

Driving Facts

TAX NEWS SPECIAL P11D ISSUE

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Trevor Jones

The forms P11D, employer's return of benefits, must be submitted to HM Revenue & Customs (HMRC) by 6 July, to avoid automatic penalties. The same date is also the deadline for providing your employees with a copy of the form, to enable them to complete their personal Tax Returns. The Class 1A National Insurance due on the benefits returned is then due for payment by 19 July.

Forms P11D can be completed on line, by visiting www.hmrc.gov.uk. Alternatively the Employers CD-Rom, supplied by the HMRC, has the forms for you to complete and save. If you provide any benefits to former employees, then a form P11D is not appropriate, but there is still a reporting requirement.

The completion of forms P11D is probably one of the higher risk factors for initiating a PAYE Compliance Visit.

The following is a review of some of the more common entries which are either missed, or incorrectly returned, although it is not meant to be an exhaustive list.

Assets used by employee

Where an employer provides an asset, such as a holiday home or boat, which is made available to employees, then a benefit arises on this use. Full details should be recorded on the P11D at section "L".

Cars

Many motor dealers already have agreements with the HMRC on average list prices and CO2 emissions for demonstrator cars used privately by employees. However, if a car is allocated to an employee on a more permanent basis, then they should not be included in the averaging. The most likely people who would need to be excluded are directors, admin staff and spouses of directors.

Fuel

HMRC will require adequate records to prove to them that staff do not have any fuel for private use. This is particularly important as this is an all or nothing charge, and £1 of private fuel will produce a full year's tax charge. If you have a car averaging agreement in place then, unless you have robust records in place, the assumption will be that fuel was provided.

Mileage Allowance

Where a mileage allowance is paid, for the business use of a privately owned vehicle, which exceeds HMRC approved mileage rate, then the excess should be included at section "E" of the P11D. The approved mileage rates are currently 40p per mile for the first 10,000 miles and 25p per mile thereafter.

Telephone

The payment of a home telephone bill will always produce a taxable benefit, unless it is a separate exclusive line, billed directly to the company.

Payment of a bill in an employee's name should be included in payroll, for National Insurance purposes. The amount of the bill, inclusive of VAT, should then be included at section "N" of the form P11D, with the employee being able to claim as an expense the business proportion of the calls. If the bill is in the employer's name, then the whole of the bill, again inclusive of VAT, should be included at Section "K or L" of the form P11D, and Class 1A National Insurance charged.

Accountancy fees

Where the employer is billed and pays for personal tax work, then the total amount of the bill should be included at section "B" of form P11D. If the employee is billed personally and the employer pays then the amount should be put through the payroll.

Travel & subsistence

Whilst the costs of travel & subsistence for genuine business expenditure are likely to be tax neutral, unless there is a dispensation in place with the Inland Revenue, the amounts still need to be included on the forms P11D. The employee will then be able to make a claim for the same amount as a business expense. Care should be taken to ensure that costs are not excessive, and that there is a genuine business requirement for the travel. Large bar bills and 5 star hotels do not impress the Revenue Officers.

A payment of £5 per night whilst away on business (£10 if the trip is overseas) may be paid, to cover personal incidental expenses such as newspapers, and phone calls home, without any requirement to make a return. Payments in excess of this need to be returned in full.

Entertaining

The annual Christmas party, or similar annual event, up to a value of £150 per head, is exempt from tax, however it should be noted that all costs should be included in the calculation.

If some staff stay overnight, or have taxis home, which are paid for by the company, then these should be included in the overall costs. It is sometimes possible to include more than one annual event, if the totals do not exceed the £150 limit, but care is needed and you will not be able to include a function to which only a limited number of staff are invited.

One off entertaining of staff and personal entertaining cannot be included within this exemption and the cost should be shown on the P11D. If you don't want the staff to incur a tax charge, then a PAYE Settlement Agreement (PSA) should be sought. [see below]

The cost of entertaining clients will usually be an allowable expense for the employee, however the full amount should be included on the P11D, with a relevant claim being made by the staff.

Assets transferred

Any asset transferred to an employee, whether or not he pays the full market value, should be included on form P11D at section "A". For example, if an employee purchases a car, which is owned by his employer, then an entry is required. The market value of the vehicle should be included, and any amount paid should be deducted; there will of course be no tax charge if the amounts are the same.

Care should be taken if transferring an asset such as a boat or plane, when the asset has been used by the employee or his family, as the transfer value is deemed to be the **higher** of its market value on the date it became available, less the total benefits charged for its use, **or** its market value on the date of transfer

Gifts

Any gift to an employee will produce a taxable benefit, as they are deemed to have received it by virtue of their employment. Whether the gift is in the form of vouchers, hampers, holidays, watches, clothing or any other item, then an entry is required. The full cost should be included at section "A" of the P11D. If you do not want the employee to have to pay the tax, then a PSA should be obtained [see below], in which case no entry is required on the P11D. If the gift relates to a long service award, then there are some small exemptions available.

If you have any queries on any of the subjects covered in this newsletter or on any tax or company secretarial matters please email us at taxteam@trevorjones.uk.com or call our helpline on 0161 475 4700.

These articles are of a general nature and specific advice should be obtained before they are acted upon.

Loans

If an employee/director has a loan, which at any time during the tax year exceeds £5000, then a benefit arises; this also includes director's loan accounts which have become overdrawn. For PAYE purposes, it is irrelevant whether these loans have been repaid during, or after the year end. Details are recorded at section "H"

PSA Settlements

These agreements are available to employers, where they do not wish the employee to be burdened with the tax liability arising on the gift of say, a staff meal or a trip to a sporting event. In this case the employer can agree to meet the tax liability, by writing to HMRC, detailing the costs etc.

This must be done by 6 July, ie. the same filing deadline as the forms P11D, however the tax will not be due until 5 October.

Trivial Gifts

HMRC do have a concession for what they regard as trivial gifts to staff, examples being a turkey, a bottle of wine, or a box of chocolates at Christmas. There is no de minimus figure, or definition of trivial, consequently agreement should always be obtained prior to taking advantage of this concession.

Let us Help You

HMRC now have a specialist team dedicated to the motor industry and are increasingly using Pay As You Earn Compliance visits as a means of gathering information so that they can possibly open a full enquiry into the Company accounts, or the directors' personal Tax Returns. The incorrect completion of forms P11D could therefore be the opening that they need to initiate a visit.

In our experience the additional tax which can arise can be substantial and the employer will be expected to pay any amounts underpaid on behalf of their employees, which is potentially a significant risk to any business.

We offer a range of PAYE reviews to assist in identifying the risk areas to your business and if you feel that this would be of benefit, or if you require any help with the completion of forms P11D, applying for a dispensation or obtaining a PAYE Settlement agreement please contact Bett Twiggs on 0161 475 4700.