COMPASS ACCOUNTANTS

TAX ANGLES FOR PROACTIVE PLANNING

Newsletter - July 2019

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Electricity for electric cars – a tax-free benefit

The Government is keen to encourage drivers to make environmentally friendly choices when it comes to choosing a car. As far as the company car tax market is concerned, tax policy is used to drive behaviour, rewarding drivers choosing lower emission cars with a lower tax charge, while penalising those whose choices are less green.

The use of the tax system to nudge drivers towards embracing electric cars also applies in relation to the taxation of 'fuel'. As a result, tax-free benefits on are offer to those drivers who choose to 'go electric'.

Company car drivers

Electricity is not a 'fuel' for the purposes of the fuel benefit charge. This means that where an employee has an electric company car, the employer can meet the cost of all the electricity used in the car, including that for private journeys, without triggering a fuel benefit charge. This can offer significant savings when compared with the tax bill that would arise if the employer pays for the private fuel for a petrol or diesel car. However, it should be noted that a fuel charge may apply in relation to hybrid models.

Example

Maisy has an electric company car with a list price of £20,000. Her employer meets the cost of all electricity used in the car, including that for private motoring. As electricity is not a fuel for these purposes, there is no fuel benefit charge, and Maisy is able to enjoy her private motoring tax-free.

By way of comparison, the taxable benefit that would arise if the employer meets the cost of private motoring in a petrol or diesel company car with an appropriate percentage of 22% would be £5,302 (£24,100 @ 22%) for 2019/20. The associated tax bill would be £1,060.40 for a basic rate taxpayer and £2,120.80 for a higher rate taxpayer.

However, the rules do not mean that an employee loses out if they have an electric company car and initially meet the cost of electricity for business journeys and reclaim it from their employer. There is now an advisory fuel rate for electricity which allows employers to reimburse employees meeting the cost of electricity for business journeys at a rate of 4p per mile without triggering a tax bill. However, amounts in excess of 4p per mile will be chargeable.

Employees using their own cars

Currently, there is no separate rate for electric cars under the approved mileage payments scheme. This means that the usual rates apply where an employee uses his or her own electric car for business.

Consequently, the employer can pay up to 45p per mile for the first 10,000 business miles in the year and 25p per mile for subsequent business miles tax-free. If the employer pays less than this, the employee can claim a deduction for the shortfall. Payments in excess of the approved amounts are taxable.

Employees with their own electric cars can also enjoy the benefit of tax-free electricity for private motoring – but only if they charge their car using a charging point provided by their employer at or near their place of work. The exemption also applies to cars in which the employee is a passenger, so would apply, for example, if an employee's spouse drove the employee to work, charging their car when dropping the employee off or picking the employee up.

Tax-free mobile phone

Mobile phones are ubiquitous – they are also subject to a tax exemption which enables employees to enjoy a mobile phone provided by their employer without suffering a benefit in kind tax charge. However, as with all exemptions there are conditions to be met for the exemption to apply.

Nature of the exemption

The exemption applies where an employer provides an employee with a mobile phone for his or her use. However, ownership of the phone must not be transferred to the employee. The exemption covers the use of the phone and the cost of all calls, including private calls.

It also applies to the provision of a SIM card for use in the employee's own phone.

The exemption is limited to one phone or SIM card per employee. Phones or SIM cards provided to members of the employee's family or household by virtue of the employee's employment are treated as if they were provided to the employee.

If the employee is provided with more than one mobile phone or SIM card, second and subsequent phones or SIM cards are taxed as a benefit in kind (as an asset made available for the employee's use).

If the exemption does not apply, the employer can meet the cost of business calls without triggering a tax charge.

Contract between employer and supplier

While the end result may seem to be the same if the employer contracts with the phone supplier or if the employee takes out the contract and the employer either pays the bill or reimburses the employee, from a tax perspective the outcome is very different.

The mobile phone exemption only applies if the contract is between the employer and the phone supplier. If the contract is between the employee and the phone supplier and the employer meets the cost, the employer is meeting a personal bill of the employee rather than providing the employee with a mobile phone. This is an important distinction and can mean the difference between the exemption being available and the employee suffering a tax hit.

