F6 Food and groceries

See also: Canteens; Christmas hampers; Meals; PAYE settlement agreements; Subsistence; Trivial benefits

The provision of food or groceries will be chargeable as a benefit in kind for most employees, unless the items in question are in practice exempted as **Trivial benefits**, or are otherwise allowable (for example, as **Subsistence** payments). The benefit in kind is the cost to the employer of providing the items. Class 1A NIC is also due on the value.

Before April 2016, gifts of food and groceries were not chargeable for employees earning at a rate of £8,500 per year and below. This is because there is no second hand value attached to perishables.

Law: ITEPA 2003, s. 201

F7 Furniture

See also: Accommodation, supplies and services; assets given or sold to employees; Assets loaned to employees; Chapter 10 – Living accommodation

F7.1 Generally

Furniture that is provided for the use of an employee or director, except one in excluded employment, by reason of his or her employment is chargeable as a benefit in kind calculated in the same way as other **Assets loaned to employees**.

If the furniture is work-related, it may be exempt under the rules for **Accommodation, supplies and services**.

Law: ITEPA 2003, s. 205
Guidance: EIM 21710

F7.2 Living accommodation

The chargeable benefit calculation for furniture (and certain other benefits) provided to employees in job related **Living accommodation** is capped at 10% of the employee's net earnings. See **Chapter 10** for full details.

Law: ITEPA 2003, s. 315
Guidance: EIM 21720

F8 Further education

See also: Scholarships; Training costs

There is normally no taxable benefit where employers provide for, or reimburse the costs of, training courses for employees. The issues are considered in depth under **Training costs**.

Different rules apply for **Scholarships** where HMRC state that "in order to tax the payments as employment income you must be able to

demonstrate that the income was received in respect of an office or employment and not under a contract of training".

If a scholarship is provided for the child of an employee, this will normally be taxable as a benefit in kind for the parent.

Law: ITEPA 2003, s. 215, 250; ITTOIA 2005, s. 776
Guidance: EIM 01200ff., 06210, 21707

G1 Garage costs and allowances

See also: Cars and vans; Car parking

An employer may require an employee to keep a company car in a garage overnight.

If the employer requires the employee to rent a garage (for a company car or company van), HMRC accept that payment by the employer of the garage rent does not constitute taxable earnings.

By contrast, HMRC will expect PAYE to be applied to any allowance paid to an employee for keeping the car in his or her own garage (whether or not it is attached to, or forms part of, the employee's residence). This is based on the *Beecham Group* case, where a weekly payment was held to be taxable as an emolument of the employment: it was paid to ensure that the employee carried out part of the obligations of the employment in a satisfactory way, namely to look after the employer's car in a particular way.

Law: ITEPA 2003, s. 62
Case: *Beecham Group Ltd v Fair* [1983] BTC 415
Guidance: EIM 01400

G2 Garden leave

See also: Compensation payments; Payments in lieu of notice; Chapter 12

An employee may be placed on "garden leave" (or "gardening leave") once it is known that he will be leaving his employment. He will then remain on the payroll, working out his notice period and receiving salary as normal, but he is asked to stay away from the work premises.

There are various reasons for placing an employee under such an arrangement. Typically, it will be to prevent the individual from poaching sensitive details about systems or customers, or even to reduce the likelihood that the departing employee will encourage others to depart with him. By keeping the employee on the payroll, the employer can consult him when required and may also delay the date on which the employee starts work for a rival organisation.

It is possible, however, that putting an employee on garden leave will breach the employer's duty to provide work, unless the employment contract stipulates that such an arrangement is permissible.

Payments made to employees under garden leave arrangements are taxable as earnings under s. 62. They are also liable for Class 1 NIC in the usual way. This is therefore not an attractive tax outcome, and may be contrasted with the treatment of a **Payment in lieu of notice**, which will in some circumstances attract a lower tax liability. Given these different outcomes, it will be necessary to establish the facts of the matter before determining the tax treatment. Indicators will include correspondence and file notes, pension scheme membership (normally restricted to serving employees), and the provision of other employee benefits.

Law: ITEPA 2003, s. 62
Guidance: EIM 12975; NIM 02560

G3 Gifts for employees

See also: Assets given or sold to employees; Entertaining costs; Testimonials; Third party benefits; Trivial benefits

G3.1 General principles

A cash or "money's worth" gift from an employer to an employee will normally be earnings under general principles. Gifts that are goods or services without being money's worth (and that are therefore not earnings) may instead be chargeable as a benefit in kind. Possible exemptions are mentioned at **G3.2** below.

The fundamental principle that gifts are potentially taxable was brought out in a series of early cases involving Church of England clergymen.

Most benefits provided *by an employer* are statutorily treated as provided by reason of the employment, and are therefore automatically brought within the charge to tax. This statutory assumption does not apply, however, if the employer is an individual and if the provision of the gift "is made in the normal course of the employer's domestic, family or personal relationships". This possible removal of the automatic assumption is only relevant to sole-trade employers; it is not possible for a limited company or partnership employer to have personal feelings.

If a butcher employs his daughter as a van driver, for example, this exception ensures that a birthday present given by the father to the daughter would not be taxable. However, if a sole trader employer claims tax relief for the expense of providing a gift then HMRC are likely to take the view that the item in question was not provided in the course of a domestic or personal relationship.

