LCP INSIGHT CLARITY ADVICE

News Alert

Autumn statement update - changes to salary sacrifice and flexible benefits

December 2016

Following the autumn statement and HMRC's earlier consultation into removing the potential tax and NI advantages associated with salary sacrifice for the provision of benefits in kind (including through flexible benefit delivery mechanisms), concern has been expressed over the tax effectiveness of many benefits offered in this way. So here's our current understanding, as informed by the publication of draft clauses of the Finance Bill 2017 on 5 December 2016.

Those benefits which will retain their tax effectiveness include the following:

- provision made by an employee's employer under a registered pension scheme or otherwise for a retirement or death benefit;
- contributions to registered pension schemes in respect of an employee;
- contributions under a qualifying overseas pension scheme in respect of an employee who is a relevant migrant member of the pension scheme;
- provision of appropriate independent advice in respect of conversions and transfers of pension scheme benefits where their nature will change from being a safeguarded benefit into a flexible benefit;
- employer-provided pension advice;
- employer-supported childcare and provision of workplace nurseries;
- cycles and cyclist's safety equipment provided under the cycle to work scheme; and
- ultra-low emission cars.

In addition, there will be no change where salary is sacrificed in return for intangible benefits that are not taxed and do not rely on a specific tax exemption, such as additional annual leave or flexible working buy options.

Most other benefits will lose any tax effectiveness they currently enjoy through salary sacrifice. However, arrangements in place before April 2017 will be protected until April 2018 and arrangements for cars, accommodation and school fees will be protected until April 2021.

The Government is taking this step because there has been a significant increase in the type and scale of benefits that have been provided to employees through salary sacrifice, resulting in an NI saving for employees and employers. These include the following, all of which will lose their tax effectiveness if provided through salary sacrifice:

- employee health screening;
- company cars (unless they're ultra-low emission vehicles);
- workplace parking;
- work-related training;
- mobile phones, computers and other tech;
- accommodation;
- gym membership;
- school fees;
- income protection schemes / critical illness insurance; and
- dental insurance.

Payroll giving is also likely to lose its NIC (National Insurance Contributions) advantages if delivered through salary sacrifice.

Although these and other benefits can continue to be provided through salary sacrifice arrangements, tax legislation will be amended so that where a benefit in kind is provided in such a way and it is not one of those for which there is a specific exemption, the employer will need to account to HMRC for income tax and Class 1A employer NICs at the greater of the amount of the salary sacrificed and the cash equivalent set out in statute (if any).

By contrast, if employers provide these and other benefits directly as benefits in kind, it appears that there will be no change, for now, in the tax exemptions that some of them enjoy. However, the autumn statement announced that the Government will consider how benefits in kind are valued for tax purposes, publishing a consultation on employer-provided living accommodation and a call for evidence on the valuation of all other benefits in kind at Budget 2017.

The consultation document stated that where an employee was entitled to a flexible benefits / employee benefits contribution in addition to an amount of cash pay, but with no cash option in relation to those benefits, the employee should be able to continue to exercise choice within this package without being impacted by these changes. However any employee benefits taken will be subject to tax and NI, unless they fall under the exempt list above.

Childcare vouchers vs. Tax Free Childcare

The autumn statement also confirmed that the new tax free childcare scheme would be introduced gradually from early 2017. The roll-out will begin on completion of pilot schemes which have been in place across parts of the UK since September.

Under the new scheme, eligible families will get 20% of their annual childcare costs paid for by the Government. The way it works is that for every 80p an employee pays into a newly created ‘childcare account’, the Government will contribute an additional 20p.

This could mean up to £2,000 per child (the scheme assumes a maximum of £10,000-a-year childcare costs per child).

However, what wasn’t mentioned, but has been committed to in previous budgets, in relation to the current childcare voucher scheme is that employees can stay in this scheme if they are already a member, and as long as the employer continues to provide the scheme, or as long as the employee remains an employee at the same employer.

Group life assurance schemes

There appears to be good news regarding employer provided life cover as this form of provision should fall within the first exemption listed above. So, for example, where employees are able to increase their coverage for group life assurance through salary sacrifice, they should be able to continue to do this in a tax effective manner.

Insurance premium tax

Insurance Premium Tax will rise from 10% to 12% in June 2017. This will impact many employers with private medical insurance schemes.

Your call to action

Now that the details have emerged in the draft Finance Bill we suggest that employers start reviewing their current benefit arrangements.

As part of renewal planning specifically for flexible benefit schemes and insured benefits, now’s the time for employers to ensure:

- that an additional budget is set aside to account for the IPT increase and potential employers’ NI savings lost through changes in existing salary sacrifice benefits;
- benefits are set up correctly within the various systems (eg payroll and any flexible benefits platform) in time for the changes; and
- changes are communicated to employees now and / or part of any communication that happens on an annual basis (ie when the flexible benefit scheme election window is opened).

This News Alert does not constitute advice, nor should it be taken as an authoritative statement of the law. If you would like any assistance or further information on the contents of this News Alert, please contact Dipa Mistry Kandola or the partner who normally advises you at LCP on +44 (0)20 7439 2266 or by email enquiries@lcp.uk.com.

LCP is a firm of financial, actuarial and business consultants, specialising in the areas of pensions, investment, insurance and business analytics.

Lane Clark & Peacock LLP
London, UK
Tel: +44 (0)20 7439 2266
enquiries@lcp.uk.com

Lane Clark & Peacock LLP
Winchester, UK
Tel: +44 (0)1962 870060
enquiries@lcp.uk.com

Lane Clark & Peacock Ireland Limited
Dublin, Ireland
Tel: +353 (0)1 614 43 93
enquiries@lcpireland.com

Lane Clark & Peacock Netherlands B.V.
Utrecht, Netherlands
Tel: +31 (0)30 256 76 30
info@lcpnl.com