



HM Revenue
& Customs

Employee Benefits and Expenses

Real time collection of tax on benefits in kind and expenses through Voluntary Payrolling

Consultation document

Publication date: 18 June 2014

Closing date for comments: 9 September 2014

Subject of this consultation:	How employers can collect tax voluntarily in real time on benefits and expenses through the payroll, commonly known as payrolling.
Scope of this consultation:	To identify and explore <ul style="list-style-type: none"> • The systems and processes in place for employers who already have payrolling in place, and to learn from best practice; • Where the benefits of payrolling are most significant; • What aspects of a 'voluntary' model is most prized by employers to inform the design of legislation; • Which items are suitable, and which are unsuitable for payrolling; • What rules and guidance required to support customers; • Potential employer reporting models and the implications for payroll bureaux and software developers; • Where and how payrolling impacts on employees; and • Potential timescales for implement payrolling
Who should read this:	The Government is interested in hearing from everyone with views or an interest in this subject including professional, representative and accountancy bodies. We are particularly keen to hear from employers who already payroll, payroll bureaux and software developers. We are also interested to hear from employees affected by these issues.
Duration:	The consultation will run from 18 June 2014 to 9 September 2014
Lead official:	Mr Paul Thomas, HMRC.
How to respond or enquire about this consultation:	Responses to the consultation can be e-mailed to the following address employmentincome.policy@hmrc.gsi.gov.uk . Alternatively written responses may be sent to the Employment Income Policy Team, Room 1E/08, 100 Parliament Street, London, SW1A 2BQ.
Additional ways to be involved:	Meetings with external representatives will be arranged. If you are interested in attending such a meeting to put forward your views please make contact using the details shown above. If you require the text of this consultation document in Braille or Welsh then please use the contact details above.
After the consultation:	The Government will publish details of the consultation responses and expects to make an announcement at Autumn Statement 2014 on any decisions made by the Government for this policy change in the light of those responses. If this policy change is to go ahead legislation to support that change is expected to feature as part of the Finance Bill 2015.

Getting to this stage:

This consultation is one of four being run by HMRC and HMT in response to the interim and Second report of the Office of Tax Simplification reports into employee benefits and expenses

- [Interim report](#)
- [Second report](#)

Previous engagement:

Previous consultations - 2007 – Payrolling, a fresh approach



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Go to - [Payrolling benefits in kind 2007](#)

On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats

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Foreword

This consultation represents the next step in taking forward some of the recommendations made by the Office of Tax Simplification following the excellent work they carried out in the review of employee benefits and expenses. The Government believes that the legislation we will introduce as a result will deliver real simplifications that improve businesses' and individual's experience of the tax system.

It is important that we get the structure and detail of this legislation absolutely right, so each of the consultation documents provides the Government with the opportunity to learn from those who will be directly affected. We want to hear from you so that we can draw on your experience and suggestions for the practical implementation of our proposals. That will ensure better legislation is implemented which is one of this Government's key objectives.

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

David Gauke

Exchequer Secretary to the Treasury

1. Introduction

- 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 (OTS) review of employee benefits and expenses.¹
- 1.2 The announcement included a core package of four measures for consultation with a view to introducing legislation in Finance Bill 2015.
- 1.3 The core package consists of the following changes:
 - Abolishing the threshold for the taxation of benefits in kind for employees who earn at a rate of less than £8,500 a year ('lower paid' employments), with action to mitigate the effects on any vulnerable groups disadvantaged by the reforms;
 - Introducing a statutory exemption for trivial benefits;
 - Introducing a system of voluntary payrolling for benefits in kind; and,
 - Replacing the expenses dispensation regime with an exemption for paid and reimbursed expenses.
- 1.4 A separate consultation document is being published on each of these changes and consultation on all four will run from 18 June 2014.
- 1.5 The Chancellor also announced a review of the rules on travel and subsistence. This will launch later this summer and aims, over the longer term, to develop a set of rules that are clear and straight forward to use for employers, and are flexible enough to cater for 21st century working patterns.
- 1.6 As also announced at Budget 2014 a call for evidence on remuneration practices in the 21st century will be published alongside these consultations, seeking evidence to inform future policy development
- 1.7 This document covers the proposal to **introduce a framework for voluntary collection of tax on BiKs and expenses in real time, through payrolling** and seeks views on the different models, how they could operate and the impact on implementation. HMRC welcomes views from employers, employees, tax agents and professionals, representative bodies and software providers.
- 1.8 In this document all references to P11D include P9D. However, the outcome of the consultation on the threshold for taxation of benefits in kind for employees earning at a rate of less than £8,500 per year may make the P9D form obsolete.

