Employment issues (tax)

Concise information on the tax issues relevant to both employers and employees. Click on the links below to access the relevant details.

1.Cars for employees

This factsheet set out the main areas to consider and the tax and national insurance implications with employer provided cars.

2.Employee Expenses

An exemption regime applies for employee expenses which results in the expenses not only being tax exempt but non reportable on form P11D. This factsheet considers the necessary conditions that must be met for this exemption to apply.

3.Employer supported childcare

The tax and NIC exemption for employer-contracted childcare and employer-provided childcare vouchers has been very popular with both employers and employees alike. This factsheet outlines the exemptions available.

4.Employment benefits

The remuneration of many directors and employees comprises a package of salary and benefits. In this factsheet we consider some of the main benefit rules.

5.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. This factsheet highlights the areas you need to consider and identifies some of the potential problems.

6.Payroll - basic procedures

This factsheet outlines what you need to do to set-up and run your payroll.

7.Payroll Real Time Information

A guide to the Real Time Information payroll rules.

8.Share ownership for employees - EMI

Retaining and motivating staff are key issues for many employers. The Enterprise Management Incentive enables options to be granted to employees which may allow the shares to be received without any tax bill arising until the shares are sold. This factsheet gives an overview of EMI.

9.Travel and subsistence for Directors and employees

Travelling and subsistence expenditure incurred by or on behalf of employees gives rise to many problems. This factsheet highlights the main areas to consider in deciding whether tax relief is available on travel and subsistence.

1. Cars for employees

These are commonly referred to as company cars and are taxed by reference to the list price of the car but graduated according to the level of its carbon dioxide (CO_2) emissions. We outline the main areas to consider and the tax and national insurance implications. If your business is in the Nottinghamshire area or you are employed in the area we, at Franklyn & Co, can advise you on the employer provided car benefit rules.

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.

Below we set out 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 (CO2) emissions.

In addition, the government has reduced the percentages which apply to lower emissions cars and introduced new performance-related bands for hybrid vehicles with emissions up to 50 g/km depending on how far the hybrid vehicle can travel under electric power.

Percentage charges (2024/25)

CO2 emissions (g/km)
0
1 – 50 (split by zero-emission miles)
More than 130 70-129 40-69 30-39 <30
51 - 54
55 - 59
60 - 64

CO2 emissions (g/km)
65 - 69
70 - 74
75 - 70
80 - 84
85 - 89
90 - 94

For every additional 5g thereafter add 1% until the maximum percentage of 37% is reached.

Example

David has a company car, a Hyundai Ioniq, which had a list price of £28,395 when it was provided new on 6 April 2024. The CO2 emissions are 26 g/km and its electric range is 39 miles.

David's BiK for 2024/25 is: £28,395 x 12% = £3,407.

Diesels

Diesel cars emit less CO_2 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 4% of the list price generally applies to diesel cars (unless the car is registered on or after 1 September 2017 and meets the Euro 6d emissions standard).

The diesel supplement does not apply to hybrid cars.

Example

A diesel car that would give rise to a 22% charge on the basis of its CO2 emissions will instead be charged at 26% for 2024/25. The maximum charge for diesel is capped at 37%.

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_2 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 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 13.8% for 2024/25).

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 £27,800 for 2024/25 (£27,800 for 2023/24). 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 NICs.

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 issue advisory fuel-only mileage rates for employer provided cars. Employers can adopt the rates in the following table but may pay lower rates if they choose.

HMRC update these rates on a quarterly basis in March, June, September and December. The latest rates can be found here.

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
Over 10,000 miles

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.

2. Employee Expenses

An exemption regime applies for employee expenses. At Franklyn & Co, we can provide guidance on the rules which, if the necessary conditions are met, result in the expenses being tax exempt and non reportable on form P11D in the Nottinghamshire area.

This factsheet considers the operation and reporting of employee expenses and benefits.

The exemption regime

An exemption may apply to the reporting of employee expenses on forms P11D as long as the necessary conditions are met. Under the exemption the business must satisfy itself that the employee would be entitled to full tax relief on the expenses reimbursed.

