

Forms P11D and Payrolling of Benefits in Kind (Lecture B1377 – 24.58 minutes)

Benefits in Kind and Forms P11D and P11D(b)

Following the end of each tax year employers must report taxable benefits and expenses to HMRC on form P11D unless the employer has opted to payroll benefits, see below. The P11D must be completed for all employees including directors regardless of their earnings.

The employee is taxed not only on the benefits and expenses provided to them but also those provided to their “family or household”. “Family or household” includes spouse, registered civil partner, children and their spouses, parents, servants, dependents and guests.

There is an exception where the employer is an individual and the benefit provided by the employer has been made in the course of a family or personal relationship.

What is to be reported to HMRC?

HMRC requires the employer to report the “cash equivalent”, or taxable benefit, figure for those employment related benefits on forms P11D. The basis for calculating the "cash equivalent" of most benefits is the cost to the employer of providing the benefit including VAT less any sums made good by the employee.

For certain benefits the taxable amount is calculated using the special rules set out in the legislation, e.g., company cars, fuel scale charge, vans, living accommodation and loans.

Filing Deadline for forms P11D and P11D(b)

Forms P11D

The filing deadline for the Forms P11D is 6th July following the end of the tax year to which they relate. For late submission of the forms there is a maximum initial penalty of £300 per document plus a further £60 per document per day until submission completed. HMRC must make an application to the FTT for the initial penalty to be imposed. If imposed HMRC can then charge the additional daily penalty.

It is a legal requirement that employees, still in employment at the end of the tax year 5 April, must be given a copy of their form P11D by 6 July following. Employees who have left during the tax year can write to their previous employer and request a copy of their P11D any time up to 3 years after the end of the tax year. The employer must meet the request within 30 days. Copy forms P11D must be kept for at least three years after the end of the tax year to which they relate.

Form P11D(b) – Return of Class 1A National Insurance Contributions due and Return of Expenses and Benefits - Employer Declaration

The filing date is the 6 July following the end of the tax year to which it relates. HMRC will issue reminders following the end of the tax year and again at the end of June. If the return is not received by 19 July a letter will be issued advising that a penalty may have been incurred and that the return must be filed by 6 August.

Late filing of the P11D(b) will result in a fine of £100 per month or part month for each group of fifty or part employees provided with benefits. The fine will run from 19 July following the end of the tax year. If the filing is not made until twelve months after the due date an additional penalty can be charged of the lower of £1,200 or 100% of the Class 1A NICs paid late. If no Class1A due, then no penalty raised.

Should the employer submit an incorrect P11D(b) return the penalty regime will apply. Any penalty charged cannot exceed the difference between the Class 1A NICs shown on the return and the amount that should have been shown on the return.

UPDATE: In Employer Bulletin February 2023 HMRC announced that for the 2022 to 2023 reporting year they will not accept paper P11D or P11D(b), including lists. Forms must be filed using HMRC PAYE online service or commercial software. The HMRC service is free and allows submissions of up to 500 employees.

Payrolling of Expenses and Benefits in Kind

To reduce the number of P11D returns that require processing HMRC has introduced the option for employers to payroll most benefits in kind. The PAYE regulations allow employers to payroll all benefits in kind except employer provided accommodation and beneficial loans.

Where an employer opts to payroll benefits in kind, they no longer have to submit forms P11D for those payrolled benefits as their value is reported each pay run through Real Time Information. But where an employer payrolls some benefits and not others then P11Ds must be filed to report the "other" non-payrolled benefits.

NOTE: From 6 April 2023 HMRC will no longer accept new informal payrolling benefits arrangements. Employers with informal payrolling in place must now register to payroll expenses and benefits for 2023/24. If they already have an informal agreement with HMRC to payroll benefits for 2022/23 they can continue to submit P11Ds marked "Payrolled" and must formalize the agreement as soon as possible.

Timing is Key

An employer who wishes to payroll benefits (BiKs) must make an online application for authorisation using HMRC's payroll registration service. This must be completed BEFORE the start of the tax year. If the deadline is missed the employer will have to wait until the following tax year to start payrolling the BiKs. The application must give the employer's PAYE scheme details, select the employees and the benefit(s) which will be payrolled. Where an employer wants to stop payrolling they can make an application to withdraw from being an authorised employer. The withdrawal takes effect from the end of the tax year in which notification is given to HMRC.

