

Entertaining, Annual Staff Parties, Gifts and Non Taxable Benefits etc

As Christmas approaches, we thought it would be a good time to clarify the rules regarding the tax aspects of staff parties, gifts, entertaining and other tax free gifts and awards.

Annual staff parties

There is a £150 (average cost per person) per tax year limit under which no benefit in kind tax charge arises on the employee in respect of attendance at a staff party/function. There is no requirement for the function to take place at or around Christmas, although many do. The employer has to identify the average cost per function per person, and if there is more than one function, the employer has to establish to which (if any) function(s) the exemption applies. To get the average cost per person requires the inclusion of VAT, accommodation and transport after which the total is divided by the total number of people attending, including non employees. Note that each function must be open to all employees generally, although it can be restricted to employees from a department, division or site. A function for the directors only would not qualify unless all employees were also directors. Any staff being excluded from a particular function would result in that function being taxable in full on employees attending, with no exemption.

If there is one function and the cost per person exceeds £150, it is a taxable benefit as the limit has been exceeded. The full amount of the cost is taxable, and there is no ability to deduct £150 from the benefit in kind arising.

If there is more than one function which in total exceed a cost of £150, then the exemption is only available on the function or functions which in total amount to £150 or less. Say there are two functions at £100 and £75. Assuming that the employer determines that the £100 function is exempt but the £75 function is taxable in full then if an employee only attended the £75 function, they would be taxed on the £75 benefit in full. If the employee attended both functions, they would still only be taxed on the £75. Obviously, if the employee does not attend either function or just the one with a cost of £100, no taxable benefit would arise.

Note that the £150 annual function exemption (and the various points below) has no impact on the tax position of the employer. The exemption is a relief from an income tax benefit in kind charge for employees. There is no add-back in the employer's tax computation and the expense is allowable no matter what the impact on the employee. In addition the employer can recover VAT incurred in respect of attendees who are employees (but not in respect of other attendees e.g. partners of employees, customers, suppliers etc).

Gifts

Most gifts from an employer to an employee are taxable in full. If the gift can be classed as immaterial, say one bottle of wine a year, it will be non-taxable on the basis of triviality, but regular gifts or one high value gift would have to be declared on form P11D (except in the case of non director employees earning at the rate of less than £8,500 per annum) giving rise to a tax liability on the employee and a Class 1A National Insurance liability on the employer.

Entertaining

The entertaining of customers/potential customers/other business contacts by an employer is not a tax deductible expense for the employer. The employer cannot reclaim VAT on the costs relating to entertaining events unless the event is predominantly for staff in which case VAT can be recovered on the costs of staff attendees (but not in respect of non staff attendees e.g. partners). Entertaining is defined as including any hospitality whatsoever and therefore would include such items as concert tickets or invitations to attend football matches in an executive box. The cost incurred on entertaining is not a taxable benefit on the employee so long as the cost is incurred wholly, exclusively and necessarily in the performance of their duties. This test is generally satisfied if the employee can be said to have acted as a host to the employer's guests.

Following on from the above it should be noted that if VAT is recovered on an item of entertaining on the basis that it relates to staff entertainment then the item is likely to represent a taxable benefit in the employee's hands (unless the annual function £150 exemption applies). Where staff act as hosts to the employer's guests this should not give rise to a taxable benefit but VAT incurred will be irrecoverable.

Payments under suggestion schemes

As long as the scheme is open to all employees, or to a particular class of employees, the suggestions relate to the activities carried on by the employer, the suggestion was not made at a meeting held for the purpose of proposing suggestions or made in the course of the employee's normal duties, then, subject to the following limits, an award can be made tax free. For an encouragement award (for suggestions with intrinsic merit or showing special effort), the limit is £25. For financial benefit awards (relating to an improvement in efficiency or effectiveness which the employer has decided to adopt and which the employer expects will result in a financial benefit) the limit is half the expected financial benefit in the first year of adoption or one tenth of the expected financial benefit in the first five years of adoption, subject to an overriding maximum of £5,000.

Long service testimonial awards

As long as the award is to mark a period of not less than twenty years service with the same employer, and is not in the form of cash, assets readily convertible into cash, or shares (but shares in the employer itself is permitted), then provided that the value of the award is not more than £50 for each year of service, the award is tax free.

PAYE settlement agreements

If an employer expects to provide certain sundry non mainstream benefits (e.g. occasional gifts) which would be taxable on its employees, it is possible for the employer to enter into a PAYE Settlement Agreement with HM Revenue & Customs to settle the tax liability on behalf of employees (in which case no entries are made on P11Ds) so that for such employees no further liability arises.

If you have any queries with regards to the above, or would like any further information, please do not hesitate to contact me accordingly.