The exemption

An exemption applies which effectively means that businesses will not have to pay tax and NIC on paid or reimbursed expenses payments or report them on a P11D. The exemption places the onus on employers to determine whether employee expenses are fully deductible for tax purposes.

Types of expenses

The main types of expenses to which the exemption applies are:

travel and subsistence expenses

fees and subscriptions

business entertainment expenses.

All other non-allowable expenses are still reportable on a P11D and/or subject to PAYE (and possibly NIC). Employees are able to claim tax relief in respect of unreimbursed business expenses.

The exemption does not apply to expenses or benefits provided under a relevant salary sacrifice arrangement. This includes any arrangement where an employee gives up the right to receive earnings in return for tax free expenses payments or where the level of their earnings depends on the amount of any expenses payment.

Conditions of the regime

In order for an employee reimbursed expense to be treated as an exempt payment, an employer needs to put himself in the position of the employee. The employer then asks himself the question - would that expense have qualified for full tax relief to the employee (were it not for the amount being exempt)?

An employer should consider:

setting out a corporate policy of which type of expenses are reimbursable and the need for those expenses to be reasonable

requiring the completion of a standard expense claim form

the need for any expense claim to be supported by a receipt

making checks on expense claims

requiring a senior person to authorise the claims.

What about scale rates?

The rules allow amounts based on scale rates to be paid or reimbursed, instead of the employee's actual costs in certain circumstances. Scale rates are generally for travel and subsistence expenses and consist of round sum allowable amounts for specific circumstances.

Two key types of scale rates are available for use by an employer:

"benchmark" rates and

"bespoke" rates.

Benchmark rates

Benchmark rates are a set of maximum reimbursement rates for meals. These round sum amounts can be used by employers for payment or reimbursement of employees expenses where relevant qualifying conditions are met.

These rates apply only if the employee incurs expenditure in the course of 'qualifying business travel' as follows:

one meal allowance per day paid in respect of one instance of qualifying travel, the amount of which does not exceed:

£5 where the duration of the qualifying travel in that day is 5 hours or more

£10 where the duration of the qualifying travel in that day is 10 hours or more, or

£25 where the duration of the qualifying travel in that day is 15 hours or more and is on-going at 8pm or an additional meal allowance not exceeding £10 per day paid where a meal allowance a. or b. is paid and the qualifying travel in respect of which that allowance is paid is on-going at 8pm.

Bespoke rates

These are rates negotiated and specifically agreed with HMRC in writing. If the business wants to pay bespoke rates for meals or other types of expense, it can apply to HMRC.

HMRC have issued a specific form: PAYE: employers expenses and benefits exemption

Checking

There is no need to require receipts when making payments to employees for subsistence using benchmark scale rates. This applies to standard meal allowances paid in respect of qualifying travel and overseas accommodation and subsistence scale rates. Employers still have to ensure that employees are undertaking qualifying travel.

The checking system rules are relaxed and the requirement for employers to check receipts when making payments to employees for subsistence using benchmark scale rates is removed. This applies to standard meal allowances paid in respect of qualifying travel and overseas accommodation and subsistence scale rates. Employers still have to ensure that employees are undertaking qualifying travel.

The accommodation and subsistence overseas scale rates are treated in the same way as benchmark rates. Employers only need to ensure that employees are undertaking qualifying travel.

HMRC has issued guidance on what checking systems they expect employers to operate. We can assist you with this matter or in applying for bespoke rates so please contact us for more information.

Business mileage rates

The key travel and subsistence expenses for many employees are their costs in using their own car or van for business travel. Many employers and their employees use the statutory mileage allowances known as ‘authorised mileage allowance payments’ (AMAPs). These are scale amounts that employers can pay to employees using their own vehicle for business travel. For cars and vans, the scale rate is 45p per mile for up to 10,000 miles in the tax year and 25p per mile above this.

AMAPs are a separate statutory regime and do not come within the new exemption regime.