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

2. Background

Current rules

- 2.1 The basic principle for the collection of income tax (tax) and National Insurance Contributions (NICs) on employment income is that payments of cash and items that can be converted to cash are subject to tax and to Class 1 (employer and employee) NICs. Tax is collected on payments of cash under the PAYE rules and reported through Real Time Information (RTI) to HMRC. Employer reporting requirements are set out in Annex A, and relevant legislation in Annex B.
- 2.2 Taxable Benefits in Kind (BiKs) such as company cars are subject to tax and Class 1A NICs (an employer only contribution) with the exception of vouchers which are treated as cash and subject to Class 1 NICs. Employers are required by law to report the details of all BiKs after the end of the tax year on form P11D or P9D as appropriate. A separate return of Class 1A NIC's due on employee BiKs is made after the end of the tax year on form P11D(b).
- 2.3 Regulations then allow an adjustment to be made by HMRC to an employee tax code to collect the tax due through PAYE during the tax year. This prevents the employee, in most cases, from getting a tax bill at the end of the year. For a small number of BiKs liable to Class 1 NICs, whilst the employer still makes a return of the BIK on the P9D / P11D the employer calculates the Class 1 liability at the time the benefit is provided, paying HMRC through RTI procedures.
- 2.4 Payrolling arrangements aim to include the value of the BiKs and expenses provided in taxable pay as if they were cash payments and to deduct the tax due in each pay period, at the same time as the tax and Class 1 NICs due on cash earnings. The result is that the tax due on BiKs and expenses is deducted and accounted for in the year of provision rather than through estimates in the coding with an end of year reconciliation. Class 1A liabilities are generally accounted for after the tax year end through completion of a P11D(b) by 6 July.

Drivers for change

- 2.5 The Government has for many years received representations from employers and their representatives suggesting improvements to tax and NICs that could reduce administrative burdens. These improvements also have potential for delivering corresponding benefits to HMRC at a time when pressures to use resources effectively are at the fore. One area that has continued to generate interest is how tax is collected on BiKs and expenses through systems that collect in real time through the payroll, commonly known as 'payrolling'.
- 2.7 The Government has previously consulted on payrolling in 2007². However this earlier consultation focused on mandatory reform and did not generate sufficient support to create a compelling case for change.

² [Payrolling benefits in kind 2007](#)

- 2.8 The introduction of RTI for employers does support informal payrolling by providing for employers to report the total BiKs that have been taxed through the payroll alongside the total taxable pay to date in their normal RTI submissions. This approach allows the total BiKs figure to be identified, but has limitations in addressing the practical considerations and areas where consistency is required. These are considered in more detail in chapters 5 to 7 of this consultation. Combining the challenge to reduce administrative burdens for employers and the introduction of RTI, it is a natural step to consider how far it may be possible to bring other items within the scope of real time reporting, and what impact it would have.
- 2.9 With regards to Universal Credit, the Government has indicated that in the longer term earnings calculations may include an amount for Benefits in Kind where applicable. As Universal Credit is introduced it is likely that many employers will find payrolling more straightforward than the potential alternatives which could include individual requests for information from employees.

Office of Tax Simplification

- 2.10 The Government launched the OTS on 20 July 2010 to provide independent advice on simplifying the UK tax system. During 2013 the OTS carried out a review of Employee Benefits and Expenses, and published their findings and recommendations in January 2014³.
- 2.11 OTS featured payrolling in both their Interim and Second reports on Employee Benefits and Expenses. It was 'Quick win' No.1 in the interim report published in August 2013 and discussed in Chapter 1 in the Second report published in January 2014.
- 2.12 The recommendation that emerged from the report was that a legislative framework be introduced specifically to permit employers to payroll some or all of their employee BiKs (including expenses not covered by an exemption or dispensation).
- 2.13 The OTS recommended that employers should be free to choose whether to payroll or not and that there should be no compulsion either way. The recommendation accepted that if employers did choose to payroll, they would in principle have to payroll the BiKs for all their employees. The target was that the great majority of BiKs are payrolled.
- 2.14 Alongside this, the legislative framework should be revised so that employers would no longer be required to file a form P11D in relation to BiKs which are being payrolled although the OTS recognised the need to protect employees ensuring they are provided with a clear notification from their employer of the benefits that they have received during the tax year.

