

Tax efficient remuneration for directors and senior employees



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Risk areas for enquiries taxation 31 August 2013

- Business profits/losses (27.3%),
- VAT (20.5%),
- Capital gains (CGT) (18.2%)
- Employee expenses/benefits (18.2%).
- Other risk areas include:
 - Status
 - Non compliance and penalty incidence

Recent developments and health warning

- Draft clauses for Finance Bill 2016
- Rangers Football club and EBTs
- Golden Handshakes and widening '*from*' the employment
- Potential penalties
- Attitude to tax avoidance
- Difficulty of changing arrangements



Outline

- Structuring the remuneration package
- Fixed/Flexible packages
- Salary Sacrifice arrangements
- Benefits
- Tax Efficient Benefits
- Shares and share options



Structuring the remuneration package

- Ensure the remuneration package offered:
- Helps to retain your key employees;
- Meets their needs in a tax efficient way; and
- Makes them feel appreciated and appropriately rewarded



Fixed/flexible packages

Fixed

Comprises a standard package of remuneration and benefits

Flexible

Fixed allowance where employees can choose the proportion of salary and benefits and which benefits to take



Salary sacrifice arrangements

- Certain amount of salary given up in exchange for a benefit
- Savings in tax and NIC but watch VAT after July 2011 and also anything after 2016 dispensation
- Ensure scheme is set up correctly
- Terms and conditions of employment should be varied, and
- Legal advice sought
- *Heaton v Bell* – need to ensure employee has given up his contractual right to part of gross pay
- Watch canteens, childcare vouchers and VAT



Benefits

Anything provided to an employee in the course of their employment.

Value of benefit either:

- Money's worth, or
- Cost to the employer

Certain specific benefits have beneficial tax treatment.



DVD Provided to employee

Value of the benefit:

$$MV \times 20\% = £15 \times 20\% = £3$$

Apportionment to reflect actual usage:
 $£3/365 = £0.01$ (approx)

Associated tax and Class 1A charge is therefore negligible.

Administration could be time consuming

Company car comparison

Cost to 40% Taxpayer:

- Ford Mondeo £3,805
- Cost and cache may not be simple
- Toyota Prius has green credentials from advertising
- Skoda may lack the prestige and cache despite making good cars for VW group
- Toyota Aygo £1315



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Company car comparison (2)

Capital Allowance Deduction to Employer:

- Ford Mondeo £3,214 (18%)
- £1428 (8%) but
- Hybrid cars
- Toyota Prius 90g/km CO2 £21,995
- BIK £2859 rising to £3229 in 16/17
- Fuel break even private mileage 25,500 pa



Training

- Perrin v HMRC 2008 SpC 671
- S250 ITEPA 2003
- *Exempts the provision of work related training or any benefit incidental to such training*
- Dr Banerjee decision
- Can be used for:
 - Driving Test
 - Martial Arts classes!
 - Language courses



Tax efficient benefits

Environmentally friendly transport:

- Pool cars — expect challenge if logs not kept!
- Work buses – s167 s242
- General subsidies to public transport – s243
- Bicycles and cycling safety equipment – s244
- Free meals and refreshments on cycle to work days



Tax efficient benefits (2)

Sundry tax efficient rewards:

- Pensions
- Events
- Subscriptions
- Financial advice
- Eye tests and corrective glasses
- Relocation costs – remember Dr Wald's case
- Canteen
- Free Parking



Tax efficient benefits (3)

Beneficial Loans

- Loan offered to employee
- Commonly used to provide season tickets
- Interest free or reduced rate of interest
- £5,000 limit to 2014 then up to £10,000
- Interest rate 3.25%



Tax efficient benefits (4)

- Mobile Phones (includes smart phones)
- Watch VAT on private calls (analysis bill)
- From 2006/07 onwards limited to one phone per employee
- Exemption covers line rental and calls
- Pre 2006/07 rules continue to have effect for second phones provided prior to 6 April 2006



Long service awards

Section 323 ITEPA 2003:

- Made to mark a period of ≥ 20 years
- In a form other than money
 - Not more than £50 for each year of service
 - Example: widescreen television, jewellery



Company vans

- From 2014/15 benefit of £3,150 applies (s155)
- Additional charge of £581 (£594 in 2015/16) for fuel (s161)
- Applies in situations where unrestricted private use
- Insignificant private use = no BIK:
- Taking a mattress to the skip
- A slight detour to buy a newspaper
- Calling at the dentist on the way home
- Double cab pick-up trucks



Dispensations

Section 65 ITEPA 2003

- Obtaining a dispensation gave certainty and reduced cost
- Scale rate expenses payments EIM05290
- 2016-17 onwards dispensations have been replaced by an exemption for amounts which would otherwise be deductible. See [**EIM30200**](#) onwards.



Pension

- Valuable benefit
- DB schemes now rare
- Often not appreciated fully
- Tax efficient ER & EE
- Legal changes



Shares and share options

- Shares
- Enterprise Management Incentive Scheme (EMI)
- Sharesave or SAYE
- Share incentive plan (SIP)
- Discretionary Schemes CSOP



Shares

Provision of free shares

- Taxable benefit on the market value of the shares at date of transfer
- HMRC schemes offer preferential tax treatment in return for restrictive conditions



EMI share scheme

- Designed to help recruit and retain key staff in small, higher risk companies
- Share options with a MV of up to £250,000 can be granted
- Total share value of £3 million under EMI options to all employees
 - 2006/07 figures
 - 2,790 companies 27,000 employees
 - average value per participant £11,000.



EMI tax advantages

- Grant of the option is tax free
- Normally no NIC when option is exercised
- Subject to option being exercised within ten years and no disqualifying event has occurred, and;
 - Exercise price at least equal to MV at date of grant
 - Entrepreneur's relief?



Golden hellos

- Taxable as earnings within s62 if the payment is connected to the employment
- Glantre Engineering v Goodhand
- Silva v Charnock
- Beware recent developments including
 - Smith & Williamson
 - Care with arrangements !!!



Termination payments

- HMRC expect reasonable care
- COP 10 available for redundancy but?
- Minimise risk clause in compromise agreement
- Clinton decision
- N J Wood decision
- Getting £30,000 exempt needs care



Tax planning thoughts

Risk

Service companies – profit extraction

Service companies – provision of benefits

Reasonable care – HMRC attitude definitely harder

- **Goldberg**
- **Singh**



Any More Questions?



Thank you

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