For employer provided vehicles the fuel advisory rates can be used to reimburse fuel costs incurred in travelling on business. These advisory fuel rates are updated quarterly throughout each tax year.

Qualifying travel expenses

Qualifying travel is a necessary condition for both travelling and subsistence expenses to be treated as an exempt expense (and also in the use of business mileage rates for cars and vans). A business journey is one which either involves travel:

from one place of work to another or

from home to a temporary workplace or vice versa.

However, 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 place of work is often referred to as a permanent workplace. This means that the travel costs have to be borne by the employee.

The term 'temporary workplace' means that the employee attends the place for a limited duration or temporary purpose. However, 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.

There will be many variations of types of journeys undertaken by employees so ensuring that it is a business journey is critical especially as the term 'travel expenses' includes the actual costs of travel together with any subsistence expenditure and other associated costs that are incurred in making the journey such as toll or congestion charges.

3. Employer supported childcare

Childcare and employer provided childcare vouchers are very popular with both employers and employees alike. If your business is in the Nottinghamshire area or you are employed in the area we, at Franklyn & Co, can advise you on the exemptions available for employer supported childcare.

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

ESC, which allows 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. However ESC closed to new members from 4 October 2018. The government introduced Tax-Free Childcare which is available to employees and the self employed.

Salary sacrifice

Many employers use ESC 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 have proved to be attractive for many but for those on low rates of pay, such arrangements may not be appropriate.

How much childcare can be provided tax and NIC free?

The limit on the amount of exempt income associated with childcare vouchers and employer-contracted childcare for employees is determined by reviewing the estimated earnings and taxable benefits of the employee. Where 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, the employee will be entitled to relief on £55 exempt income for each qualifying week

exceeds the equivalent of the sum of personal allowances and the basic rate limit for the year as above, but falls below the limit at which tax becomes payable at the 45% rate limit for the year, the employee is entitled to relief on £28 exempt income for each qualifying week.

exceeds the equivalent of the additional tax rate limit for the year, the employee is entitled to relief on £25 exempt income for each qualifying week.

For those who joined the employer’s scheme prior to 6 April 2011 the weekly limit is £55 a week regardless of earnings and benefits.

Similar rules apply for NIC purposes.

Further details

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

If the ESC exceeds the amount of exempt income per week the excess will be a benefit in kind and subject to Class 1A NICs. However, with vouchers, although any excess is also a benefit in kind it is subject to Class 1 NICs via the payroll. As the tax and NIC issues are complex many employers limit their employees’ entitlement to a maximum of the exempt limit.

The exempt limit 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.

Determining basic earnings

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 employees. 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.

Closure of ESC to new entrants

HMRC has confirmed that employees must have joined an ESC scheme and had the necessary changes made to their salary on or before 4 October 2018. Applying to the scheme before the deadline is not sufficient as an applicant needs to have had the necessary changes made to their salary by the deadline in order to benefit from the income tax and NICs exemption.

Employers who continue to offer ESC to new entrants after 4 October need to deduct income tax and NICs on any vouchers given and pay employer NICs after this date.

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 has provided many questions and answers on their website to help both employees and employers and these can be viewed at https://www.gov.uk/government/publications/employer-supported-childcare

Tax-Free Childcare scheme

The government introduced Tax-Free Childcare (TFC), a tax incentive for childcare.

The relief is 20% of the costs of childcare up to total childcare costs of £10,000 per child per year. The scheme will therefore be worth a maximum of £2,000 per child (£4,000 for a disabled child). All children under 12 (up to 17 for children with disabilities) are eligible.

To qualify for Tax-Free Childcare all parents in the household must generally meet a minimum income level, based on working 16 hours a week at National Minimum Wage or Living Wages rates as appropriate and each earn less than £100,000 a year and not already be receiving support through Tax Credits or Universal Credit.

How does this relate to ESC?

ESC closed to new entrants on 4 October 2018. ESC continues to be available for current members if they wish to remain in it or they can switch to the new scheme but parents cannot be in both the ESC scheme and the TFC scheme at the same time.

