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NBTN ADVISORY NOTE 1

TAX AND TRAVEL PLAN MEASURES

STEPHEN POTTER
PROFESSOR OF TRANSPORT STRATEGY
THE OPEN UNIVERSITY

The tax situation for Travel Plans can raise issues of concern but should also be seen as an opportunity to promote a Travel Plan as offering tax efficient benefits to staff. The issues arise because, in general, the tax system treats employer support for commuting as taxable 'income in kind' however it is an opportunity because many Travel Plan benefits are specifically exempt. Thus it is possible to promote your Travel Plan as offering a tax efficient benefit to staff.

It is important to understand if the measures in your Travel Plan are tax exempt or not. The following is a summary of the situation for Travel Plan measures regarding the employment taxes of Income Tax and National Insurance (NI). It should be noted that employment taxes only affect Travel Plan benefits received by *employees*. Travel Plan benefits received by non-employees, such as students, customers or visitors, do not have any employment taxes issues¹.

GENERAL SUPPORT

The following exemptions apply across a range of employer Travel Plan measures:

- The provision of interest-free loans are tax free (on the value of the interest forgone) so long as the total does not exceed £5,000 per annum. The loan can be provided by an employer to an employee for any purpose. For Travel Plans interest-free loans are most useful for public transport season tickets/passes and bicycle purchase, but can be used for anything else
- An employer-negotiated discount passed on to employees. This is most useful for public transport tickets (so long as there is no hidden subsidy – ie the cost to the employer of providing the ticket is not greater than the ticket price charged to the employee). It also applies to negotiated discounts at bike shops or for other support services (eg membership of a cycle rescue service)

BUS SERVICES

Specific tax and NI free benefits for bus services are:

- Employer-provided works buses with nine or more passenger seats (subject to certain conditions)
- Employer-subsidised public bus services where the employer has a contract with the operator. The contract can include service enhancement and also discounted or free fares for staff for travel between home and work
- See also the 'Salary Sacrifice' section below

WORKS BUSES

A 'Works Bus' is a bus or coach seating 12 or more passengers or a minibus seating 9 passengers or more. Smaller vehicles are not covered by this exemption. This exemption applies so long as the service is used

¹ Some non- taxpaying groups can be affected. These are members of employees' family if they received benefits by virtue of being related to the employee and there could be Employer Financed Retirement Benefit Scheme issues if benefits are provided to ex-employees. Travel Plan benefits are generally not offered to these groups.

mainly for commuting or travel between workplaces, but employees and their families can occasionally use it for other trips (eg a lunchtime shopping run).

EMPLOYER-SUBSIDISED PUBLIC BUS SERVICES

This is where the employer makes direct payments to the bus service provider to ensure the continuation/maintenance or improvement to local public bus route(s) serving the workplace. The payment can be to ensure the maintenance of a service or its improvement. The benefits to employees of such agreements are exempt from tax and NICs.

The provision of discounted or free fares for staff for travel between home and work can be part of such an agreement. Any such bus passes/tickets must be for home to work commuting or work related travel, but use for other trips as well may be permitted.

One issue to watch is that there can be an issue if a local Tax Inspector feels that the recipient is not using the bus benefit provided for commuting or other work-related travel. If your bus measure could provide significant benefit for private use you should check with your local Tax Inspector to make sure you get the scheme's design right.

Outside of any contract relating to bus service levels to a workplace, any subsidy to bus fares remains taxable. You cannot subsidise public bus fares alone in any form – reduced or free fares are only tax exempt as part of an agreement to maintain or enhance local public bus services to a workplace.

