



HM Revenue
& Customs

Employee Benefits and Expenses - Abolition of the £8,500 threshold

Summary of Consultation Responses
December 2014

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Foreword

I am delighted to be able to set out the responses to the benefits and expenses consultations, and very pleased that the package of measures has been so well received. As a package, I think that these measures represent significant simplifications to the tax system and that this will result in cost savings and reduced administration for businesses when complying with their responsibilities as an employer. As a consequence, individuals will have a better understanding of their tax affairs and an improved experience of the tax system.

The introduction of payrolling of employer-provided benefits in kind and expenses also represents the next step in allowing customers to interact with the Government digitally and in real time.

Thank you to everyone who has taken the time to reply to these consultations or attend meetings with HMRC. This has been crucial in helping HMRC modify their proposals to ensure that the greatest simplification for businesses is achieved. I would also like to thank the Office of Tax Simplification for their excellent work in this area, which proved invaluable in helping to formulate the initial propositions.

I look forward to continuing work on this package of reforms to make sure that we successfully deliver changes that help to reduce administrative burdens in this area.

A handwritten signature in black ink, appearing to read 'David Gauke'.

David Gauke MP

Financial Secretary to the Treasury

1. Introduction

Background to the consultation

1.1 At Budget 2014 the Chancellor announced a number of measures aimed at simplifying the administration of employee Benefits in Kind (BiKs) and expenses. This followed the Office of Tax Simplification's (OTS) review of employee BiKs and expenses¹

1.2 The announcement included a package of four changes which the Government consulted on between 18 June and 9 September 2014. A separate consultation document was published for each. All four consultations ran for 12 weeks.

1.3 The package of four measures consisted of the following:

- Abolishing the threshold for the taxation of BiKs for employees who earn at a rate of less than £8,500 annually ('lower paid' employment), with action to mitigate the effects on vulnerable groups disadvantaged by the reforms;
- Introducing a statutory exemption for trivial BiKs;
- Introducing a system of collecting income tax in real time through 'payrolling' of BiKs; and,
- Replacing the expenses dispensation regime with an exemption for paid and reimbursed expenses.

1.4 This document summarises the responses received covering the proposal to simplify the tax system by **abolishing the £8,500 threshold** for BiKs and taxable expenses.

1.5 A series of 4 consultation meetings took place during July and August 2014 during which the abolition of the £8,500 threshold was discussed with a range of employers and representative bodies. The Government wishes to thank those who gave their time to participate in these meetings, and those who took time to send in written responses. These contributions have been invaluable in informing this policy.

Aims of the proposal

1.6 The aim of this proposal is to simplify processes for employers, employees and HMRC. Abolishing the £8,500 threshold will remove the requirement for employers to monitor an employee's earnings package and then decide if an employee is earning at a rate of less than £8,500. It will also mean that employers no longer have to report certain BiKs and taxable expenses on form P9D. Employers who do not collect tax on all of their employees BiKs and taxable expenses through the payroll, will be required to report these BiKs to HMRC by sending a P11D for each employee.

¹ <https://www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-final-report>

1.7 The consultation document sets out the Government's intention to abolish the £8,500 threshold. The purpose of the consultation was to better understand which groups of employers or employees may be affected by the change, and how, allowing the Government to decide what action (if any) should be taken to mitigate the effects on any particular groups.

2. Responses

Analysis of responses

2.1 38 written responses were made to this consultation, of which 10 came from employers, 26 from representative bodies, 1 from an individual and 1 from the OTS. In addition 4 consultation meetings were held to discuss the detailed proposals attended by representatives from 13 large employers, 4 accountancy firms and 10 representative bodies.

2.2 Both individual employers and those representing employer groups thought that it would be unusual for employees to be paid at a rate of less than £8,500 annually and who also have BiKs. The vast majority of respondents were in favour of abolishing the £8,500 threshold, and welcomed the simplification that abolition would bring.

2.3 Most stakeholders agreed that all employees and office holders should be taxed on their BiKs or taxable expenses in the same way irrespective of whether these earnings were in one employment, or across two or more employments.

2.4 One respondent commented:

'The current situation allows one person to have a number of unrelated employments paid at below £8,500 (inclusive of benefits), receiving benefits in each one, possibly free of tax. An individual with just one job earning above £8,500 must pay tax on all taxable benefits received. The abolition of the £8,500 threshold would remove the inequality of this situation'.

2.5 The overwhelming response from stakeholders was that no special treatment should be offered to any group. Many respondents thought that treating particular groups of employees differently would create complexity and confusion and should be avoided. They thought that all employers should treat BiKs and taxable expenses in exactly the same way for all of employees whatever they earn.