Employees need to advise their employer in writing (for example, by email) within 90 days if they start receiving TFC, so their employer can stop giving them vouchers and directly contracted childcare with income tax and NICs reliefs. Employees are not able to return to an employer's ESC scheme once they have left.

4. Employment benefits

We consider some of the main benefit rules that apply to directors and employees. If your business is in the Nottinghamshire area or you are employed in the area we, at Franklyn & Co, can advise you on the benefit rules.

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 outline 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 must be reported on this form.

National Insurance

In general, employees' national insurance (NI) 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 NICs payable by the employer. As this amounts to 13.8% from April 2024 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
- 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
- trivial benefits up to £50 or £300 per annum in close company situations.

Trivial benefits

A statutory exemption applies for trivial benefits in kind. The exemption sets out a number of conditions that must be met for a benefit to be exempt which are that the:

- cost of providing the benefit does not exceed £50
- benefit is not cash or a cash voucher
- benefit is not provided under salary sacrifice arrangements or any other contractual obligation
- benefit is not provided in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.

In addition, where qualifying trivial benefits are provided to directors and other office holders of close companies they will be subject to an annual cap of £300. In a case where the benefit is provided to a member of the employee’s family or household who is not an employee of the employer, this benefit will count towards the £300 exempt amount. Where the director's or other office holder's family or household member is also an employee of the company, they will be subject to a £300 cap in their own right.

Please contact us for advice on how the exemption operates.

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 up to 37% 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 £27,800 for 2024/25 (£27,800 for 2023/24) 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 £3,960 for 2024/25 (£3,960 for 2023/24). 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 £757 applies (£757 for 2023/24). 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.

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.

Salary sacrifice

The government has introduced rules which limit the income tax and employer NICs advantages where:

- benefits in kind are offered through salary sacrifice; or
- where the employee can choose between cash allowances and benefits in kind.

The taxable value of benefits in kind where cash has been forgone will be fixed at the higher of the taxable value or the value of the cash forgone.

These rules will not affect employer-provided pension saving, employer-provided pensions advice, childcare vouchers, workplace nurseries, Cycle to Work schemes or Ultra-Low Emission Vehicles.

5. National insurance

The National insurance contributions (NICs) regime is complex and represents a significant 'tax' on employers, employees and the self employed. It is very easy not to pay the correct amount of contributions. If your business is in the Nottinghamshire area we, at Franklyn & Co, can advise you on NICs and help you with any problems.

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 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 NICs on their earnings. In addition, a further secondary contribution is due from the employer.

For 2024/25 employee contributions are only due when earnings exceed a 'primary threshold' of £242. The amount payable is 8% of the earnings above £242 up to earnings of £967 a week, the Upper Earnings Limit (UEL). In addition, there is a further 2% charge on weekly earnings above the UEL. Secondary contributions are due from the employer of 13.8% of earnings above the 'secondary threshold' of £175 per week. There is no upper limit on the employer's payments.

Employer NICs for the under 21s

The rate of employer NICs for those under the age of 21 is 0%. For the 0% rate to apply the employee will need to be under 21 when the earnings are paid.

This exemption will not apply to earnings above the Upper Secondary Threshold (UST) in a pay period. The UST is set at the same amount as the UEL, which is the amount at which employees' NICs fall from 8% to 2%. The weekly UST is £967 for 2024/25 and £50,270 per annum for 2024/25. Employers will be liable to 13.8% NICs on earnings beyond this limit. The employee will still be liable to pay employee NICs.

NICs for apprentices under 25

Employer NICs are also 0% for apprentices under 25 who earn less than the UST which is £967 per week and £50,270 per annum for 2024/25 . Employers are liable to 13.8% NICs on pay above the UST. Employee NICs are payable as normal.

- be working towards a government recognised apprenticeship in the UK which follows a government approved framework/standard
- have a written agreement, giving the government recognised apprentice framework or standard, with a start and expected completion date.