OTHER PUBLIC TRANSPORT (TRAINS, TUBE, METRO, TRAMS, FERRIES ETC)

Other than the general measures noted above (passing on negotiated fares reductions and interest-free loans), any other support for commuting remains taxable, including:

- Subsidies to train, tram, ferry or metro and tube fares
- Bus fares where there is no contract with the operator
- Tickets covering routes not serving your site

The only exception is if an individual employee travels sufficiently for business on public transport such that it is cheaper for them to be provided with a season ticket for business travel (ie the cost of the season ticket is no more than the individual business journeys would have cost if they were paid for separately). In such circumstances the employee can also use the season ticket for commuting without being liable to tax and NICs.

BICYCLES

The loan of cycles and cycle safety equipment are entirely exempt, with no ceiling on their value provided:

- The employer owns the cycle or equipment
- Employees use the equipment mainly for qualifying journeys; ie for journeys made between home and the workplace, part of those journeys (e.g. to the station) or for journeys between one workplace and another
- The employer makes cycles and equipment generally available to all employees (even if not all employees participate)

Tax law does not define the meaning of 'cyclists' safety equipment' and the DfT advocate a common sense approach and say this could include:

- Cycle helmets that conform to European standard EN 1078
- Bells and bulb horns
- Lights, including dynamo packs
- Mirrors and mudguards to ensure riders visibility is not impaired
- Cycle clips and dress guards
- Panniers, luggage carriers and straps to allow luggage to be safely carried
- Locks and chains to ensure cycle can be safely secured
- Pumps, puncture repair kits, cycle tool kits and tyre sealant to allow for minor repairs
- Reflective clothing along with white front reflectors and spoke reflectors

The provision of cyclists' breakfasts is also specifically tax-exempt, as is workplace parking for bicycles (and parking for motorcycles and cars).

Cycle maintenance and rescue services, however, remain taxable. This can affect 'Dr Bike'- type provisions and cycle rescue services. A group scheme may have a low cost per head so if you are uncertain about whether the arrangements you plan are liable for tax contact your local Tax Inspector.

Where an employer charges employees for the loan of a cycle for commuting, this can be paid through a salary sacrifice arrangement (see section below). This is an attractive arrangement which is used as part a number of Travel Plans.

CARSHARE BACKUP

Backup 'get-you-home' transport for car sharers in unforeseen and exceptional circumstances is exempt from income tax and NICs.

TEMPORARY AND TRIVIAL BENEFITS

Temporarily provided Travel Plan measures (eg if commuting benefits are provided to people who are moved to another site during an office refurbishment) may have a tax exemption. This cannot last more than 24 months. An important point is that a number of measures which are not exempt from tax and NICs may be viewed as sufficiently trivial that a Tax Inspector would not in practice charge tax on the benefit, because the cost of collecting the tax is disproportionate to the tax due. If you are offering a benefit that does not have a specific exemption, but seems small in value then it is worthwhile to check with your local Tax Inspector.

OTHER TAXABLE MEASURES

A number of Travel Plan measures remain in the tax net. These include:

- Payments to give up car parking rights
- Vanpools
- Any other substantial or regular cash incentives. However, this does not include prize draws linked to Travel Plan participation that, within reason, would be viewed as a 'trivial benefit'

PACKAGE AND VOUCHER/POINTS SCHEMES

If you operate a package scheme (using vouchers, points or 'Green Miles' that can be spent on commuting costs), it is best to have a package of exempt and agreed trivial benefits, and keep any taxable ones separate and distinct. Employees could be taxable on the whole package if there is a mix of taxable and tax exempt measures.

Through a points scheme you can provide incentives on non-exempt measures if designed correctly. For example, parking cash-out is taxable, but you could design your scheme such that points are only be redeemable on exempt public transport arrangements, cycle benefits, meals, etc. as described above. Note that no cash element is permitted, so vouchers or points should not be redeemable as cash in any way.

However, the position taken by a local Tax Inspector will depend on the facts and circumstances of each case and so such schemes need to be developed with care.