³ <https://www.gov.uk/government/publications/review-of-employee-benefits-and-expenses-second-report>

2.15 The following observations were drawn by the OTS on a theme of 'all or choose'. The key questions that the OTS identified were:

- Should payrolling be compulsory for all employers?
- If an employer payrolls, should it be compulsory for all benefits?
- If an employer payrolls a benefit, should it be compulsory for all relevant employees?

2.16 The OTS offered the following recommendations in response to these questions.

- employers must be able to choose; payrolling will not work for all;
- again, there must be a measure of choice as payrolling for some benefits (e.g. loans) would be difficult. However, whether there should be a 'set list' is more debateable – on balance we think this should be a free choice; and
- if an employer chooses to payroll a benefit (say medical cover) it must be payrolled for all employees who receive that benefit.

3. The different perspectives

Employers

- 3.1 The P11D / P9D process is often criticised by employers and agents for being time consuming, especially where large numbers of returns (or lists) for small amounts have to be returned. The Government is aware of some existing informal payrolling arrangements and understands the main driver for these are administrative burdens of the current P11D process.
- 3.2 Even where an employer payrolls BiKs there currently remains a statutory requirement on them to provide the information through the P11D/P9D. HMRC are aware that this requirement, alongside 'payrolling' can generate issues. For example where forms may be processed in error because despite P11Ds being marked as 'payrolled' when submitted, the return is processed and the employer then receives an adjusted tax code to take account of the benefit, resulting in a double tax charge for the employee.
- 3.3 HMRC conducted a small amount of pilot activity in 2013-14 and 2014-15 and is now seeking involvement, through this consultation of both employers who are already payrolling, to learn from best practice, and employers who have an interest to begin payrolling to understand the challenges and issues they face.

Employees

- 3.4 For employees, payrolling should result in fewer tax code changes as no adjustment for BiKs should be required. Employers have a statutory obligation to provide current employees with details of the BiKs or expenses provided, irrespective of whether tax has been collected through the payroll. Individuals might not be fully aware of the impact of current informal payrolling arrangements and this can lead them to duplicate reporting. Informal payrolling also leads to inconsistency in terms of the treatment of BiKs between one employer and another, and information reporting
- 3.5 Under the current rules employees who complete Self Assessment (SA) returns are required to provide BiKs details on the employment pages of their return; HMRC then reconciles the details at the year end. Where an employer is informally payrolling BiKs there can be inconsistency between the treatment of BiKs between one employer and another, this could cause employees to incorrectly declare BiKs already taxed and potentially be taxed twice.
- 3.6 An additional driver for consistency is that information regarding BiKs is also required for providing income details for a range of different financial matters and income based welfare support such as Tax Credit / Universal Credit.
- 3.7 Under the Government's published Digital Strategy HMRC will see transactions with employees and business customers shifting to digital channels. There are a number of exemplar trial services including 'PAYE Online' and 'Tax for my Business' which focus on moving transactions and services online.

- 3.8 These Digital services will begin by initially allowing employees to report changes to HMRC, such as replacing their existing company car. Where the change alters the value of the BiK for the employee, HMRC will need to ensure all the correct information is available, such as identifying if an employer is payrolling, to prevent an incorrect adjustment to an employee's tax code where the tax is already being collected through the payroll.

RTI, third parties, agents and software providers

- 3.9 The current RTI system caters to a limited extent for informal voluntary payrolling by employers, providing the functionality for employers to record and separate payrolled BiKs at the global employer level. This consultation document focuses on the principles and a model for payrolling. The Government will consider further work following this consultation on future employer reporting requirements, allowing sufficient notice for employers, software providers and agents to put any necessary arrangements in place.

4 A Voluntary Payrolling Model

Exploring a Voluntary Model

- 4.1 In drawing together recommendations on payrolling, the second OTS report concluded with the following choices, considered by this consultation
- Should payrolling be compulsory for all employers?
 - If an employer payrolls, should it be compulsory for all benefits?
 - If an employer payrolls a benefit, should it be compulsory for all relevant employees?
- 4.2 In addition to dealing with these choices, the Government proposes two further key factors which are vital in order to retain some degree of consistency to protect employers, HMRC and individuals and ensure payrolling delivers genuine simplification:
- Defined rules and processes for starting or stopping payrolling; and
 - Standardised rules and guidance, including for individual benefits.
- 4.3 The Government proposes that the following core assumptions should be taken into account in any payrolling model:
- Payrolling should be for all employees, with limited and defined exceptions (for example, employees on separate payroll), and
 - Employers will need to follow consistent rules and processes

Should payrolling be compulsory for all employers?