Employers need to identify relevant apprentices and generally assign them NICs category letter H to ensure the correct NICs are collected.

Employers need to ensure they amend the contributions letter when the apprenticeship ends or the employee turns 25.

NICs for Veterans

Civilian employers of veterans are to be given relief from employer NICs up to the level of the UST (currently £967 per week) for the first year of civilian employment. Under the rules:

- the relief is available through the PAYE system
- a qualifying veteran will have been a member of the Regular Armed Forces and have completed at least one day of basic training
- it will not matter when the veteran left the armed forces.

This measure applies until 5 April 2025.

Benefits in kind

Employers providing benefits such as company cars for employees have a further NICs 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 NICs. The 2024/25 rate of Class 1A is 13.8% for benefits provided.

The self-employed

From 6 April 2024 self-employed people with profits above £12,570 will no longer be required to pay Class 2 NICs but will continue to receive access to contributory benefits, including the State Pension.

Those with profits between £6,725 and £12,570 will continue to get access to contributory benefits, including the State Pension, through a National Insurance credit without paying NICs.

Those with profits under £6,725 and others who pay Class 2 NICs voluntarily to get access to contributory benefits including the State Pension, will continue to be able to do so.

NICs are due from the self-employed as a variable amount based on the taxable profits of the business (Class 4).

The liability to pay arises at the end of each tax year as part of the final self assessment payment.

Class 4

For 2024/25 Class 4 is payable at 6% on profits between £12,570 and £50,270 In addition, there is a further 2% on profits above £50,270.

Class 3 voluntary contributions

Flat rate voluntary contributions are payable under Class 3 of £17.45 per week for 2024/25. 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.

Class 3 contributions, which can be paid voluntarily to protect entitlement to the State Pension and Bereavement Benefit, also give entitlement to the standard rate of Maternity Allowance and contributory Employment and Support Allowance for the self-employed.

National Insurance - Employment Allowance

The Employment Allowance is available to many employers and can be offset against their employer Class 1 NICs liability. The amount of the Employment Allowance is currently £5,000.

Companies, where the director is the sole employee earning above the secondary threshold, are unable to claim the Employment Allowance.

From 6 April 2020 the Employment Allowance is restricted to those employers whose employers' NIC bill is below £100,000 in the previous tax year.

The Employment Allowance is classified as de minimis State aid (government financial support). This means it will count towards the total aid a business is entitled to under the relevant de minimis State aid cap. If a business exceeds the cap then the allowance cannot be claimed. Following the UK exit from the EU, this is now only relevant where both of the following are true:

- the business is located in Northern Ireland
- the business makes or sells goods or wholesale electricity.

There are other 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. However, the allowance may be available for those employing care and support workers. Please contact us if this may be relevant to you as there are specific conditions which must be satisfied
- 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 £5,000 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 NICs liability if that is less than the Employment Allowance.

The allowance is claimed as part of the normal payroll process. The employer's payment of PAYE and NICs is reduced each month to the extent it includes an employer Class 1 NICs liability until the Employment Allowance limit has been reached.

Potential problems

Time of payment of contributions

Class 1 contributions are payable at the same time as PAYE, ie monthly. Class 1A contributions are not due until 19 July (22nd for cleared electronic payment) after the tax year in which the benefits were provided.

It is therefore important to distinguish between earnings and benefits.

Earnings

Class 1 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. However NI is payable on round sum allowances.

Generally, benefits are not liable to Class 1 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 1 NICs. However, directorships can give rise to specific NICs 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 NICs 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

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- 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 discovers 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 in 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 an HMRC visit.

6. Payroll - basic procedures

Here is an outline of what you need to do to set up and run your payroll. If your business is in the Nottinghamshire area we, at Franklyn & Co, can help you to set up and run your payroll or we can run your payroll for you.

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 GOV.UK website.

As an employer you will be responsible for operating PAYE and calculating National Insurance Contributions (NICs). 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 statutory paternity pay (OSPP)
- shared parental pay (ShPP).

