC or the employees with the relevant forms on time
- make online submissions where required
- pay on time.

It is important that employers comply with all the regulations.

## How we can help

The operation of PAYE can be a difficult and time consuming procedure for those in business. We will be happy to show you how to operate PAYE correctly, offer ongoing advice on particular issues, or to carry out your payroll for you so please do contact us.



# Payroll Real Time Information

We set out below details of how payroll information has to be submitted to HMRC under Real Time Information (RTI). RTI was introduced for the majority of employers from April 2013.

## RTI – an introduction

Under RTI, employers or their agents, are required to make regular payroll submissions for each pay period during the year detailing payments and deductions made from employees each time they are paid. There are two main returns which an employer needs to make which are detailed below.

### Full Payment Submission

The Full Payment Submission (FPS) must be sent to HMRC on or before the date employees are paid. This submission details pay and deductions made from an employee. The FPS must reach HMRC on or before the date of payment of the wages to employees.

### Employer Payment Summary

Employers may also have to make a further return to HMRC each month (EPS) to cover the following situations:

- where no employees were paid in the tax month
- where the employer has received advance funding to cover statutory payments
- where statutory payments are recoverable (such as SSP, SMP, OSPP and ASPP) together with the SMP NIC compensation payment or
- where CIS deductions are suffered which could be offset (companies only).

HMRC will offset the amounts recoverable against the amount due from the FPS to calculate what should be payable. The EPS needs to be with HMRC by the 19th of the month to be offset against the payment due for the previous tax month.

## Payments to HMRC

Please bear in mind that under RTI HMRC will be aware of the amount due on a monthly/quarterly basis. This will be part of the information reported to HMRC through the FPS and EPS.

HMRC will expect to receive the PAYE and NIC deductions less the payments each month or quarter (small employers only).

## Year end procedures

At the end of the tax year a final FPS or EPS return must be made to advise HMRC that all payments and deductions have been reported to HMRC. This final return details whether for example, forms P11D reporting employment benefits or expenses are due.

## Some further complications

### Wages

Under RTI it is not possible to put through wages at the year end of the business and assume this has been paid throughout the year, for example to utilise a family member's national insurance lower earnings limit which gives them a credit for state pension and statutory payment purposes.

Wages should be paid regularly and details provided to HMRC through the RTI system on a timely basis.

### Payments which are impractical to report on or before

HMRC have issued guidance covering issues such as payments made on the day of work (which vary depending on the work done) where it is impractical to report in real time. The regulations allow up to an additional seven days for reporting the payment in specified circumstances.

HMRC have also made available some guidance on exceptions to reporting PAYE information 'on or before' paying an employee which can be found at <http://www.hmrc.gov.uk/payerti/on-or-before.pdf>

### A relaxation of the rules for micro employers

HMRC have announced that, for some micro employers, they will relax the reporting requirement for RTI that payments to employees should be reported on or before the amount is paid to the employee.

The relaxation applies to micro employers (those with fewer than 10 employees) who pay employees weekly, or more frequently, but only process their payroll monthly and who made use of the small employer relaxation in 2013/14.

The relaxation means that micro employers, who find it difficult to report every payment to employees at the time of payment, may send information to HMRC by the date of their regular payroll run but no later than the end of the tax month.

Please do contact us if you would like any further help or advice on payroll procedures

## Penalties

HMRC are introducing automatic in-year penalties for RTI to encourage compliance with the information and payment obligations.

In essence late filing penalties will apply to each PAYE scheme, with the size of the penalty based on the number of employees in the scheme. It is proposed that monthly penalties of between £100 and £400 will apply to micro, small, medium and large employers.

Each scheme will be subject to only one late filing penalty each month regardless of the number of returns submitted late in the month. There will be one unpenalised default each year with all subsequent defaults attracting a penalty. This regime will start in October 2014.

Another change is more imminent. For tax years 2014/15 onwards, HMRC will charge daily interest on all unpaid amounts from the due and payable date to the date of payment, and will raise the charge when payment in full has been made.

## How we can help

The operation of PAYE under RTI can be a difficult and time consuming procedure for those in business. We will be happy to show you how to operate PAYE correctly, offer ongoing advice on particular issues, or to carry out your payroll for you so please do contact us.

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# Share Ownership for Employees - EMI

## EMI and SIPs

Retaining and motivating staff are key issues for many employers. Research in the UK and USA has shown a clear link between employee share ownership and increases in productivity. The government has therefore introduced two ways in which an employer can provide mechanisms for employees to obtain shares in the employer company without necessarily suffering a large tax bill.

The two routes are:

- Enterprise Management Incentives (EMI) and
- Share Incentive Plans (SIPs).