- 4.4 The Government does not propose introducing compulsory payrolling at this time. Payrolling can deliver benefits for many employers. However there are some employers who could be adversely affected by having to implement such a process. In particular, previous consultations have identified it is less attractive to smaller employers and those who do not have dedicated payroll resource.
- 4.5 It is also true that while payrolling works well where circumstances are relatively straightforward, this is not necessarily the case where they are more complex. Without fundamental changes in the way many BiKs are taxed, payrolling will not always achieve the correct deduction of tax where the situation is more complex, or where facts change too late in the tax year for the payroll to be corrected.

- 4.6 Put simply, as the following examples illustrate, payrolling attempts to collect the correct amount of tax from BiKs in real time – ie during the tax year without any adjustments being made to the employee’s tax code.

Example 1. In June 2015 Alpha Graphics Ltd provides for its senior managers to attend a prestigious sporting event as a reward for their high productivity. The BiK is agreed as £400 per employee. In a payrolling model the £400 will be included in the June payroll and the tax collected through RTI.

Example 2 Gamma Hire Ltd provide Bill Jones, their salesman, with a company car throughout the 2015-16 tax year and it is available for his private use. The agreed car benefit for 2015-2016 is £3,600. The company intend to payroll the BiK from 2015-2016. Bill Jones is paid monthly so in a payrolling model £300 will be included each month in the monthly payroll and the tax will be collected through RTI.

NB – The dates and amounts in the above examples are for illustrative purposes only.

- 4.7 The above examples are relatively straightforward and the correct tax will be collected at the right time. However, the Government recognises that without a fundamental change in rules for taxing many BiKs payrolling will not always achieve this. A simple example is a taxable loan with a fluctuating balance, covered in more detail at paragraph 4.9.
- 4.8 There are no plans to introduce the fundamental and wide ranging reform required for a ‘right first time’ model that always deducts exactly the correct amount of tax and a voluntary payrolling model will need to operate alongside the PAYE system. The guiding principle of a voluntary payrolling model is that it should be simple to administer and this will mean some limitations. Chapters 5 and 6 of this document explore some of the more challenging situations.

Q1 Do respondents agree that a voluntary payrolling framework presents the best overall opportunity for simplification?

Compulsory for all benefits?

- 4.9 The case for payrolling is based on the administrative advantages it can deliver for employers, some of which can also be passed onto HMRC and employees. However, these advantages do not apply to all types of BiKs. In addition, there are some BiKs where if the statutory rules are followed payrolling is unlikely to ever achieve the correct result, one example is working out the BiK on an employment-related loan where the balance fluctuates, for example because of repayments or additional borrowing. For these the balance at the end of the previous and current tax years must be known in order to apply the averaging method of calculation.

- 4.10 For this reason a pragmatic approach is to develop a defined or approved list of BiKs addressing first those areas where demand is greatest because the largest number of individuals and employees would be impacted. It may then be possible to examine other items on a case by case basis. The aim here is to identify the BiKs where the biggest advantages from payrolling exist.
- 4.11 Under a voluntary model, only some types of BiKs will be able to be payrolled. As a result there is a further choice around the extent to which employers should be able to choose which BiKs to payroll, if they choose to payroll at all.
- 4.12 There is a trade off here between ease for employers, reporting complexity and simplification for employees. If employers are provided with complete freedom HMRC systems will need to be able to recognise not just that an employer is payrolling, but also for exactly which BiKs.
- 4.13 To support the greatest overall simplification the Government propose that whilst not compulsory for all BiKs, a voluntary payrolling model should be supported by standardisation wherever possible. This could take the form of a set list of 'approved' BiKs where, if the employer chooses to payroll, any BiKs provided to employee by that employer that are on the list will need to be payrolled. This would provide better clarity for HMRC and individuals and reduce the potential for errors.
- 4.14 Alternatively, a list of approved BiKs could be offered on the basis that the employer could choose which of these to payroll, so that there may be some BiKs on the list that the employer provides to employees which are not included in the payroll. This gives the employer greater choice but there would potentially be greater complexity in employer reporting and scope for confusion.

Q2 Should employers have to payroll all BiKs endorsed by HMRC, or choose freely from a list of 'approved' BiKs produced by HMRC to suit their business?

Should payrolling be compulsory for all relevant employees?