Smartphones count

The exemption applies to smartphones. To count as a phone, the device must be capable of making and receiving voice calls. Tablets, such as iPads, do not qualify (even if calls can be made via What's App or similar services). The fact that a device has telephone functionality does not in itself qualify it as a mobile phone. As a general rules, devices that use Voice Over Internet Protocol (VOIP) systems will not qualify.

Beware the OpRA rules

The exemption is lost if the mobile phone is made available to the employee under a salary sacrifice or other optional remuneration arrangement (OpRA). Where this is the case, the alternative valuation rules apply and the benefit is valued by reference to the salary foregone instead.

Getting ready for off-payroll working changes

From 6 April 2020 the off-payroll working rules that have applied since 6 April 2017 where the end client is a public sector body are to be extended to large and medium private sector organisations who engage workers providing their services through an intermediary, such as a personal service company.

There are tax and National Insurance advantages to working 'off-payroll' for both the engager and the worker. The typical off-payroll scenario is the worker providing his or her services through an intermediary, such as a personal service company.

Providing services via an intermediary is only a problem where the worker would be an employee of the end client if the services were provided directly to that end client. In this situation, the IR35 off-payroll anti-avoidance rules apply and the intermediary (typically a personal service company) should work out the deemed payment arising under the IR35 rules and pay the associated tax and National Insurance over to HMRC.

New rules
Compliance with IR35 has always been a problem and it is difficult for HMRC to police. In an attempt to address this, responsibility for deciding whether the rules apply was moved up to the end client where this is a public sector body with effect from 6 April 2017.

Where the relationship is such that the worker would be an employee if the services were supplied direct to the public sector body, the fee payer (either the public sector end client or a third party, such as an agency) must deduct tax and National Insurance from payments made to the intermediary.

These rules are to be extended from 6 April 2020 to apply where the end client is a large or medium-sized private sector organisation.

This will apply if at least two of the following apply:

- turnover of more than 10.2 million;
- balance sheet total of more than £5.1 million;
- more than 50 employees.

Where the end client is 'small', the IR35 rules apply as now, with the intermediary remaining responsible for determining whether they apply and working out the deemed payment if they do.

Getting ready for the changes
To prepare for the changes, HMRC recommend that medium and large private sector companies should:

- look at their current workforce (including those engaged through agencies and intermediaries) to identify those individuals who are supplying their services through personal service companies;
- determine whether the off-payroll rules will apply for any contracts that extend beyond 6 April 2020 (HMRC's Check Employment Status for Tax (CEST) tool can be used to determine a worker's status);
- start talking to contractors about whether the off-payroll rules apply to their role; and
- put processes in place to determine if the off-payroll working rules will apply to future engagements. These may include assigning responsibility for making a determination and determining how payments will be made to contractors who fall within the off-payroll working rules.

Workers affected by the changes should also consider whether it is worth remaining 'off-payroll'; providing their services as an employee may be less hassle all round.

Penalties for late self-assessment returns

The normal due date for a self-assessment return where filed online is 31 January after the end of the tax year to which it relates. This means that self-assessment tax returns for 2017/18 should have been filed online by midnight on 31 January 2019, and self-assessment eturns for 2018/19 must be filed online by midnight on 31 January 2020.

Returns do not have to be filed online – paper returns can be submitted. However, an earlier deadline of 31 October after the end of the tax year applies, so 31 October 2018 for 2017/18 paper self-assessment returns and 31 October 2019 for 2018/19 paper self-assessment returns.

A later deadline may apply if the notice to file the return was issued after 31 October following the end of the tax year. In this scenario, the deadline is three months from the date of issue of the notice to file, which will fall after the normal 31 January deadline. For example, if notice is given on 2 December, the filing deadline is the following 2 March. Where the notice to file is issued after 31 July but on or before 31 October, the deadline for filing a paper return is three months from the date of the notice (which will be after the usual 31 October deadline); however, the deadline for filing an online return will remain at 31 January, as this will be at least three months from the notice date.

Late returns
Penalties are charged where tax returns are filed late (unless, the taxpayer can demonstrate that they have a reasonable excuse for filing late which is acceptable to HMRC). The penalties can soon mount up.

