



HM Revenue  
& Customs

# Employee Benefits and Expenses - Real-time collection of tax on benefits in kind and expenses through voluntary payrolling

**Summary of Consultation Responses**  
December 2014

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## Foreword

I am delighted to be able to set out the responses to the benefits and expenses consultations, and very pleased that the package of measures has been so well received. As a package, I think that these measures represent significant simplifications to the tax system and that this will result in cost savings and reduced administration for businesses when complying with their responsibilities as an employer. As a consequence, individuals will have a better understanding of their tax affairs and an improved experience of the tax system.

The introduction of payrolling of employer-provided benefits in kind and expenses also represents the next step in allowing customers to interact with the Government digitally and in real time.

Thank you to everyone who has taken the time to reply to these consultations or attend meetings with HMRC. This has been crucial in helping HMRC modify their proposals to ensure that the greatest simplification for businesses is achieved. I would also like to thank the Office of Tax Simplification for their excellent work in this area, which proved invaluable in helping to formulate the initial propositions.

I look forward to continuing work on this package of reforms to make sure that we successfully deliver changes that help to reduce administrative burdens in this area.

A handwritten signature in black ink, appearing to read 'David Gauke'.

**David Gauke MP**

**Financial Secretary to the Treasury**

# 1. Introduction

## Background to the consultation

1.1 At Budget 2014, the Chancellor announced a number of measures aimed at simplifying the administration of employee Benefits in Kind (BiKs) and expenses. This followed the Office of Tax Simplification's review of employee BiKs and expenses<sup>1</sup>.

1.2 The announcement included a package of four changes which the Government consulted on between 18 June and September 2014. A separate consultation document was published for each and all four consultations ran together for 12 weeks.

1.3 The package of four measures consisted of the following:

- Abolishing the threshold for the taxation of BiKs for employees who earn at a rate of less than £8,500 a year ("lower paid employments) with action to mitigate the effects on vulnerable groups disadvantaged by the reforms;
- Introducing a statutory exemption for trivial BiKs;
- Introducing a system of collecting income tax in real time through 'payrolling' of BiKs; and,
- Replacing the expenses dispensation regime with an exemption for paid and reimbursed expenses.

1.4 This document summarises the responses received on the proposal to simplify the tax system by **introducing a framework for a voluntary scheme for payrolling** so that employers would account for the tax on their employees' BiKs through the payroll rather than HM Revenue & Customs (HMRC) adjusting the employees' Pay As You Earn (PAYE) tax codes. Where an employer operates payrolling they would no longer be required to report such BiKs on forms P11D.

1.5 A series of for consultation meetings took place during July and August 2014 with a range of employers and representative bodies. The Government wishes to thank those who gave their time to participate in these meetings and to all who have taken the time to send in written responses. These contributions have been invaluable in informing this policy.

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<sup>1</sup> [www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-final-report](http://www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-final-report)

## 2. Responses

### Overview of the consultation

- 2.1 BiKs are liable to income tax. Currently, where an individual receives a BiK(s) HMRC adjusts each individual employee's tax code to take account of the BiK(s). The aim is to collect the right amount of tax through PAYE on both the employee's pay and BiK(s).
- 2.2 This means that employers have to process adjusted PAYE tax codes. Employers also have to send HMRC a form P11D for each employee to whom they provide a BiK. With the agreement of HMRC, some employers operate an informal system of payrolling. Rather than operating the adjusted PAYE tax code, the employer includes the cash equivalent value of the employee's BiK(s) with their pay and operates PAYE on the sum. This system means that employers do not need to process adjusted PAYE tax codes and is more responsive to changes in an employee's BiK(s) entitlement because it does not rely on HMRC issuing an adjusted PAYE tax code. However, the employer is still obliged to send forms P11D to HMRC after the end of the tax year.
- 2.3 The aim of this proposal is to introduce a statutory framework for voluntary payrolling that is clear, consistent and straightforward for employers and employees and simplifies the system for employers by removing their obligation to send forms P11D to HMRC.
- 2.4 The purpose of the consultation was therefore to gather evidence, experience and views about how a legislative framework for payrolling could be designed to achieve these outcomes.