- 4.12 Introducing a dual system for reporting BiKs will add some complexity to the current system so to balance this and minimise the impact the proposed starting position is that where an employer is payrolling a BiK they should do so for all such BiKs of that type provided to their employees. For example, if an employer chooses to payroll the benefit in respect of the provision of a company car they should do so for all employees provided with such benefits.
- 4.13 The Government recognises there may need to be some tightly drawn exceptions to this. Examples are employees on a separate payroll, or whose affairs are dealt with separately. This might be because one group of employees have special confidentiality arrangements or complex international affairs.

Q3 Should payrolling apply to all employees within a PAYE scheme subject to a limited number of exceptions and special cases, and what should these exceptions be?

Employer transition to and from payrolling

- 4.14 The Government supports the merits of a voluntary model but recognises this must be balanced with protection for employees. Employers will be free to choose whether or not to payroll BiKs but controls will be needed for cases where an employer wishes to bring payrolling arrangements to an end and revert to a P11D so the tax is collected through the SA process or an adjustment to the employees' tax code. This is primarily due to the impact on employees, to ensure their tax codes can be amended in time to collect the tax and prevent underpayments accruing.
- 4.15 The protection will need to ensure sufficient notice is provided for HMRC to take corrective action on employee records in time for the coding cycle. HMRC may need up to 4-6 months advance notice to ensure that BiK details for the following year are included in the individual's tax codes from the start of the tax year and the notice would need to include details of the estimated annualised BiKs. If withdrawal from payrolling was to be allowed then rules would prescribe precisely what notice must be given to ensure the employee's coding can be updated. Again there is a trade off between allowing employers flexibility and the potential impact on employees and HMRC resource.
- 4.16 For employers, a key practical consideration will be at what point in the year they can commence payrolling. Although the end of the payroll year (March and April) are typically the busiest for payroll departments, because payrolling broadly seeks to collect the tax due on BiKs over equally over the course of the year, the simplest approach is to recommend that employers can only start payrolling to coincide with the start of a new tax year. This pragmatic approach will also minimise the need to detailed rules on apportionment. **The Government recommends that the rules should reflect that payrolling starts or changes only at the beginning of a tax year.**

Q4 What might cause an employer to need to cease payrolling? Would employers prefer payrolling arrangements to be irrevocable once entered into, or for HMRC to develop terms of withdrawal which accommodate the necessary protection?

Standardised rules and guidance, including for individual benefits

- 4.17 A limited number of HMRC pilot studies with employers has demonstrated that under the current informal arrangements employers have developed a range of approaches to payrolling. These include varying approaches to dealing with some of the practical issues outlined in chapters 5 to 7 and different reporting models which reflect their own internal processes.
- 4.18 The Government proposes that arrangements will need to be formalised. Standardised rules, guidance, compliance arrangements and agreed reporting arrangements (including when to and when not to report) must be put in place to ensure consistency for employers, individuals and HMRC.

National Insurance

- 4.19 Under current rules, employers pay Class 1A NICs after the end of year by 19 July (or 22 July if paying electronically). Class 1A NIC is an employer only charge so real time considerations are different. HMRC pilot studies have shown that many employers who payroll BiKs have kept Class 1A arrangements separate, retaining the statutory end of year reporting on form P11D(b). This has involved employers taking the final payrolled values to make the necessary P11D(b) calculations and payments after year end.
- 4.20 Some employers may view end of year Class 1A NICs reporting as a disincentive to payrolling and in the interest of tax and NICs alignment one option would be to allow employers to account for the Class 1A NICs in real time. This has obvious cash flow implications as NICs would be paid over sooner than is currently required. The Government is interested in understanding whether the advantages of dealing with all BiKs in-year for NICs purposes outweigh cash flow disadvantage. However, there are no plans to introduce any wider NICs reform as part of this work.

Q5 Would respondents welcome the option to account for Class 1A NICs in real time where the BiKs are being payrolled?

Errors, omissions and PAYE

- 5.1 Because the tax charge on BiKs works on an annual basis and payroll works typically on a weekly or monthly basis there will inevitably be situations where errors occur or practical issues arise and the tax position needs to be revisited (see examples provided at 5.2) . In addition to the issues covered in this consultation, the Government would be interested in hearing from employees if there are other issues where employers would find guidance from HMRC useful.

