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PAYE: Benefits in kind ("Payrolling benefits")

Currently employers are required to complete a form P11D for each employee receiving expenses and benefits during the tax year. The form is sent to the employee and submitted to HMRC along with a form P11D(b) detailing any Class 1A National Insurance Contributions (NIC) due.

In practice, employers have historically been able to agree with HMRC, on a case by case basis, that they may process benefits through the payroll and collect any tax due via PAYE ("payrolling benefits"). Under such specific agreements, whilst the tax may be collected on a monthly basis, HMRC still require forms P11D to be submitted (or at least an annual list of benefits provided to employees).

The Finance Bill 2015 places payrolling benefits on a statutory basis and contains enabling legislation giving HMRC powers to make further regulations. Such regulations have not yet been published and we await HMRC guidance of how the arrangements will work in practice, however, we expect the requirement to complete forms P11D for payrolled benefits will eventually be removed.

Finance Bill

The Finance Bill 2015 gives HM Revenue & Customs (HMRC) powers to introduce regulations allowing employers to payroll benefits from 6 April 2016. Whilst payrolling benefits will be a voluntary arrangement, there will be statutory obligations for those employers who choose to operate this.

Specifically the Finance Bill allows for regulations to cover:

- the timing of PAYE deductions;
- the amount of PAYE deductions;
- the provision of benefits to be a payment of PAYE income; and
- accountability to HMRC for such deductions.

HMRC stated in December 2014 that initially the voluntary payrolling benefits would only apply to:

- cars;
- car fuel;
- medical insurance; and
- subscriptions (e.g. gym membership).

The Finance Bill is silent on the benefits included in the voluntary payrolling arrangements and we expect further details to follow.

Further questions

Payrolling benefits provides the opportunity to reduce employers' reporting obligations and, by simplifying the process of collecting tax on benefits, will create efficiencies for employers as well as being easier for employees to understand.

The move to payrolling benefits should present a more efficient way of collecting the right amount of tax throughout the year and will form part of an employer's Real Time Information (RTI) reporting obligations. This should reduce the administration associated with repeated adjustments to an

employee's tax code as well as potentially remove the P11D reporting requirements for payroll benefits.

As the Finance Bill does not include full details on how payrolling benefits will operate, a number of fundamental questions remain unanswered at this stage, including:

- Where tax is collected through the payroll and reported via RTI, will the obligation to complete forms P11D be completely removed? We believe this is the aim but this may not occur simultaneously with the introduction of the statutory basis for the voluntary payrolling of benefits.
- As benefits will be taxed through the payroll as PAYE income, will any errors in the amount of tax deducted constitute a PAYE failure with associated penalties and interest?
- How will employees know the annual amount of any benefit provided?
- Until further regulations include all benefits in voluntary payroll, will there be separate RTI and P11D reporting regimes applying to different benefits? We expect that this will be the case.
- Will it be possible to have a payroll reconciliation process at the end of the year to ensure the full amount of any benefit has been captured? KPMG are asking for this facility to be included in the new process.
- In the absence of any NIC changes, how will Class 1A NIC be accounted for?

KPMG commentary

Payrolling benefits represents a major change to the collection of tax on benefits and we therefore expect further regulations and/or guidance before its introduction next April.

If implemented correctly, payrolling benefits is a significant opportunity for employers to reduce their year-end compliance requirements and move towards a real time, in year, reporting of benefits. This will help drive compliance, process and potentially financial efficiencies for employers.

Any business with existing payrolling arrangements in place, or considering introducing this, will need to have confidence in their payroll processes, understand how benefits data will be integrated into the payroll and have clear employee communications documents in place.

The detail of the information that the employer will need to provide to the employee is not known Hopefully, this will not be too burdensome, because the information should be generated from the payroll software based on the information required to complete the reports under RTI. It isn't clear how the Budget day announcement of the "end of the tax return" will impact these requirements but we envisage that employees will be able to see the details monthly in their Digital Tax Accounts and be able to adjust PAYE codes online to ensure the tax withheld from the employer is correct.
We do not expect this vision to occur in the near future.

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