### Responses to the consultation

- 2.5 With one exception, all respondents agreed that a properly designed payrolling scheme offers employers the opportunity to reduce their administrative burdens by removing the statutory obligation to send HMRC forms P11D. One exception took the view that the work involved in starting a payrolling scheme outweighed the longer-term benefits.
- 2.6 Respondents also agreed that a properly designed payrolling scheme offered benefits to employees because it could be more responsive to changes and would be easier to understand than the current system of adjustments to individuals' PAYE tax codes.
- 2.7 A common theme from respondents was that to be effective, payrolling should provide as much flexibility as possible so that individual employers could use it to meet their individual need. Respondents also recognised the need for consistency and for employees to understand that their BiK(s) were reflected through the payroll rather than an adjusted PAYE tax code.
- 2.8 The payrolling consultation document asked specific questions to explore with stakeholders the key issues that an effective scheme of voluntary payrolling must

include and to seek views about how some of the issues inherent in such a scheme could be best addressed for employers and employees. This section covers each question in turn to reflect the consensus on payrolling as a proposition, to reflect the practical issues that HMRC will explore in detail with stakeholders as it develops the draft Regulations that will set out the framework and to set out the areas where HMRC will carry out further work on points of detail with stakeholders.

**Q1. Do respondents agree that a voluntary payrolling framework provides the best overall opportunity for simplification?**

2.9 Respondents welcomed the proposition for a voluntary payrolling scheme. There was agreement from respondents that payrolling offers savings through simplification if the requirement to provide forms P11D is removed.

2.10 Most respondents favoured an entirely voluntary system with employers able to opt-out after a period of payrolling if that suited the needs of their business. But, respondents felt that once operating the system, employers were unlikely to want to opt-out because they would lose the simplification benefits.

**Q2. Should employers have to payroll all benefits endorsed by HMRC, or choose freely from an “approved” list produced by HMRC to suit their business?**

2.11 Most respondents favoured a scheme where an employer can choose the BiK(s) it payrolls, rather than applying payrolling to all the BiK(s) it provides. For example, if an employer provides car benefit and medical insurance then it could choose to payroll just the car benefit, just the medical benefit or both. Respondents did not favour a scheme where the employer was obliged to payroll both BiKs.

2.12 For example, some respondents took the view that some employers would not want to payroll car benefit because of frequent replacement or churn during a year. Rather, they favoured complete employer discretion on the basis that employers will only payroll the right BiK(s) for them and their employees. And that would allow employers who do not payroll all their BiKs to see some of the advantages.

2.13 Providing individual employers with complete freedom to decide on the BiKs they payroll is attractive. On the other hand, employers also need to know that they are operating within a consistent framework and employees need to know that their employer operates payrolling consistently within their business and also compared to other employers.

2.14 HMRC will explore further with stakeholders the extent to which employers would, in practice, decide to payroll medical benefit and not car benefit, for example, to see whether this is a material issue that would have an impact on take-up.

**Q3. Should payrolling apply to all employees within a PAYE scheme subject to a limited number of exceptions and special cases, what should these exceptions be?**

2.15 Most respondents felt that the employer should be able to decide which of its employees it included in payrolling. For example, some employers might decide that they wanted to exclude seconded expatriate employees (for reasons of complexity) and/ or directors (for reasons of confidentiality).

2.16 HMRC will explore this issue further in their discussions with stakeholders.

**Q4. What might cause an employer to need to cease? Would employers prefer payrolling arrangements to be irrevocable once entered into, or for HMRC to develop terms of withdrawal which accommodate the necessary protection?**

2.17 Most respondents took the view that once operating payrolling, an employer would not want to opt-out unless it was part of a wider restructuring or for another practical concern such as a change in payroll provider or benefit provider.

2.18 Some respondents felt that making the system irrevocable could make it appear less attractive and so discourage some employers from opting-in.

**Q5. Would respondents welcome the option to account for Class 1A NICs in real-time where the benefits were being payrolled?**

2.19 Most respondents favoured this option provided that it was optional, taking the view that there was a balance to be struck between removing the burden of having to separately account for Class 1A NICs at the end of the year and the cash flow impact of having to pay the charge upfront.

**Q6. For employers experienced in payrolling, what are the most common reasons for errors in the amount of tax deducted, and what actions are commonly taken to address this, in particular after the payroll has closed?**

**Do you agree that where tax is under-deducted, the government should follow the existing rules for PAYE, retaining recourse to the employer using existing principles?**

**What other exceptions exist where new PAYE rules may be required, for example, where HMRC issue a tax code operated on a week 1/ month 1 basis?**

2.20 Respondents said that as a general rule, there are few errors when operating a payrolling system. But, examples where payrolling might not give the right result included simple data entry errors, internal communication issues between say, a fleet manager and the payroll department or outsourced payroll provider, or final adjustments to the value of a BiK.

2.21 Respondents also raised the following areas:

- Employees that move from a payrolling to a non-payrolling employer;
- Employees moving between payrolling periods (for example, a weekly pay day to a monthly pay day);

- Changes to how a BiK is provided, for example, when salary sacrifice arrangements are introduced.

2.22 If these cannot be resolved internally because the tax/ payroll year has ended, employers may use the P11D as sweep-up or alternatively, they might enter into a PAYE Settlement Agreement with HMRC.

