

## Employer-provided vans

You may remember that, two years ago, the government introduced changes to the taxation of employer-provided vans which they said would mean that 85% of van drivers would have no benefit-in-kind from April 2005. For many, these changes have meant that, subject to certain specific conditions, there has been no benefit-in-kind on the private use of employer-provided vans.

However, the government also announced that the amount of the benefit-in-kind would increase substantially from 6 April 2007 if these specific conditions were not met. Of course, if the benefit-in-kind increases, so does the Class 1A national insurance, payable by the employer at 12.8%.

The benefit-in-kind will increase from £500 per year (or £350 for old vans) to £3,000 per year (with no reduction for old vans). In addition, where private fuel has been provided, there has never been an additional benefit-in-kind...until now. The government's changes mean that, from 6 April 2007, there will be an additional benefit-in-kind of £500 where private fuel is provided together with the employer-provided van.

So, from 6 April 2007, it becomes increasingly important that the specific conditions that exempt both the van and the fuel from the benefit-in-kind rules are considered and adhered to.

These benefits-in-kind will not apply if a 'restricted private use condition' is met throughout the tax year. The condition is met if:

1. the **terms** on which the van is made available to the employee **prohibit** its private use other than for the purposes of **ordinary commuting** or travel between two places that is for practical purposes substantially ordinary commuting; and
2. neither the employee nor a member of their family or household **makes** private use of the van other than for those purposes; and
3. the van is available to the employee mainly for use for the purposes of the employee's business travel.

Several important points have been highlighted in bold and should be noted carefully.

There should be a clause in the employment contract or written employer policy, which has been signed as read by the employee, which sets out the conditions for the private use of the van i.e. private use is prohibited other than for ordinary commuting.

HMRC have released guidance ([www.hmrc.gov.uk/vans/employer-van-facts.htm](http://www.hmrc.gov.uk/vans/employer-van-facts.htm)) which states that, although the private use prohibition has not strictly been met, they will ignore very occasional breaches of this rule e.g. a

trip to the rubbish dump twice a year. However, this guidance is not law and should only be used as a last line of defence.

The term 'ordinary commuting' needs to be understood by both the employer and the employee. The travel rules for employees are complicated, as outlined by HMRC's 100+ page booklet IR490, and can apply differently for each employee.

Item 2 means that actual use of the van needs to be monitored, which means that a full and comprehensive mileage log is required.

Item 3 means that the van cannot be used for commuting purposes alone.

Where there is a taxable benefit it may be reduced:

- for any periods when the van is unavailable;
- in respect of payment by the employee for the private use of the van;
- where the van is shared by employees. The rules suggest that the benefit-in-kind is calculated separately for each employee in the normal way and then reduced on a just and reasonable basis.

And finally, just to be clear, there are no changes in HMRC's view on the definition of a van for tax purposes.

As you can see, the rules are not straightforward. You may wish to revisit your policies on employer-provided vans before 6 April 2007 to ensure that you do not fall foul of these rules. If you wish to communicate some information to your staff, HMRC have provided an employee factsheet ([www.hmrc.gov.uk/vans/van-facts.htm](http://www.hmrc.gov.uk/vans/van-facts.htm)).

We would be delighted to review the position for you. Please do not hesitate to contact us if you have any questions or concerns about this issue.