



Real time collection of tax on benefits in kind and expenses through voluntary payrolling

Who is likely to be affected?

Employers, employees, payroll providers and payroll software providers.

General description of the measure

The measure will introduce primary legislation to allow HM Revenue & Customs (HMRC) to make changes to the Pay As You Earn (PAYE) Regulations to provide for voluntary payrolling of benefits in kind (BiKs).

Policy objective

Payrolling benefits in kind provides the opportunity to remove or reduce employers' obligations to send returns to HMRC. It can also make the system of taxing BiKs easier for employees to understand and more efficient at collecting the right amount of tax in real time.

Background to the measure

The Office of Tax Simplification (OTS) recommended the introduction of legislative framework to allow employers to payroll some or all of their benefits and expenses on a voluntary basis.

At Budget 2014, the Chancellor announced a number of measures aimed at simplifying the administration of benefits in kind and expenses, including payrolling.

During summer 2014, HMRC carried out a consultation on the OTS's recommendation to gather evidence, experiences and views on payrolling with a view to the government introducing legislation to allow all employers the option to payroll benefits in kind from the 2016-17 tax year.

Autumn Statement 2014 announced that the Government will introduce enabling legislation in Finance Bill 2015. This will be followed by further technical discussions with stakeholders on the detailed design of the scheme. The PAYE Regulations will then be amended to allow employers to payroll voluntarily car, car fuel, medical insurance and subscriptions such as gym membership from the 2016-17 tax year.

Detailed proposal

Operative date

This measure will have effect on and after 6 April 2016.

Current law

The benefits in kind that an employer provides to its employees are liable to income tax. Part 3 of the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 charges BiKs to tax as earnings.

Part 11 of ITEPA provides for the PAYE system, where employers deduct income tax at source from employees' salaries. Part 11 requires HMRC to set out the detailed provisions for PAYE in Regulations. These are the Income Tax (PAYE) Regulations 2003 (2003/2682) (the "Regulations").

Where HMRC knows that a benefit in kind is available to an employee, it uses its powers in Part 2 of Regulation 19 of the Regulations to amend the employee's PAYE tax code. The intention is to deduct the right amount of tax, as far as possible from the employee's salary for the tax year taking account of the value of the BiK.

Part 4 of Chapter 2, Regulation 85 of the Regulations requires employers to send HMRC annual returns of other earnings, including BiKs.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend Part 11 of ITEPA to allow HMRC to amend the Regulations to set out the detailed framework for voluntary payrolling. During the 2015-16 tax year, HMRC will amend the Regulations so that employers can opt to payroll benefits in kind from the 2016-17 tax year.

Where an employer opts to payroll benefits in kind for cars, car fuel, medical insurance and gym membership, their obligation to make a return (form P11D) under Part 4 of Chapter 2, Regulation 85 of the Regulations for these benefits will be disapplied. Employers will report the value of these benefits in kind through Real Time Information. Regulations will determine the value equivalent as PAYE income which is liable to deduction using the PAYE Tax Tables.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	-10	-5	-10	-10	-10
	These figures are set out in Table 2.1 of Autumn Statement 2014, as <i>Office of Tax Simplification: Review of Expenses</i> , and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2014.					
	These figures also incorporate the Exchequer impact of <i>Income tax: abolition of the £8,500 threshold for benefits in kind</i> and <i>Income tax: statutory exemption for trivial benefits in kind</i> .					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals, households and families	The measure is not expected to have an impact on family formation, stability or breakdown.					
Equalities impacts	No equalities impacts have been identified.					
Impact on business including civil society organisations	<p>The administrative burden will reduce for employers who adopt voluntary payrolling as they will no longer have to submit P11Ds in respect of payrolled benefits and their reporting burden will be significantly eased. Employers who are currently payrolling on an informal basis will also benefit, as they will no longer have to submit P11Ds for the benefits covered by the measure.</p> <p>The estimates of the impact are dependent on the assumption that the number of employers who decide to take up voluntary payrolling will increase over four years.</p> <p>There will be a one-off cost for employers adopting payrolling reflecting the need for employers to familiarise themselves with guidance, register with HMRC and make changes to their payroll system.</p>					

		Cost	Time Period (yrs)
	Compliance Costs		
	One-off Costs	negligible	N/A
	Average Annual Costs	N/A	N/A
	Total Costs (PV)	negligible	N/A
	Compliance Benefits		
	One-off Benefit	N/A	N/A
	Average Annual Benefit	£13.8m	5
	Total Benefit (PV)	£64.0m	N/A
	Net Benefit (NPV)	£62.2m	N/A
	Impact on Administrative Burden (included in Net Benefit)		
	Increase	Decrease	Net Impact
	£0	£9.0m	-£9.0m
	Note: The impact on administrative burden (included in net benefit) represents the expected costs and benefits for the first year only. The £13.8 million included in compliance costs represent the average annual amount over the five years.		
Operational impact (£m) (HMRC or other)	It is anticipated that there will be costs for HMRC associated with this change. The extent of these are not yet known as work is being carried out to determine what changes are required to HMRC's IT and processes. The IT change is expected to exceed the minor change advisory limit of £300,000.		
Other impacts	<p><u>Small and micro business assessment</u>: the impact of this measure on small and micro businesses is not anticipated to differ from that on large businesses.</p> <p>Other impacts have been considered and none have been identified.</p>		