BUSINESS TRAVEL

Business travel is a totally different tax situation because this is part of a person's job and so has always been tax exempt, unless limits are passed – such as the maximum 'mileage rate' for using cars. Some recent changes now favour a 'greening' of business travel, which could form part of a Travel Plan. These include:

- Single 40p a mile private car mileage rate up to 10,000 miles (25p a mile thereafter)
- 24p a mile motorcycle mileage rate
- 20p a mile cycle mileage rate
- 5p a mile per car passenger rate (in addition to driver's rate)

Linking a Travel Plan to restructuring mileage rates and promoting the car passenger rate can produce big savings to an organisation. Some now offer a lower basic mileage rate for business travel in order to offer a high driver rate if a colleague is taken as a passenger in addition to the 5p a mile passenger rate.

SALARY SACRIFICE

Any tax exempt measure can be delivered through the mechanism of '*Salary Sacrifice*'. If an employer does not wish to provide a tax-exempt measure for free, the Salary Sacrifice mechanism allows any charge to employees to effectively be exempt of tax and NICs.

Salary Sacrifice involves an employee agreeing to a reduction in their salary associated with receiving a benefit. This, in effect, means that the amount they 'pay' for the benefit (through the reduction in salary) is free of tax and NICs, reducing their costs by about 33%. The employer also benefits by a reduction in their employer NICs payment, which usually covers the administrative costs of the scheme. Salary Sacrifice is widely used for a variety of tax exemption, particularly pensions and childcare. Salary Sacrifice can be used for any tax-exempt Travel Plan measure, but at the moment is most widely used for bicycles.

CYCLE TO WORK SALARY SACRIFICE

If employers want to loan cycles to their employees but need to cover their costs of buying the cycles, they can set up a *Cycle to Work Scheme*. The process is that the company buys the cycle and the employee is loaned the cycle for an agreed salary sacrifice, usually for between one and three years. At the end of the period the cycle can be offered for sale at a fair market value.

Providing the employee pays the fair market value for the cycle, no tax will be due when ownership of the cycle transfers from the employer to the employee. The value can be very low as depreciation rates on new cycles are high and the employer may have covered servicing of the bike and such costs can be deducted from the notional market value of a second hand bike.

There are a number of companies that offer *Cycle to Work* package deals, including Halfords, Boots, Evans Cycles and various local networks of cycle shops.

SALARY SACRIFICE PURCHASED BUS TICKETS/PASSES

If an employer charges a fare for the use of works buses this could also be the subject of a salary sacrifice arrangement. Salary sacrifice could also be used by employees for tickets/passes where an employer makes direct payments to a bus operator to ensure the continuation/ maintenance or improvement to local public bus route(s) serving the workplace. Some bus operators help employers to set up a salary sacrifice and the marketing services company *Motivcom* provide this in their *Greentravel2work*TM product.

TAX INFORMATION AND ADVICE

With care, many Travel Plan measures can be provided tax-free. The main areas where tax remains an issue are employer subsidies to non-bus public transport fares, parking cash out and bicycle maintenance. If you feel the tax position of a Travel Plan measure is unclear then do consult your local Tax Office. However you should be aware that Tax Inspectors will not provide a 'pre-transactional ruling'. They cannot suggest a travel plan measure design and will only respond to your proposals. Your Finance/HR department will be aware of how this relationship works.

There is a short 'green travel' factsheet on the HM Revenue & Customs website:

<http://www.hmrc.gov.uk/green-transport/travel-plans.htm>

Full details on the tax position of travel benefits are found in the annually-updated booklet *Expenses and Benefits: A Tax Guide*. This contains all tax exemptions, but you can search this electronically, which is useful. It is available from <http://www.hmrc.gov.uk/guidance/480.pdf>

The DfT Cycle to Work Implementation Guidance is on the cycling part of the Department for Transport website, downloadable from:

<http://www.dft.gov.uk/pgr/sustainable/cycling/cycletoworkschemeimplementat5732>

Motivcom's scheme utilising the bus pass salary sacrifice system is detailed at:

<http://www.pmmemployeebenefits.co.uk/green.html>