2.23 Respondents agreed that the existing PAYE framework provided an appropriate means to handle under-deductions. A number of respondents asked that HMRC take a pragmatic approach to under-deductions especially for employers new to payrolling and that employers should be able to make corrections without the prospect of HMRC considering penalties.

**Q7. The government is interested to hear from employers experienced in payrolling on dealing with the issues covered at paragraphs 6.1 – 6.5 [of the consultation document: statutory rules and exceptions]. What are employers' experiences of this and do the options described provide workable alternatives?**

2.24 Respondents raised a number of practical issues, including:

- End of year reconciliations;
- Sudden fluctuations in BiK(s);
- Reduced pay;
- Internationally mobile employees;
- One-off BiKs;
- Interaction with Universal Credit.

2.25 Respondents identified a number of solutions including exempting certain employees from payrolling, using the P11D as a sweep-up, PAYE Settlement Agreements or an end of year payroll reconciliation/ "true-up".

2.26 HMRC's consultation document also mentioned some options including exceptions for certain employees and a 50 per cent limit on the amount of tax deductible in a pay period.

2.27 HMRC will explore these options with stakeholders in further discussions.

**Q8. Company cars and fuel: a) how do employers deal with contributions for private use made retrospectively and particularly those made from 6 April to 6 July; b) do employers continue to use form P46(car) to report changes?**

2.28 Respondents offered a number of suggestions and experiences about how a payrolling scheme could reflect "making good" after the end of a payroll period. Respondents told us that some employers operate on the basis that an employee will make good the car fuel provided for their private use, so they would adjust the deduction through the payroll during the year. Others made a "negative entry" in

the employee's payroll for April, May or June following the tax year to account for the employee making good.

2.29 Respondents' experience is that employers continue to use form P46(car) – it is a legal obligation, but some now file via the Government Gateway<sup>2</sup>. Some questioned the need for form P46(car) where an employer payrolls car benefit.

**Q.9 Medical insurance or gym membership fees paid on behalf of the employee:**

**a) where the policy renewal period falls part way through the tax year, unless the premium is agreed in advance, what value is payrolled? Do employers project a value based on a previous year's premium or estimate the premium and begin payrolling on that basis and adjust once the premium for the year is agreed?**

**b) Do employers payroll the total annual premium in the month?**

2.30 Where a medical insurance premium is paid as a single payment, no respondents had any experience of an employer payrolling the whole amount in the payroll period of payment. Rather, medical insurance is payrolled at each payday with the employer dividing the premium by the number of paydays over the year. Where the premium changes, employers adjust the payrolled amount or, in cases where it ends they remove the benefit.

**Q10. One-off large benefits in the form of transfer of an asset (a property or valuable antique). These items with a large tax charge will require a significant deduction of tax in a single pay period. a) Do employers payroll these items? If so, how are they dealt with? Do employers spread the value of these across the remainder of the year or do they payroll the total in one pay period, or b) do employers report items on a P11D with a note that it is a one-off?**

2.31 Large one-off BiKs are reported on form P11D with a corresponding note.

2.32 There was support for the OTS's recommendation that the P11D should include a flag to signal a one-off BiK to automatically prevent HMRC adjusting an individual's PAYE tax code.

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<sup>2</sup> The Government Gateway service, PAYE for Employers - allows employers and agents to submit PAYE returns and forms, view statutory notices and reminders, and make payments online.

## Government response

- 2.33 The Government recognises the importance of flexibility for employers, but is also mindful that one of the purposes of putting payrolling on a statutory basis is to provide consistency for both employers and employees. Lack of consistency and transparency for employees creates uncertainty and drives-up queries for employers and HMRC.
- 2.34 To support flexibility for employers and that “locking-in” to a scheme of payrolling might deter some employers from opting-in, the Government will develop a scheme that is entirely voluntary, so that an employer that has started payrolling can choose to opt-out with effect from the start of a tax year. There are some practical issues should an employer decide to opt-out, such as reinstating BiK(s) in employees’ PAYE tax codes. HMRC will work on these to support employers who may decide to opt-out.
- 2.35 The Government has considered the responses to the consultation carefully and has decided that as a first step car, car fuel, medical insurance and subscriptions such as gym membership will be included in the scheme. These BiKs have a high degree of certainty about their cost at the start of a tax year, so naturally lend themselves to payrolling. They are also the most popular BiKs provided to employees by employers. Once payrolling is established, the Government will consider how other BiKs can be payrolled.
- 2.36 As noted, a voluntary scheme does involve practical issues – for example, adjusting employees’ PAYE tax codes in advance of opting out – that HMRC will continue to work on in advance of payrolling going live.
- 2.37 There are a number of detailed questions that HMRC will discuss further with stakeholders on the detail of how a scheme will be designed and operate effectively for employers and employees. These include:
- The extent to which in practice, some employers would decide to payroll some, but not all the BiKs proposed for payrolling;
  - The extent to which in practice, an employer would need to exclude certain employees from payrolling;
  - How to avoid confusion for employees where an employer has discretion over the BiKs it can choose to payroll and/ or might choose to exclude some employees;
  - The payment of Class 1A NICs in real time.