If a gift is not caught by this statutory wording – because of the exception for personal relationships or because the gift did not come

from the employer – it may still be factually the case that it is provided by reason of the employment. The case of *Cooper v Blakiston*, which concerned Easter offerings, went all the way to the House of Lords where the offerings were held to be taxable as part of the vicar's pay. According to the Lord Chancellor:

> "Where a sum of money is given to an Incumbent substantially in respect of his services as Incumbent, it accrues to him by reason of his office. Here the sum of money was given in respect of those services. Had it been a gift of an exceptional kind, such as a testimonial, or a contribution for a specific purpose as to provide for a holiday or a subscription peculiarly due to the personal qualities of the particular clergyman, it might not have been a voluntary payment for services, but a mere present."

Lord Ashbourne's wording is also helpful in establishing the principles here:

> "It was suggested that the offerings were made as personal gifts to the Vicar as marks of esteem and respect. Such reasons no doubt played their part in obtaining and increasing the amount of the offerings, but I cannot doubt that they were given to the Vicar as Vicar, and that they formed part of the profits accruing by reason of his office."

The question of gifts from someone other than the employer is considered in greater depth under **Third party benefits**.

Law: ITEPA 2003, s. 62
Guidance: EIM 01450, 01460
Case: *Cooper v Blakiston* (1908) 5 TC 347

G3.2 Exceptions

A gift may in practice be treated as exempt if it is minor in nature and is not intended to be part of the remuneration package of the employee in question. See **Trivial benefits**.

If a gift is made after the employment ceases, it may still be taxable as earnings. If not, it is likely to be caught as specific employment income under the **Termination payment** rules, in which case the £30,000 exemption will in principle be due.

G3.3 National Insurance

HMRC accept that a gift does not constitute earnings, and that there is therefore no liability to NIC, "if the gift is a genuine one – that is, a personal and unexpected gift made from an employer to an employee, given as a gesture of goodwill, or as a token of gratitude".

The guidance goes on to instruct tax office staff that, if the gift is made in cash, they should "ensure that the employer is not using the 'gift' to hide some other form of payment".

Guidance: NIM 02165

G4 Golden handshakes and golden hellos

See also: Compensation payments (overview); *Employment Rights Act* payments; Chapter 12: Compensation and termination payments

The terminology of a "golden handshake" or "golden hello" is one that is popularly used but with which care is needed when considering the tax implications. As the terms are not statutory ones, the wording may refer to a range of possible payments, each of which has its own tax and NIC implications.

As such, it is always necessary to go behind the terminology to determine what the payment actually represents. If the golden handshake is in reality simply a bonus or other final payment of remuneration, the payment will be liable in full to tax and NIC in the same way as any other salary payment. If it is genuinely compensation for some breach of the employer's contractual duties, by contrast, then it may be taxable only as a termination payment, in which case the £30,000 exemption may be available if not already used to cover any other type of payment.

See **Compensation payments (overview)** for a list of the main categories into which the payment may fall. It is often the case that a single payment will in fact consist of different elements and that some sort of apportionment is required.

The term "golden hello" may similarly be applied to a variety of types of inducement payment when a new employee is taken on. Such payments will normally be taxable in full as part of the individual's remuneration package. If the employee is giving up a right, not directly related to the new employment, then it is conceivable that this treatment will not be correct and that the payment may escape the tax net.

Law: ITEPA 2003, s. 62, 401
Guidance: NIM 02620

G5 Guide dogs

See also: Disabled employees – equipment and services

In practice, HMRC allow blind employees to claim a tax deduction for the cost of keeping a guide dog:

> "Where a blind employee keeps a guide dog at his or her own expense in order to move from place to place in the performance of the duties of his or her employment a deduction under Section 336 ITEPA 2003 can be given.

The deduction should reflect the reasonable cost of keeping and replacing the guide dog. You should not try to apportion the cost between business and private use."

If an employer meets the cost, it should fall within the statutory exemption for reimbursed expenses from 6 April 2016 (see **4.3**). Although there is no specific comment to that effect in the National Insurance manuals, the reimbursed expenses rule would also cover any NIC liability.

Prior to 6 April 2016 it should have been possible to obtain a dispensation from any tax and NIC liability. Without such a dispensation, the cost should strictly have been reported on form P11D and the employee could then claim the tax deduction.

Guidance: EIM 32430

H1 Heating and lighting costs

See also: Accommodation, supplies and services; Chapter 10 – Living accommodation

A tax charge will arise if an employer pays an employee's heating and lighting costs in provided living accommodation. The payment will either be treated as general earnings or as a chargeable benefit in kind, depending on how the payments are made.

Employee contracts with supplier, employee pays supplier and employer reimburses employee

Any reimbursement should be added to the employee's or director's pay. PAYE tax and Class 1 NIC should be deducted through the employer's payroll in the normal way.

Employee contracts with supplier and employer pays supplier direct

The amounts paid should be declared as a benefit on kind on the form P11D.

The amounts should also be added to the employee's or director's pay for Class 1 NIC purposes, regardless of earnings, and the appropriate deductions should be made.

Employer contracts with supplier and pays the supplier direct

The amount paid is a benefit in kind and should be reported on form P11D. The employer should account for Class 1A NIC on the amount declared.

For periods up to 5 April 2016, there were no tax or NIC liabilities for employees earning at a rate below £8,500 per annum.