If registered to payroll benefits, then:

- NO P11D required for those employees where ALL their benefits have been payrolled;
- P11D required where some benefits payrolled and some not BUT only reporting those benefits that have not been payrolled;
- P11D required for those employees where benefits not payrolled.

The good news is that for employers, and employees, the payrolling of BiKs should result in fewer tax code changes for employees during the tax year.

Employer Class 1A NIC on BiKs

There is no employee NIC to pay on BiKs but employers must pay Class 1A NIC on BiKs. Payrolling of BiKs only deals with the collection of the tax that is due, not national insurance. The employer's Class 1A NIC is payable to HMRC by 19 July after the tax year. Even though the employer may no longer have to file P11Ds they do still have to calculate the Class 1A NIC due on the BiKs payrolled, file the P11D(b) and pay the Class 1A on time.

For 2022/23 tax year the Class 1A will be calculated at 14.53% due to the short lived 1.25% increase in NIC rates for part of the 2022/23 tax year. The rate will be 13.8% for the 2023/24 tax year, payable 19 July 2024.

Informing employees where benefits are being payrolled

The employer must give written notice to their employees explaining that benefits are being payrolled and what it means to them. This can be done by letter, email or payslip. In the first year of payrolling benefits employees should be made aware that:

- their tax code will be amended to remove the benefit in kind adjustment;
- the BIK adjusted amount will go through payroll and be subject to tax; and
- at the end of the tax year they will be told the value of the taxable benefits they had in the year and what this related to.

After the end of each tax year a notification must be sent to each employee, by 1st June, that they will not be taxed twice because the employer registered to payroll BiKs before start of the tax year. The information which must be provided is:

- Details of the benefits that have been payrolled;
- The cash equivalent of each payrolled benefit;
- Separate details of any benefits not payrolled.

Benefit value to be payrolled

The employer should calculate the "cash equivalent" of the benefit for payrolling in the same way as for reporting on the P11D. If the value of the benefit is not known the employer can use an estimate and adjust later in the tax year. The cash equivalent figure is then divided by the number of pay periods in the tax year. The result is the taxable benefit per pay day. That figure is added to the employee's gross pay and tax calculated as usual based on the new tax code issued by HMRC.

Where the employee pays towards the cost of the benefit, "makes good", the cash equivalent is reduced by the amount the employee pays. This will apply if the employee makes good during the year or is expected to have made good the full amount by the end of the tax year. Should the employee fail to make good by the final pay period of the year the employer must work out the benefit still to be taxed, add to the final salary for tax year and calculate tax due.

Payrolling BiKs gives reduced or NIL net pay

Where an employee has a high value benefit, such as company car, combined with low pay there may be some pay periods where gross pay is reduced or even NIL, for example when an employee is on long term sick leave, maternity, adoption or paternity leave. In such a situation it is possible that the tax cannot be collected as that would leave little or no net pay. To protect employee's take home pay in a given pay period HMRC state that employers must only deduct tax to the value of 50% of an employee's gross taxable pay. This is called the overriding regulatory limit. In that situation the employer has two options:

1. Remove the benefit and employee from payrolling using the online service. If they are excluded for the rest of the tax year the benefit will be brought back into their tax code so they may over or under pay tax. A P11D will then be required. If the employer wants to restart them for payrolling in the new tax year they will have to wait until after filing the P11D as that will trigger the tax code amendment.
2. Retain the benefit and employee within the payrolling and carry forward any tax underpaid into the next payday for collection if possible.

Failing to "make good" personal costs

Making good - car and van fuel benefit – it is possible that the employer may not know the actual costs of private fuel at the end of the tax year because the invoice has not been received or the employee has not worked out their private mileage at 5 April. Once the figures are known the employee has until 6 July to make good the private fuel cost. If they fail to do so the employer must work out the fuel benefit charge and add to the next pay run on or after 6 July to calculate the PAYE. Where the benefit continues after 6 July the employer must recalculate the car or van fuel benefit for the current tax year and include each payday.

Making good - credit tokens /credit card– where the employer has an arrangement with an employee allowing them to use the business credit card and repay any private costs at a later date the amount due may not be known by 5 April. Once the credit card statement is received the employee has until 6 July to make good the cost of any private purchases. If they do not, the employer must work out the benefit to be taxed and add to first payment of salary on or after 1 July. In addition, the employer must payroll the cost of any use of the credit card in current year without allowing the making good promise.

Contributed by Alexandra Durrant