2.6 One respondent said:

'We urge you to keep simplicity at the forefront of all changes that are introduced. Where it is necessary to protect revenues, this could be achieved by employing generic anti-avoidance rules rather than imposing prescriptive administrative processes that affect both compliant as well as deterring potentially non-compliant taxpayers. Where increased simplicity would increase or reduce revenues, simplicity should be allowed to 'win out' as it will be of more benefit to the economy in the long term'.

2.7 Respondents said that by implementing the full package of measures announced at the Budget, the Government would significantly reduce any additional P11D reporting by employers that might otherwise be a result of the abolition of the £8,500 threshold.

2.8 One respondent commented:

'In particular, the proposal to abolish the P11D Dispensation arrangements and remove the requirement to report all business expenses paid to employees on forms P11D together with the proposal to introduce a statutory exemption for trivial benefits should help in this regard.'

2.9 Of those who were not in favour of abolition, one respondent felt that the threshold should be retained but increased to £25,000 and another that it should be updated to an amount equal to the level of the Personal Allowance each year.

Government Response

2.10 The Government has decided not to retain the threshold nor increase it to £25,000, nor to link it to the Personal Allowance. There would be a significant cost to the exchequer in increasing the current threshold from £8,500.

2.11 These suggestions would significantly increase the number of employers with two different methods of reporting and taxing BiKs and taxable expenses to HMRC. Employers would need to continue to monitor employees to see whether they fell above or below the new threshold, increasing administrative burdens, complexity, and leading to confusion where the threshold was changing on a year by year basis. It would also not meet the simplification objective that the Government set out to achieve, or create the level playing field that both the Government and the majority of stakeholders think is the right thing to do.

Detailed responses to the 4 consultation questions

If you believe you or your employees, or organisations you represent will be affected by the removal of the £8,500 threshold please provide examples of the type of employees affected and the work areas in which they are engaged.

2.12 The majority of respondents had no employees who fell into this category. Two respondents (both employers) mentioned that even employees aged 18 or above earning the National Minimum Wage (NMW) would still earn, on an annual basis, in excess of £8,500, and so did not believe that many employees would be affected by abolition of the threshold.

2.13 One small employer with 32 employees said;

'We currently have no employees for whom a P9D form has to be completed. Our employees are all salaried employees who are paid on a monthly basis, earn above the National Minimum Wage and therefore exceed the £8,500 threshold'

2.14 However, some individuals would be affected. Another respondent said *'We have identified a number of groups of employees and employers that we believe could be adversely affected by the removal of the £8,500 threshold. In terms of employees, we highlight carers, part-time workers and ministers in the Roman Catholic Church; in terms of employers, we draw attention to care and support ('accidental') employers and small employers generally'.*

2.15 Respondents also commented on the employer National Insurance contributions (NICs) position. Some said that whilst employers would have additional Class 1A NICs to pay on the value of their employees' BiKs and taxable expenses, most were prepared to pay this additional liability if it meant greater simplicity. The saving in administration costs might well outweigh the additional Class 1A NICs that they would have to pay.

2.16 One respondent said:

'Abolition of the threshold means that all BiKs will have to be reported on P11Ds or payrolled and that more will become liable to employers Class 1A NIC. Placing additional costs on employers is never a good idea but, in this case, we believe that the additional costs are likely to be outweighed by the administrative reduction'.

Why is the removal of the £8,500 threshold likely to affect these groups of employees or employers? Please provide details of what you believe to be the likely impacts for these groups?

2.17 Respondents could only give a few specific examples of particular groups of employees who would be affected. These were ministers of religion, carers under certain circumstances, and volunteers. They also commented that some employees with employer-provided late-night transport between home and work may be negatively affected if they are currently earning at a rate of less than £8,500 annually.

Ministers of religion

2.18 A number of respondents were concerned about ministers of religion with earnings below the £8,500 threshold. They were concerned that some of these individuals may have other taxable income and some BiKs such as heating, lighting, water costs or private medical insurance premiums paid for by the church.

2.19 One respondent said

'Many Roman Catholic priests who are in receipt of State Retirement Pension would see a significant increase in their tax liabilities on the abolition of the £8,500 threshold without any increase at all in their income. This is because the value of other benefits that they receive from their ministry – including food and drink but other benefits as well – which are not currently subject to taxation where the cash income and value of all benefits is less than £8,500, will be brought into tax'.

Government Response

2.20 As a result of the concerns raised about the disproportionate effect of the abolition of the £8,500 threshold for lower paid ministers of religion the Government has decided to ensure that they remain exempt from income tax on certain BiKs and expenses where they are earning at a rate of less than £8,500 per year. A corresponding disregard for employers (Class 1A) NICs will also be maintained for this group.