EMI allows selected employees (often key to the employer) to be given the opportunity to acquire a significant number of shares in their employer through the issue of options.

A SIP is designed to allow all employees to participate in their business and to encourage long-term shareholding by them.

This factsheet outlines the rules for EMI.

## Tax problems under normal rules

If shares are simply given to an employee the market value of the shares will be taxed as earnings from the employment. This is expensive for the employee as he may not have any cash to pay the tax arising.

In order to avoid this immediate charge, options could be granted to an employee. An option gives the employee the right to obtain shares at a later date. Provided that the terms of the option are that it must be exercised within ten years, any tax liabilities will be deferred until the time the options are exercised.

This may still be expensive for the employee if he is not then in a position to sell some of the shares in order to pay the tax arising.

## What does EMI offer?

EMI allows options to be granted to employees which may allow the shares to be received without any tax bill arising until the shares are sold.

## How does it work?

Selected employees are granted options over shares of the company. The options should be capable of being exercised within ten years of the date of grant.

In order to qualify for the income tax and national insurance contribution (NIC) reliefs, the options awarded need to be actually exercised within ten years of the date of the grant. There is also a statutory limit of £250,000 in respect of options granted on or after 16 June 2012, which maximises the value of the options which may be granted to any one employee. No employee may hold unexercised qualifying EMI options with a market value of more than £250,000. The market value is taken at the date of grant.

## What are the tax benefits to employees?

The grant of the option is tax-free.

There will be no tax or NICs for the employee to pay when the option is exercised so long as the amount payable for the shares under the option is the market value of the shares when the option is granted.

The EMI rules allow the grant of nil cost and discounted options. However, in these circumstances, there is both an income tax and an NIC charge at the time of exercise on the difference between what the employee pays on exercise and the market value of the shares at the date of grant.

Following the acquisition of the shares, when the option is exercised, an employee may immediately dispose of, or may retain the shares for a period before selling them. At such time there will be a chargeable gain on any further increase in value. The CGT liability will depend on the availability of any reliefs and annual exemption.

For chargeable gains:

- CGT at the rate of 18% applies to gains where net total taxable gains and income are below the income tax basic rate band
- CGT on any part of gains above this limit will be charged at 28%.

In certain circumstances, in respect of shares acquired through exercising EMI options, Entrepreneurs' Relief may be available to reduce the CGT liability to 10%. The law has been amended to extend the relief to EMI shares by removing the 5% minimum shareholding requirement and allowing the 12 month minimum holding requirement to commence on the date the option is granted. This measure applies to shares acquired on or after 6 April 2012 that are disposed of on or after 6 April 2013. The other Entrepreneurs' Relief requirements apply.

## What are the benefits to employers?

- Employees have a potential stake in their company and therefore retention and motivation of these employees will be enhanced.

Continued >>>

- Options will not directly cost the employer any money in comparison to paying extra salary.
- There will normally be no NICs charge for the employer when the options are granted or exercised or when the employee sells the shares.
- A corporation tax deduction for the employer company broadly equal to employees' gains.

## EMI: Points to consider

There are a number of issues to consider in deciding whether EMI is suitable for your company.

- Does the company qualify?
- Which employees are eligible and who should be issued options?
- What type of shares will be issued?
- When will the rights to exercise options arise?
- The costs of setting up the option plans are not tax deductible.

### Does the company qualify?

EMI was introduced by the government to help small higher risk companies recruit and retain employees with the skills that will help them grow and succeed. The company must therefore:

- exist wholly for the purpose of carrying on one or more 'qualifying trades'
- have gross assets of no more than £30 million
- not be under the control of another company (so if there is a group of companies, the employee must be given an option over shares in the holding company).

The main trades excluded from being qualifying trades are asset backed trades such as:

- property development
- operating or managing hotels
- farming or market gardening.

### Which employees are eligible and who should be issued options?

An employee cannot be granted options if they control more than 30% of the ordinary share capital of the company. They must spend at least 25 hours a week working for the company or the group, or if

the working hours are shorter, at least 75% of their total working time must be spent as an employee of the company or group.

Subject to the above restrictions, an employer is free to decide which employees should be offered options. The sole test is that options are offered for commercial reasons in order to recruit or retain an employee.

### What type of shares will be issued?

EMI provides some flexibility for employers. For example, it is possible to limit voting rights, provide for pre-emption or set other conditions in respect of shares which will be acquired on exercise of an EMI option. The shares must, however, be fully paid ordinary shares so that employees have a right to share in the profits of the company.

### When will the rights to exercise options arise?

The options must be capable of being exercised within ten years of the date of grant but there does not have to be a fixed date.

Examples of circumstances in which the options could be exercised include:

- fixed period
- profitability target or performance conditions are met
- takeover of company
- sale of company
- flotation of company on a stock market.