## 3. Next steps

- 3.1 The Government will introduce primary legislation in Finance Bill 2015 to provide HMRC with the powers to develop and introduce the Regulations that will provide the framework for payrolling. Draft legislation is published today.
- 3.2 HMRC recognises that the framework needs to be designed carefully so that it provides consistency and certainty for employers and employees and reflects the best practice of employers who already payroll informally. HMRC can only do that by working with stakeholders. So, rather than bringing forward Regulations immediately, HMRC will start further detailed discussions with key stakeholders very shortly to develop the details of the scheme.
- 3.3 HMRC will also be happy to take further views from any interested parties as we develop the Regulations.
- 3.4 HMRC will then publish the Regulations in draft and carry-out technical discussions with stakeholders over the summer.
- 3.5 The Regulations will then be considered by Parliament.
- 3.6 The intention is that that the Regulations will be in place to allow employers to operate voluntary payrolling from April 2016.
- 3.7 Comments on the draft legislation should be sent to HMRC by email to [employmentincome.policy@hmrc.gps.gov.uk](mailto:employmentincome.policy@hmrc.gps.gov.uk)

Alternatively, comments may be made by post to the following address:

Sarah Radford  
Employment Income Policy Team  
Her Majesty's Revenue & Customs  
Room 1E.08  
100, Parliament Street  
London  
SW1A 2BQ

## Annexe A: List of stakeholders who submitted written responses

We are grateful for all the written responses which we have taken into consideration in shaping the details of this policy. Those who submitted responses are shown below.

Aspen
Aspire Business Partnership
Association of Accountancy Technicians
Association of Chartered Certified Accountants
Association of School & College Leaders
Association of Taxation Technicians
Barclays
BDO
BHP Chartered Accountants
British Vehicle Rental and Leasing Association
Centrica
Chantrey Vellacott
Charity Law Association
Chartered Institute of Payroll Professionals (CIPP)
Chartered Institute of Taxation (CIOT)
Confederation of British Industry (CBI)
Deloittes
Diageo
Direct Line
Employment Lawyers Association
E & Y
Grant Thornton
Hull City Council
Institute of Chartered Accountants (England & Wales)
Institute of Chartered Accountants (Scotland)
Institute of Financial Accountants
IREEN (Electronic Exchange with Government Network)
KPMG
Legal & General
Leicester City Council
Low Income Tax Reform Group (LITRG)
Marks & Spencer PLC
Mazars LLP
MJCA (Small Business)
National Franchised Dealers Association
Office of Tax Simplification (OTS)
Open University
Patricia J Arnold & Co Ltd

Payroll Alliance
Price Waterhouse Coopers
Qtac Solutions
Rolls Royce
Scottish Qualifications Authority
Siemens
Tax Aid
Try Lunn & Co
Whitefield Tax

## Annexe B: List of stakeholders who took part in consultation meetings

We are also grateful to those who took the time to come to consultation meetings in London during July and August 2014 to give their views on this policy. Those who took part in these meetings are shown below.

Adecco
Aspire Business Partnership
Association of Taxation Technicians
Aviva
BAE Systems
Balfour Beatty
Barclays
BDO
BGC
Business Application Software Developers Association (BASDA)
Capita
CGI
Chartered Institute of Payroll Professionals (CIPP)
Chartered Institute of Taxation (CIOT)
Confederation of British Industry (CBI)
Contractor Services Association
Deloittes
Diageo
Employment Tax Industry Forum
Ex-pat Forum
E & Y
Genworth
HP
Institute of Chartered Accountants (Scotland)
IREEN (Electronic Exchange with Government Network)
ISIS Support Services
J P Morgan
KPMG
Low Income Tax Reform Group (LITRG)
Mazars LLP
Midland HR
Nest Corporation
Nomura
Office of Tax Simplification (OTS)
Patricia J Arnold & Co Ltd
Paystream Accounting Services
Prudential

Price Waterhouse Coopers
Schroeders
Smith & Williamson
Society of Motor Manufacturers
Standard Chartered Bank
TDSF
The Joint Committee of Construction
The Learn Centre
Toyota
University of Birmingham
University of Glasgow
Zurich