2.21 The Government still intends to abolish form P9D. Any BiKs and expenses provided to lower paid ministers of religion that are not exempt from income tax (such as credit cards and vouchers) will need to be reported on the P11D at the end of the year.

Care and support employers - board and lodging

2.22 One representative at a consultation meeting and two written responses were concerned about the position of individuals who are treated as the employer of the carers looking after them. The concern arose where the carer was required to stay in their employer's home to provide care overnight and was provided with board and lodging, such as a bedroom and meals, by the person they are caring for.

2.23 Some of these carers are low paid and may be earning at a rate of below £8,500 annually. The abolition of the threshold may mean that the carer has additional income tax to pay and that the person providing the board and lodging would have a Class 1A NICs liability on the benefit of the board and lodging being provided.

Government Response

2.24 The Government believes that 'care and support' employers are people who need additional support. It is by virtue of the way that payments are made to them to 'buy in' the care that they need, that they have become employers at all and have become involved in the administration of PAYE.

2.25 As such there is a principled case for providing an exemption for board and lodging where an employed carer stays overnight in the home of the person they are caring for. The marginal costs of the board and lodging being provided are likely to be very small. The burden placed on the care and support employer in terms of the cost personally for NICs and the administration involved would also be unfair.

2.26 The Government has decided to exempt from income tax the benefit that arises when a care and support employer provides their employee with board and lodging. A corresponding exemption from Class 1A NICs on the board and lodging will also be introduced. These exemptions will apply both to employees engaged directly by the 'care and support' employer and those supplied through an agency. These exemptions will apply from 6 April 2016.

Unpaid volunteers

2.27 Some respondents thought there were potential downsides, particularly in the volunteering sector. A number of responses concerned volunteers and those doing unpaid work. They believed that abolition of the £8,500 threshold would lead to amounts paid to cover volunteers travel from home to the place of their volunteering becoming liable to income tax and NICs in the same way that 'ordinary commuting' is for employees.

2.28 One respondent said

'We assume that a definition of "volunteer" will be introduced to make it clear that such people are not "employees on nil salary" and will therefore not be caught by the abolition of the £8,500 threshold'.

Government Response

2.29 The Government values greatly those who undertake voluntary work across the UK and wishes to do all that it can to encourage voluntary service.

2.30 Income tax is only charged on earnings, including expenses and BiKs, where an office or employment exists. Most volunteers who undertake unpaid voluntary work are not engaged under a contract of employment so will not be affected by the abolition of the £8,500 threshold. These volunteers will continue to be entitled to tax-free reimbursement of their out-of-pocket expenses.

Employer provided late night taxis

2.31 Two responses expressed concern that the provision of transport home for those who may be working late into the night in the hospitality sector such as hotel, bar, catering and cleaning staff may now be taxed. They thought that many are provided with transport home by their employer because of the lack of availability of public transport and that they may be earning at a rate of less than £8,500 annually as many are in part time employment. They were also concerned that the current exemption for late night taxis may not apply to all the journeys they make, as there are likely to be more than 60 of these in a tax year.

2.32 One respondent said

‘Cleaners, care-home workers and catering staff are likely to be among the groups most heavily impacted by these changes. Many of these employees are provided with transport to and from their workplaces and would not qualify for the exemption for late night taxis. The abolition of the £8,500 threshold will increase the costs of working for these employers.

Government Response

2.33 A current exemption for late night taxis home is available on up to 60 occasions in a tax year (6 April to 5 April). This exemption means that the employee will not incur a tax liability and the employer will not have a liability to NICs on the first 60 occasions the employer provides a late night taxi to the employee, provided the other qualifying conditions are met.

2.34 With the introduction of the NMW the vast majority of those working in the hospitality sector such as bar, hotel, catering and also cleaning staff will already be earning at a rate of £8,500 or more annually and so will be unaffected by abolition of the threshold.

2.35 The Government believes that the tax system should be fair and therefore thinks that treating workers earning at a rate of less than £8,500 differently to other workers would undermine this principle. The Government also thinks that extending this exemption further will lead to increased costs for the exchequer, and goes against the policy aim of simplification.

Do you consider there is a principled case for some form of protection for particular groups of employees or employers likely to be affected by the removal of the £8,500 threshold? If so, which groups are they, and what form of protection should this take?

2.36 The majority of respondents felt that no protection should be offered and that all employees should be liable to income tax (and their employers to NICs) on all taxable BiKs and expenses in exactly the same way, irrespective of the employee's income.