Options can be made to lapse if certain events arise, for example the employee leaves the employment.

## How we can help

We can help you decide whether EMI is appropriate for your business and whether the business will qualify.

We are also able to help you with the necessary documentation required to establish and operate EMI and advise on the costs so please do contact us.

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# Travel and Subsistence for Directors and Employees

Travelling and subsistence expenditure incurred by or on behalf of employees gives rise to many problems.

We highlight below the main areas to consider in deciding whether tax relief is available on travel and subsistence.

## Employees with a Permanent Workplace

Many employees have a place of work which they regularly attend and make occasional trips out of the normal workplace to a temporary workplace. Often an employee will travel directly from home to a temporary workplace and vice versa.

An employee can claim full tax relief on business journeys made.

A business journey is one which either involves travel:

- from one place of work to another or
- from home to a temporary workplace or
- to home from a temporary workplace.

Journeys between an employee's home and a place of work which he or she regularly attends are not business journeys. These journeys are 'ordinary commuting' and the costs of these have to be borne by the employee. The term 'permanent workplace' is defined as a place which the employee 'regularly' attends. It is used in order to fix one end of the journey for ordinary commuting. Home is the normal other end of the journey for ordinary commuting.

### Example 1

An employee usually commutes by car between home in York and a normal place of work in Leeds. This is a daily round trip of 48 miles.

On a particular day, the employee instead drives from home in York to a temporary place of work in Nottingham. A round trip of 174 miles.

The cost here is the cost of the travel undertaken (174 miles). A deduction would be available for that amount.

### Example 2

An employee who normally drives 40 miles in a northerly direction to work is required to make a 100 mile round trip south to a client's premises. His employer reimburses him for the cost of the 100 miles trip.

A deduction would be available for that amount.

## Subsistence payments

Subsistence includes accommodation and food and drink costs whilst an employee is away from the permanent workplace. Subsistence expenditure is specifically treated as a product of business travel and is therefore treated as part of the cost of that travel.

## Anti-avoidance

Some travel between a temporary workplace and home may not qualify for relief if the trip made is 'substantially similar' to the trip made to or from the permanent workplace.

'Substantially similar' is interpreted by HMRC as a trip using the same roads or the same train or bus for most of the journey.

## Temporary postings

Where an employee is sent away from his permanent workplace for many months, the new workplace will still be regarded as a temporary workplace if the posting is either:

expected to be for less than 24 months, or

if it is expected to be for more than 24 months, the employee is expected to spend less than 40% of his working time at the new workplace.

The employee must still retain his permanent workplace.

### Example 3

Edward works in New Brighton. His employer sends him to Wrexham for 1.5 days a week for 28 months.

Edward will be entitled to relief. Any posting over 24 months will still qualify provided that the 40% rule is not breached.

## Site-based Employees

Some employees do not have a normal place of work but work at a succession of places for several days, weeks or months. Examples of site-based employees include construction workers, safety inspectors, computer consultants and relief workers.

A site-based employee's travel and subsistence can be reimbursed tax free if the period spent at the site is expected to be, and actually is, less than two years.

There are anti-avoidance provisions to ensure that the employment is genuinely site-based if relief is to be given. For example, temporary appointments may be excluded from relief where duties are performed at that workplace for all or almost all of that period of employment. This is aimed particularly at preventing manipulation of the 24 month limit through recurring temporary appointments.

## Other Employees with no Permanent Workplace

### Travelling appointments

For some employees, travelling is an integral part of their job. For example, a travelling salesman who does not have a base at which he works, or where he is regularly required to report. Travelling and subsistence expenses incurred by such an employee are deductible.

### Home based employees

Some employees work at home occasionally, or even regularly. This does not necessarily mean that their home can be regarded as a place of work. There must be an objective requirement for the work to be performed at home rather than elsewhere.

This may mean that another place becomes the permanent workplace for example, an office where the employee 'regularly reports'. Therefore any commuting cost between home and the office would not be an allowable expense. But trips between home and temporary workplaces will be allowed.

If there is no permanent workplace then the employee is treated as a site-based employee. Thus all costs would be allowed including the occasional trip to the employer's office.

The home may still be treated as a workplace under the objective test above. If so, trips between home and any other workplace in respect of the same employment will be allowable.

## How we can help

Full tax relief can be given for travel and subsistence costs but there are borderline situations.

We can help you to decide whether an employee can be paid expense payments which are covered by tax relief and do not result in a taxable benefit.

Please note that if you do make payments for which tax relief is not available, there may be PAYE compliance problems if the payments are made free of tax.

Please contact us if you require advice whether payments can be made to employees tax free.

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