A penalty will apply where a paper return is not filed by 31 October after the end of the tax year (or such later deadline as applies where the notice to file was issued after 31 July) or where an online return is not filed by 31 January after the end of the tax year (or by such later deadline as applies where the notice to file was issued after 31 October). If the paper filing deadline is missed, a penalty can be avoided by filing a return online by the online filing deadline.

Penalty amounts
An initial penalty of £100 is charged if the filing deadline is missed. The penalty applies even if there is no tax to pay.
If the return remains outstanding three months after the filing deadline, further penalties start to apply. For online returns, the key date here is 1 May, from which a daily penalty of £10 per day is charged for a maximum of 90 days (a maximum of £900). At this point, it is advisable to file the return as soon as possible – each day's delay costs a further £10 in penalties.

Further penalties are due if the return remains outstanding after another three months have elapsed (i.e. at 1 August where an online return was not filed by 31 January). In this case, the penalty is £300 or, if greater, 5% of the tax outstanding.

A further penalty of the greater of £300 or 5% of the tax outstanding is charged if the return has not been filed 12 months after the deadline (i.e. before the following 1 February).

The penalties can soon mount up, and can reach £1,600 or more where the return is 12 months late. Outstanding returns should be filed as a matter of urgency. Penalties are also charged for any tax paid late.

Student loan deductions

Employers fulfil many collection roles for HMRC, one of which is the collection of student loan repayments. There are now three types of student loans for which employers may be responsible for deducting loan repayments from an employee's pay. These are:

- Plan 1 Student Loans;
- Plan 2 Student Loans; and
- Post-graduate Loans (PGLs).

Repayment thresholds
Employees must make repayments in respect of a student loan when their income exceeds the threshold for their particular loan type. Each loan has its own repayment threshold. The thresholds are as follows:

	Annual	**Monthly**	**Weekly**
Plan 1 Student Loan	£18,935	£1,577.91	£364.13
Plan 2 Student Loan	£25,725	£2,143.75	£494.71
Post-graduate Loan	£21,000	£1,750.00	£403.84

Repayments are made at the rate of 9% on income in excess of the threshold for Plan 1 and Plan 2 Student loans, and at a rate of 6% on income in excess of the threshold for PGLs.

Where an employee has both a student loan and a PGL, deductions will be made at the combined rate of 15% where income exceeds the higher loan threshold.

Starting deductions
An employer will need to start making deductions in respect of a student or Post Graduate Loan if any of the following apply:

- a new employee is taken on and has a 'Y' in the student loan box on their P45;
- a new employee tells the employer they are repaying a student loan;
- a new employee completes a starter checklist confirming that they have a student loan;
- the employer receives a SL1 start notice from HMRC;
- the employer receives a PGL1 start notice from HMRC; or
- the employer receives a Generic Notification Service Student Loan reminder.

The employer should check they are aware of the type of loan that the employee has, confirming the loan type with the employee where necessary.

Tax Diary
July/August 2019

1 July 2019 – Due date for Corporation Tax due for the year ended 30 September 2018
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6 July 2019 – Complete and submit forms P11D return of benefits and expenses and P11D(b) return of Class 1A NICs.

19 July 2019 – Pay Class 1A NICs (by the 22 July 2019 if paid electronically).

19 July 2019 – PAYE and NIC deductions due for month ended 5 July 2019. (If you pay your tax electronically the due date is 22 July 2019)

19 July 2019 – Filing deadline for the CIS300 monthly return for the month ended 5 July 2019.

19 July 2019 – CIS tax deducted for the month ended 5 July 2019 is payable by today.

1 August 2019 – Due date for Corporation Tax due for the year ended 31 October 2018.

19 August 2019 – PAYE and NIC deductions due for month ended 5 August 2019. (If you pay your tax electronically the due date is 22 August 2019)

19 August 2019 – Filing deadline for the CIS300 monthly return for the month ended 5 August 2019.

19 August 2019 – CIS tax deducted for the month ended 5 August 2019 is payable by today.

Contact us

For further information on any of the stories in this month's newsletter, or for any other matter that Compass Accountants can assist you with, please contact us on 01329 844145.

Compass Accountants

Venture House,
The Tanneries, East Street, Titchfield
Hampshire
PO14 4AR

Contact us:
TEL: 01329 844145
EMAIL: contact@compassaccountants.co.uk