

Optimising tax-free benefits in family companies

Introduction

Making use of statutory exemptions for certain benefits-in-kind offers an opportunity to extract funds from a family company without triggering a tax charge.

The essential point to note is that to make the tax saving, the benefit itself, rather than the funds with which to buy the benefit, must be provided.

Mobiles

No tax charge arises where an employer provides an employee with a mobile phone, irrespective of the level of private use. The exemption applies to one phone per employee.

A taxable benefit will however, arise if the employer meets the employee's private bill for a mobile phone or if top-up vouchers are provided which can be used on any phone



Example

John and Jan Smith are directors of their family-owned company. Their two children also work for the company. The company takes out a contract for four mobile phones and provides each member of the family with a phone. The bills are paid directly to the phone provider by the company. The bills are deductible in computing profits.

Each family member receives the use of a phone tax-free, which means they do not need to fund one from their post-tax income.

Pension contributions

Pensions remain a particularly tax-efficient form of savings since nearly everyone is entitled to receive relief on contributions up to an annual maximum regardless of whether they pay tax or not. The maximum amount on which a non-taxpayer can currently receive basic rate tax relief is £3,600. So an individual can pay in £2,880 a year, but £3,600 will be the amount actually invested by the pension provider. Higher amounts may be invested, but tax relief will not be given on the excess. Any tax relief received from HMRC on excess contributions may have to be repaid.

Pension contributions paid by a company in respect of its directors or employees are allowable unless there is an identifiable non-trade purpose. Contributions relating to a controlling director (one who owns more than 20% of the company's share capital), or an employee who is a relative or close friend of the controlling director, may be queried by HMRC. In establishing whether a payment is for the purposes of the trade, HMRC will examine the company's intentions in making the payment.

Pension contributions will be viewed in the light of the overall remuneration package and if the level of the package is excessive for the value of the work undertaken, the contributions may be disallowed. However, HMRC will generally accept that contributions are paid 'wholly and exclusively for the purposes of the trade' where the remuneration package paid is comparable with that paid to unconnected employees performing duties of similar value.

Other tax-free benefits

Subject to certain conditions being satisfied, other tax-free benefits that a family company may consider include:

- bicycles or bicycle safety equipment for travel to work
- gifts not costing more than £250 per year from any one donor
- Christmas and other parties, dinners, etc, provided the total cost to the employer for each person attending is not more than £150 a year
- one health screening and one medical check-up per employee, per year
- the first £500 worth of pensions advice provided to an employee (including former and prospective employees) in a tax year
- medical treatments recommended by employer-arranged occupational health services. The exemption is subject to an annual cap of £500 per employee

Employing family members, and providing them tax-free benefits, often enables a family-owned company to take advantage of the lower tax rates, personal allowances and exemptions that may be available to a spouse, civil

partner, or children. In turn, this arrangement can help reduce the household's overall tax bill.

Recommendation

These allowances or benefits apply to family members who are employed within the business. It is therefore important to have supporting documentation to their employment as you would with a third party in case of enquiry by HMRC.

If you do have any questions or concerns, please contact:

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