Salary sacrifice for benefits in kind – HMRC consultation document

Summary
The Government has issued a consultation document seeking views on a proposal to limit the range of benefits that attract tax and national insurance contribution advantages.

The proposal would mean that where a benefit is provided through salary sacrifice, it will be chargeable to income tax and Class 1A employer NICs, even if it is normally exempt from tax and Class 1A NICs. The chargeable amount will be at the greater of:

► the amount of salary sacrificed, and
► the cash equivalent set out in statute (if any).

The consultation seeks views on the detailed policy design and framework for implementation rather than views on alternative proposals, suggesting that the Government is committed to this change.

Benefits not affected
The following benefits are excluded:

► employer pension contributions
► employer-provided pension advice
► employer-supported childcare, childcare vouchers and provision of workplace nurseries, and
► cycles and cyclist's safety equipment

There will also be no change where salary is sacrificed in return for intangible benefits such as extra annual leave or flexible working hours.
Implementation date

The intention is that the new rules will apply from 6 April 2017 and the proposals currently do not include grandfathering of existing benefits.

Our view

This would impact a wide range of salary sacrifice benefits including sacrifice for cars, white goods, IT goods, mobile phones, workplace parking and employer provided goods.

The impact on car schemes would be particularly severe since in addition to the cost, this proposal would add considerable additional complexity to the administration of schemes (and associated tax/NIC calculations) where employees will typically be locked in for three years with significant early termination charges.

This appears to be at odds with the government’s simultaneous consultation on ‘Company car tax for ultralow emission cars’ which states that ‘The average company car ownership is three years, after which most are sold to the public, which in turn helps drive lower emissions across the whole UK car fleet’.

How we can help

Some of the key actions in response to this consultation are outlined below and our Employment Tax Team are on hand to assist:

► Assess the potential financial impact on employees and the employer on benefits that you offer via salary sacrifice
► Consider the administrative impact of providing the affected benefits under the new rules
► Consider pausing any current implementations of affected benefits until the position becomes clearer
► Consider the extent to which employees are already locked into salary sacrifice arrangements after April 2017, or whether this will occur following the next renewal
► Consider how and when to communicate with employees on this issue, including employees currently in receipt of benefits
► Consider what action to take in respect of any affected benefits for which employees are currently able to sign up

We will be preparing our own response to this consultation and we would welcome your thoughts for possible inclusion, or we can work with you on your response to the consultation.

If you would like to discuss these issues, please contact your usual EY contact or any shown on the front page.