2.37 One respondent said

'We would agree that introducing some form of transitional protection as part of this specific proposal would only serve to add more complexity to the tax rules when the aim of the proposal is to simplify the tax rules'.

If you believe that some protection should be offered, how do you think this could be done in such a way as to avoid or minimise any additional complexity for employers?

2.38 Where a respondent or representative thought that some form of protection should be offered they could not offer any method by which protection could be given without adding complexity for employers.

2.39 A respondent said

'Much depends on the personal circumstances of each individual. For example, consider two charity workers who are each paid under £8,500 (including what would be the taxable value of any benefits), but where one has no other income and the other has rental income or a second job that takes their total taxable income above the personal allowance. Only the second of these workers would be affected by the proposed change and be in the position of now having to pay tax on their benefits in kind. It would therefore, in our opinion, be difficult to design a new system of protection aimed at identifying groups of employees affected as it is more likely to be individual people who are affected and any protection offered to these individuals should be done through existing or amended legislation'.

2.40 Another written response said

'Restriction of the protection to the smallest possible base, with a clear definition, will minimise the complexity of operation'.

Government Response

2.41 The Government agrees that employees should be treated in the same way on their BiKs and expenses as it brings the greatest simplification. However, consultation responses indicated that there are two groups who exceptionally, because of their unique circumstances, needed special protection.

2.42 These groups are carers who receive board and lodging in the home of the person that they are caring for, and ministers of religion earning at a rate of less than £8,500 a year. The protection for these groups has been specifically targeted so that this does not add complexity to the tax system for nearly all employers.

3. Next steps

Implementation

3.1 The Government announced at Autumn Statement 2014 that the abolition of the £8,500 threshold will apply from 6 April 2016. The change will be implemented from this date to allow employers sufficient time to make any adjustments to their processes.

3.2 Form P9D will be withdrawn from 6 April 2016 as it will no longer be required. The last tax year for which a P9D should be completed will be for the 2015/16 tax year (these returns are due to be sent to HMRC before 7 July 2016).

3.3 Draft legislation is also published today to put this into effect on which comments are invited, the consultation will run for 8 weeks. Further changes to the regulations on the reporting requirements employers have will follow later.

3.4 Comments on the draft legislation may be sent to HMRC by e-mail if possible to employmentincome.policy@hmrc.gsi.gov.uk

Alternatively comments may be made by post to the following address;

Michael Adams
Employment Income Policy Team
Her Majesty's Revenue and Customs
Room 1E/08
100 Parliament Street
London
SW1A 2BQ

Annexe A: List of stakeholders who submitted written responses

We are grateful to all those who took time to send written responses to this consultation each of which has been taken into consideration in shaping the detail of this policy. Those who submitted written responses are shown below, there was one response that came from an individual which is not listed here.

Association of Accountancy Technicians
Association of Chartered Certified Accountants
Association of School & College leaders
Association of Taxation technicians
Baptist Union of Great Britain
BDO
BHP Chartered Accountants
Chantrey Vellacott
Charity Law Association
Chartered Institute of Payroll Professionals (CIPP)
Chartered institute of Taxation (CIOT)
Churches Legislation Advisory Service
Confederation of British Industry (CBI)
Deloitte
E & Y
Grant Thornton
Hull City Council
Institute of Chartered Accountants (England & Wales)
Institute of Chartered Accountants (Scotland)
Institute of Financial Accountants
IREEN (Electronic Exchange with Government Network)
KPMG
Leicester City Council
Low Income Tax Reform Group (LITRG)
M & A Partners LLP
Marks & Spencer PLC
Mazars LLP
MJCA (Small Business)
Office of Tax Simplification (OTS)
Open University
Payroll Alliance
Price Waterhouse Coopers
Roman Catholic Church
Scottish Qualifications Authority
Target Furniture Ltd
Try Lunn & Co
Whitefield Tax Ltd

Annexe B: List of stakeholders who took part in consultation meetings held

HMRC are very grateful to those who took time to come and attend consultation meetings held in London during July and August 2014 to give their views on this policy. Those who took part in these meetings were;

Aspen
Association of Taxation Technicians
BAE systems
BDO
British Telecom
Business Application Software Developers Association (BASDA)
CGI
Chartered Institute of Payroll Professionals (CIPP)
Chartered Institute of Taxation (CIOT)
Confederation of British Industry (CBI)
Deloitte
Diageo
Easyjet
Gabem Management
Genworth
ISIS support services
KPMG
Low Income Tax reform Group (LITRG)
Midland HR
Nest Corporation
Office of Tax Simplification (OTS)
Petrofac
Sainsbury's
Siemens
SITA
Smith & Williamson
Vodafone
Zurich