



FISH PARTNERSHIP LLP

FISHPAY AND FISHES EMPLOYERS NEWS BULLETIN

June 2006

SALARY SACRIFICE SCHEME

We hope, during the course of this article, to explain the basics of how these operate and also dispel a few of the myths that surround the subject.

To start with, H.M. Revenue & Customs only provide basic information on their website. This is because a Salary Sacrifice is a change to an employee's terms and conditions of employment which have been expressed either in their Contract of Employment, Statement of Terms and Conditions of Employment or, verbally. In larger organisations the setting up of a Salary Sacrifice scheme will therefore involve two departments, Human Resources, who will put in writing the changes to the terms of employment, and the Payroll Department, to implement the Salary Sacrifice.

So what is a Salary Sacrifice? Having just stated that the Revenue website provides only basic information, they have provided a definition — "A Salary Sacrifice happens when an employee gives up the right to part of the cash remuneration due under his or her Contract of Employment. Usually, the sacrifice is made in return for the Employer's agreement to provide the employee with some form of non-cash benefit. The 'sacrifice' is achieved by varying the employee's terms and conditions of employment relating to pay".

And what are the benefits? For most employees there is a saving on both tax and National Insurance and for the Employer a saving on National Insurance, less any costs in administering the scheme.

To give an example, we have taken an employee whose current Contract provides for cash remuneration of £23,500 a year. The employee agrees with the Employer that for the future their Contract will provide for cash remuneration of £20,640 a year plus they will receive 52 childcare vouchers a year, each with a face value of £55. This can be described as a Salary Sacrifice. Note, for this to be an effective Salary Sacrifice which changes the terms and conditions of employment, agreement must be made before the salary reduction and receipt of the vouchers. It cannot be backdated. In our example the employee will save £626.20 tax and £314.60 National Insurance per year on the sacrificed amount of £2,860 (52 x £55) per year. This makes a total annual saving of £943.80 and reduces the 'cost' of the nursery care from £2,860 to £1,916.20 per year. From the Employer's side, they will save the Employers National Insurance contributions on the £2,860 which at the current rate of 12.8% will give a total annual saving of £366.08 less, as previously mentioned, any scheme administration costs.

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Happy to Help

SALARY SACRIFICE SCHEME *continued*

Sounds good so far, so is it just childcare vouchers that can be used in a Salary Sacrifice? No, there are other non-cash benefits such as other types of non-cash vouchers, pension contributions, bonuses, cycles, mobile phones, work and public buses, cars for disabled drivers etc., that can be incorporated into a Salary Sacrifice scheme.

Employees may have reservations in 'reducing' their contractual pay, expressing concerns as to its potential effect on their pay for mortgage references. Provided the scheme is set up and administered correctly, the original salary, i.e. pre-sacrificed figure, and referred to as the 'notional' or 'reference' salary, can be used for mortgage references as well as the base for salary increments, pensions, overtime, call-out and bonus payments etc. However, the scheme could have a down side by reducing statutory payments, e.g. Statutory Maternity Pay (SMP) and earnings related benefits, e.g. Second State Pension etc. Employees need to be made aware of these potential reductions before agreeing to a Salary Sacrifice.

It has not been possible to cover all aspects and considerations in the space of this article and if, after reading, you have any questions or would like more detailed information, please telephone our Payroll Manager & Employers Advisor, Janet Ellis, on 01628 527956.

ROLLED UP HOLIDAY PAY (RHP)

At long last there has been a definitive outcome on the right to pay RHP. On 16 March 2006, the European Court of Justice (ECJ) ruled it unlawful. Employers who pay their employees RHP should re-negotiate contracts so that payment of statutory annual leave is paid at the time holiday is taken. We have never recommended the payment of RHP. We feel it goes against the fundamental provisions contained in the Working Time Directive and we are pleased to see that the ECJ has resolved this long running dispute.

BUDGET CHANGES

In our March 2006 Employers News Bulletin, we listed the New Rates and Thresholds from April 2006. In his Budget, the Chancellor uplifted the tax bandings as follows:

- 10% tax on the first £2,150 of taxable pay
- 22% tax on taxable pay between £2,151 and £33,000
- 40% tax on taxable pay in excess of £33,001

These increases came into effect with the first payroll on or after 18 May 2006. If you prepare your own Payroll, please make sure you have loaded your software providers' Budget update. New tables are available from HMRC for those who calculate their Payroll manually.

AGE DISCRIMINATION

From 1 October 2006 it will be unlawful to discriminate against individuals in the workplace on the grounds of their age. We will produce a more detailed report in our September bulletin. In the meantime, Employers needs to start acting now to prevent a potential age discrimination claim. Apart from reviewing your Employment Policies and Procedures etc., Employers should be aware that if they have an employee who will reach the age of 65 years on or after 1 October 2006 you are required to give them 6 months notice in advance of their retirement (assuming the contractual retirement age is 65 years and not greater). Therefore, an employee who will be 65 years on 10 February 2007, should be given written notice of their retirement date, together with their option to request to work beyond the age of 65 years, no later than 9 September 2006. If you would like further details or would like us to review your current Employment Policies and Procedures, please call Janet Ellis, our Payroll Manager and Employers Advisor, on 01628 527956.

THE FINES COLLECTION SCHEME

How often do we hear through the media, or read about in the press, about the level of fines imposed, in particular those for speeding. Of course, it is one thing to impose a fine but do they all get paid? The current answer is - probably not!

In order to try to combat the problem, the Government has introduced the Fines Collection Scheme. This enables not only vehicle clamping and credit blacklisting for those who fail to 'pay up', but also Magistrates Courts now have the right to issue an Attachment of Earnings Order (AEO). An AEO will recoup the fine through the individuals pay or salary and will, of course, have the knock-on effect of placing extra work on Employers, firstly making the deduction through Payroll, followed by paying over the fine by the due date. Then there is the possibility of getting a 'bit of lip' from the employee concerned. So far, we have not seen any of these particular types of AEO, so may be the employees of our Clients are all fine, upstanding members of the public who, if they do get caught with their foot to the floor, pay-up promptly!

IN BRIEF

Recent Government proposals plan to scrap the current 'three day waiting period' before SSP becomes payable. This will mean that those Employers who do not operate a Sick Pay Scheme will have to pay SSP, as a minimum, to every qualifying employee from the first day of absence. If the proposals are agreed and actioned, this could mean a further financial burden on small businesses as well as a possible increase in the number of sick days taken by those who are not genuinely unwell.

H.M. Revenue & Customs have accepted they provided incorrect guidance in their E24 Guidance booklet with regard to when NIC will be due on tips/gratuities. This booklet is now under revision and further guidance can be found on the HMRC website at www.hmrc.gov.uk.

IN BRIEF continued

Please do not forget that the deadline for submitting P11D's and P11Db's to the Revenue is 6 July 2006. This is hotly followed by the due date for the payment of Class 1A NIC's on 19 July 2006. Any Clients who have not already sought our assistance with completion of these forms can contact our Tax Manager, Amanda Morris, on 01628 527956. Amanda will be happy to advise and help you.

At the time of writing, the Government has just announced it's preliminary proposals for the National Pension Scheme. The contents of the White Paper have yet to be approved but, just briefly, it provides for a State Pension age for men and women to rise to 68 years from 2044 as well as compulsory Employers contributions of 3% into the Scheme and a 4% contribution from employees. It has been speculated that there may be an exemption for Employers with less than five employees and a note that no-one currently over the age of 47 will be affected by the changes. We will keep you updated in future Employers News Bulletins as the full details and implications are revealed.

WE'RE ON THE WEB!
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