A vast amount of information is available on the GOV.UK website detailing the operation of PAYE together with online calculators these can be accessed as part of the 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. However the majority of employers use the HMRC Basic PAYE tools or equivalent software.

Real Time Information reporting

Employers, or their agents, are generally required to make regular online 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 here 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 NICs 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 NICs?

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

When do the tax and NICs have to be paid to HMRC?

The tax and NICs 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.

Penalties

HMRC impose penalties on employers who fail to:

- make the online submissions on time
- pay the liabilities on time
- 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.

It is important that employers comply with all the regulations.

Automatic enrolment pensions

Automatic enrolment places duties on employers to automatically enrol 'workers' into a work based pension scheme from a specified 'staging date'. The main duties are:

- assess the types of workers in the business
- provide a qualifying automatic enrolment pension scheme for the relevant workers
- write to most of their workers explaining what automatic enrolment into a workplace pension means for them
- automatically enrol all 'eligible jobholders' into the scheme and pay employer contributions
- complete the declaration of compliance and keep records.

More information on Pensions - Automatic Enrolment can be found in the factsheet.

7. Payroll Real Time Information

The Real Time Information requirements are wide ranging and potentially onerous on employers. We provide a summary below. If your business is in the Nottinghamshire area we, at Franklyn & Co, can help you to set up and run your payroll or we can run your payroll for you.

We set out below details of how payroll information has to be submitted to HMRC under Real Time Information (RTI).

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, the Employer Payment Summary (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 Statutory Maternity Paternity or Shared Parental Pay) together with the National Insurance 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 are 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.

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 here.

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

Penalties

Penalties apply where employers fail to meet their RTI filing and payment obligations.

In essence, late filing penalties apply to each PAYE scheme, with the size of the penalty based on the number of employees in the scheme. Monthly penalties of between £100 and £400 may be applied to micro, small, medium and large employers as shown below:

- 1-9 employees - £100
- 10-49 employees - £200
- 50-249 employees - £300; and
- 250 or more employees - £400.

Each scheme is 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. Rather than issue late filing penalties automatically when a deadline is missed, HMRC has confirmed that they will 'take a more proportionate approach and concentrate on the more serious defaults on a risk-assessed basis'.

HMRC charges 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. They may also charge penalties to employers who fail to pay their PAYE liabilities on time. These penalties are ‘risk assessed’ and range between 1% and 4% of the amounts paid late. The first late payment will not attract a penalty.

8. Share ownership for employees - EMI

The Enterprise Management Incentive - EMI - enables share options to be granted to employees which will allow shares to be received at a later date without any tax bill arising until the shares are sold. If your business is in the Nottinghamshire area we, at Franklyn & Co, can advise you on the establishment of an EMI scheme.

Enterprise Management Incentives (EMI)

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 a variety of ways in which an employer can provide mechanisms for employees to obtain shares in the employer company without necessarily suffering a large tax bill. Provided the company meets the qualifying conditions, EMI can be one of the most tax efficient and flexible means available.

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. Whilst an EMI can offer significant tax advantages, the key driver for any incentive arrangement should be the commercial objectives of the business.

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 contributions (NICs) 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 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.

- CGT at the rate of 10% 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 20%.

In certain circumstances, in respect of shares acquired through exercising EMI options, Business Asset Disposal Relief may be available to reduce the CGT liability to 10%. Although the Business Asset Disposal Relief (BADR) conditions have to be satisfied they are modified so that:

- the 5% minimum shareholding requirement does not apply
- and the 24 months (12 months before 6 April 2019) minimum holding requirement is allowed to commence on the date the option is granted.

These rules apply to shares acquired on or after 6 April 2012.

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.
- 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.

9. ravel and subsistence for Directors and employees

We summarise the main areas to consider in deciding whether tax relief for travel and subsistence expenditure is available. If you are an employer or employee in the Nottinghamshire area we, at Franklyn & Co, can advise you on the expense rules.

Travel 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.

Business journey

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. Travel 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 attends'. 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.