Monitoring and evaluation

The measure will be monitored and assessed alongside other measures in the government's package of employee BiKs and expenses simplifications, through communication with taxpayer groups affected by the measures.

Further advice

If you have any questions about this change, please contact the Employment Income Policy Team (employmentincome.policy@hmrc.gsi.gov.uk).

1 PAYE: benefits in kind

(1) Section 684 of ITEPA 2003 (PAYE regulations) is amended as follows.

(2) In the list in subsection (2), after item 1 insert –

“1ZA. Provision –

(a) for authorising a person (“P”), in a case where the PAYE income of an employee (whether an employee of P or of another person) includes an amount charged to tax under any of Chapters 3 and 5 to 10 of Part 3 in respect of the provision of a benefit of a specified kind –

(i) to make deductions of income tax in respect of the benefit from any payment or payments actually made of, or on account of, PAYE income of the employee, or

(ii) to make repayments of such income tax,

(b) for any such deductions or repayments to be made at a specified time,

(c) for the amount of any such deductions or repayments to be calculated in accordance with the regulations,

(d) for the provision of the benefit to be treated for specified purposes as a payment of PAYE income, and

(e) for making persons who make any such deductions or repayments accountable to or, as the case may be, entitled to repayment from the Commissioners.”

(3) For subsection (3) substitute –

“(3) The deductions of income tax –

(a) required to be made by PAYE regulations under item 1 in the above list, or

(b) which a person is authorised to make by PAYE regulations under item 1ZA in that list,

may be required to be made at the basic rate or other rates in such cases or classes of case as may be provided by the regulations.”

EXPLANATORY NOTE

PAYE: BENEFITS IN KIND

SUMMARY

1. This Clause amends the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), to provide powers to the Commissioners of HM Revenue & Customs (the Commissioners) to make regulations to collect income tax on specified benefits in kind through Pay As You Earn (PAYE).

DETAILS OF THE CLAUSE

2. Subsections 1 and 2 insert new section 1ZA into section 684 (PAYE regulations) of ITEPA 2003.
3. New provision 1ZA (a) provides that the Commissioners may make regulations to authorise an employer to deduct or repay income tax through PAYE where the employer provides an amount to an employee that is charged to tax under the benefits code in Part 3 of ITEPA 2003.
4. New provision 1ZA (b) provides for the regulations to specify the time at which any deduction or repayment are to be made.
5. New provision 1ZA (c) provides for the regulations to specify how any deduction or repayment is to be calculated.
6. New provision 1ZA (d) provides a power for the benefit to be treated as PAYE income for the purposes of the regulations.
7. New provision 1ZA (e) provides that regulations may be made to provide that employers who make a deduction or repayment must account for them to the Commissioners.
8. Subsection 3 adds new provision 1ZA to the list in subsection 684(3) ITEPA 2003, which provides for the rates of income tax that an employer will deduct to be set by PAYE regulations.

BACKGROUND NOTE

9. This clause introduces new powers for the Commissioners to make regulations to authorise employers to deduct or (repay) income tax through PAYE on the benefits that they provide to their employees (“payrolling”).

10. At Budget 2014 the Chancellor announced a number of measures aimed at simplifying the administration of employee benefits and expenses. This followed the Office of Tax Simplification's (OTS) review of employee benefits and expenses¹.

11. The package of four measures consisted of the following:

- Abolishing the threshold for the taxation of benefits 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 benefits;
- Introducing a system of collecting income tax in real time through 'payrolling' of benefits; and
- Replacing the expenses dispensation regime with an exemption for paid and reimbursed expenses.

12. This dispensation to allow employers to payroll their employee's benefits and expenses voluntarily replaces an existing informal practice, where some employers operate payroll but still have to comply with tax rules that require them to complete a form P11D (return of employee benefits and expenses) at the end of each tax year for each employee. The regulations will disapply that obligation for employers who payroll reducing their administrative burdens.

13. If you have any questions about this change, or comments on the legislation, please contact Sarah Radford on 03000 586 474, via email at employmentincome.policy@hmrc.gsi.gov.uk, or in writing to Employment Income Policy Team, HM Revenue and Customs, Room 1E, 100 Parliament Street, London, SW1A 2BQ.

¹ <https://www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-final-report>