PKF Littlejohn LLP

Accountants &
business advisers

Tax Insights

‘Cash or benefit’ agreements

Are you ready for the new rules? Any employer offering salary sacrifice, flexible benefits or other ‘cash or benefit’ schemes should be aware of new rules affecting PAYE reporting.

Since April 2017, HMRC's Optional Remuneration Arrangement (OpRA) rules have applied when employees give up the right to an amount of earnings in return for an employer-provided benefit, either via salary sacrifice or a contractual salary offer.

Although the new rules are subject to certain exceptions and transitional rules shown below - for example, pensions and childcare are expressly exempted – they could result in significant increases in employee tax and employer Class 1A National Insurance Contributions.

Employers are encouraged to review existing arrangements as soon as possible and advise staff of any tax implications, as the changes could affect their 2017/18 P11Ds. Employers should also consider seeking expert guidance if they suspect any benefits they currently provide require an amended amount to be reported on a P11D form and subsequent employee PAYE coding notices.

What are the main changes?

The two most likely areas of concern for employers are expected to be:

- Benefits that were previously non-taxable may become taxable if provided via an OpRA. For example, car parking, loan of IT equipment and mobile phone provision used to be tax free if work related. Employers offering these in exchange for a gross salary variation are now creating a taxable benefit.
- Items that were already taxable but the method of calculating the taxable benefit figure has changed for OpRAs:
    - Employers offering employees a 'benefit or cash' alternative. Typically, the provision of cars and/or fuel can cause problems. If the cash option offered is greater than the car/fuel benefit alternative, the cash alternative is now the taxable benefit even if the car/fuel option is taken.
    - The transfer of assets to employees will also now require a different benefit calculation. Although the transfer was (and still is) a taxable benefit, the P11D calculation is now based upon the higher of either 20% of the value per year (except for the final year) or the annual salary sacrifice. The overall total will remain the same, but the amounts will potentially be spread differently over the relevant years.

Are there any exemptions?

Broadly speaking, the following benefits will be exempt from the changes:

1. Death and retirement schemes
2. Pension savings
3. Company funded pension advice
4. Bike to work schemes
5. Childcare vouchers
6. Ultra-low emission cars
7. Buying holiday

Provided they meet the same individual criteria as in previous years, the above will remain as non-taxable benefits even when paid for via OpRAs.

When do the rules take effect?

Employees already in contractual OpRA arrangements before 6 April 2017 will become subject to the new rules in respect of those contracts at the earlier of either:

- an end, change, modification or renewal of the contract, or
- 6 April 2018 (except for cars, accommodation and school fees – the new rules for these benefits come into effect by 6 April 2021).

What should employers do now?

- Review what is currently contractually in place for your employees. It is not uncommon for salary sacrifice or 'flexible benefit' schemes to have been set up incorrectly at inception. Is there an 'either/or' contract on record? Has this been agreed by the employee?
- Compile and report the P11D benefit changes
- Communicate effectively and positively with your employees. What are the OpRA rules and how will they effect their benefits and tax liability? What must the employee do? When communicating with employees, keep in mind the possible negative reaction arising from tax inequality between employees of different conditions for the same benefit
- Consider what the business is currently offering and whether it is now beneficial to adapt the benefits package. For example:
  - Adapt the contracts to a) no longer offer 'cash or car', b) reduce any cash offer to the level of the car benefit or c) only offer the car. A greater cash alternative is then no longer relevant to benefit calculations
  - Car parking offered free to staff is non-taxable. Is it an option for the employer to not charge staff for parking? Or, if the employer owns outright the parking facilities, arguably the employer cost is nil. The taxable benefit would then only be the amount sacrificed by employees for a space. Can this be decreased?

For further information or to arrange a meeting with our expert team today, please contact:

Chris Riley
Tax Partner
t: +44 (0)20 7516 2427
e: criley@pkf-littlejohn.com

Ian Gadie
Senior Manager
t: +44 (0)20 7516 2256
e: igadie@pkf-littlejohn.com

Guy Charles
Senior Manager
t: +44 (0)20 7516 2421
e: gcharles@pkf-littlejohn.com

PKF Littlejohn LLP, 1 Westferry Circus, Canary Wharf, London E14 4HD
Tel: +44 (0)20 7516 2200 Fax: +44 (0)20 7516 2400

www.pkf-littlejohn.com