Salary Sacrifice Arrangements

Part 05-03-12

This document should be read in conjunction with section 118B of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

1: Salary sacrifice - general tax position

The term salary sacrifice is generally understood to mean an arrangement under which an employee forgoes the right to receive any part of his or her remuneration due under his or her terms or contract of employment and in return his or her employer provides a benefit of a corresponding amount to the employee.

Section 118B TCA 1997 generally provides that where an employee forgoes salary payable under an existing contract of employment in exchange for a benefit, the employee remains taxable on the “gross” income payable. The salary sacrificed will be considered to be an application of income earned by the employee, not an expense incurred by the employer.

2: Salary sacrifice - exceptions

There are a number of exceptions to the tax treatment outlined in 1 above that are set out in subsection (2)(a) of section 118B. These relate to salary sacrifice arrangements specifically approved by the Revenue Commissioners in relation to:

- bus, rail or ferry travel passes (see Tax and Duty Manual Part 05-03-11) - Benefit-In-Kind - bus, rail and ferry passes, for further details)
- exempt shares appropriated to employees under approved profit sharing schemes, provided certain conditions are met (see Chapter 10 - Approved Profit Sharing Schemes (APSS) for further details), and
- bicycles and safety equipment (see Tax and Duty Manual Part 05-04-08 - Provision of bicycles and associated safety equipment by employers to directors and employees, for further details).

Where one of these exceptions apply, the salary sacrifice is exempt from tax.

These exceptions shall not apply where:

1. There is an arrangement or scheme in place whereby the employee is compensated, wholly or partly, by the provision a benefit, which would have otherwise qualified for an exemption under section 118B(2)(a), together with a compensating payment. This shall instead be treated as an avoidance scheme.
2. A salary sacrifice agreement is entered into in respect of any right, bonus, commission or any other emolument which arises to an individual after the end of the year of assessment concerned.
3. A benefit, which would have otherwise qualified for an exemption under section 118B(2)(a), is provided to the spouse, civil partner or dependant of, or to a person connected with, the individual who has entered into a salary sacrifice arrangement.

Appendix: PAYE Modernisation

Where a taxable benefit arises, the PAYE modernisation changes that take effect from 1 January 2019 should be noted.

Regulation 12 of the Income Tax (Employments) Regulations 2018 covers the reporting requirements for notional pay (company cars, medical insurance, etc). Notional pay can be reported:

(i) the day the notional payment is made, or

(ii) the earlier of the next pay day or the 31st December in the year.

Employers should include a best estimate of the value of any benefit and include that amount in the relevant payroll submission to Revenue. When the actual value of benefits becomes available, any adjustment should be included in the next payroll submission to Revenue. Employers are also advised to review notional pay regularly (at least quarterly).