The right amount of tax is not collected at year end

- 5.2 Employers currently have until 6 July following the end of the tax year to report any taxable BiKs and expenses provided to their employees on form P11D. Where an incorrect P11D is submitted or an employer fails to complete a P11D the statutory right of recovery in respect of the tax lies with the employee who is responsible for reporting details of all sources of income. In addition, HMRC may impose a penalty for the incorrect P11D or the failure to provide a P11D and the employer will be required to pay the Class 1A NICs. This contrasts with the position for operating PAYE where there is recourse to the employer for tax under-deducted
- 5.3 HMRC has conducted research with a small number of pilot employers who are already payroll informally. This tells us that employers will normally build in balancing checks alongside year end activities to ensure the correct tax has been collected. We are also aware of scenarios where employers submit P11Ds after the year end to correct anomalies.

Example 1

An employee decides after payment of their bonus on 31 March, to make good in full the cost of fuel provided for their private use, only after the last payroll has been run. Too much tax has been paid.

Example 2

In error the employer calculated the BiK across the course of the year as if the employee had made good in full the cost of fuel for their private use. This was spotted at the end of the year. Too little tax has been paid and the employer and employee cannot agree how the mistake should be rectified as the employee insists they thought their affairs were in order.

- 5.4 Some employers have told HMRC that the scenario in example 1 would not arise because any payments (including full payment) are agreed with employees up front as part of the terms and conditions of providing the company car. Others have suggested that if the payment was made before the payroll was finalised it may be possible in some circumstances to address any discrepancy through a supplementary payroll run.

- 5.5 Turning to example 2, employers have told HMRC that the end of year checks in their own systems would detect that no private use payment had been made in time for the final payroll run of the year so the employee would be made aware by the time the final payroll run had taken place. Employers would also have up to the P11D deadline of 6 July to submit a P11D containing any amendment required.
- 5.6 These examples cover some cases where the right amount of tax has not been deducted. The Government would be interested to hear from employers experienced in payrolling; whether these examples align with their own experience, and whether there are alternative methods of dealing with these exceptions. In particular, errors and omissions arising between the final payroll run of the year, most commonly in March, and the 6 July P11D deadline.

Q6 For employers experienced in payrolling, what are the most common reasons for errors in the amount of tax deducted, and what actions are commonly taken to address this, in particular after the payroll has closed?

Q6A Where tax is under-deducted should the existing approach for PAYE be adopted with recourse to the employer using existing principles?

Q6B What other exceptions exist where new PAYE rules may be required, for example, where HMRC issue a tax code to be operated on a week 1 / month 1 basis?

Statutory rules and exceptions

End of pay period changes and payroll frequencies

- 6.1 In devising rules consistency will be required in dealing with the time lag in making changes to the payroll. Many payrolls 'close' before the pay period ends and estimating the value prospectively based on the information available appears the most pragmatic solution. Examples of where this may commonly occur are where there are changes to BiKs received, for example being provided with or relinquishing a company car or private use payments being made after the end of the year.
- 6.2 There are a number of different pay period models and employers are largely free to choose that which suits their business. We are aware, for examples of many international employers who run a fortnightly payroll as this is based on the common US model. There are also still many individuals paid on a weekly basis. For UK employers, a four weekly payroll is also still quite common. HMRC welcomes additional details from respondents of issues and challenges operating weekly, fortnightly, four weekly, monthly (and other) models and in particular where models exist for the higher frequency (weekly) pay period employers.

Exceptions

- 6.3 There will commonly be, for a number of different groups of employees, periods of nil pay where there is no pay from which to collect tax and during which BiKs may continue to be provided. Common examples would be where an employee is absent on long term maternity, paternity or long term sick leave or a career break and moved to nil pay but continues to enjoy the benefit of private medical cover. In circumstances where employers cannot make deduct tax they will need alternative arrangements. There are two main possibilities for dealing with these situations; either by including these employees within the 'exceptions' at paragraphs 4.10-4.12, or by looking at whether employers can payroll at another point, for example in the case maternity pay, before an employee moves to nil pay.
- 6.4 Collecting tax on BiKs in real time works well for one-off benefits with a readily identifiable cost or ongoing benefits where the recurring costs are the same because of minimal in year changes and there usually being sufficient taxable cash pay from which to deduct the tax. A simple example is medical insurance or gym membership where the cost of the policy remains static over the course of a year.
- 6.5 However, there are some unusual cases and practical considerations which will require further rules including setting a monetary limit to protect employee take home pay in a given period. An example might be an employee who acquires a company car with a particularly high value and then perhaps as a result of a fall in performance related pay sees a sudden reduction in available pay from which to deduct tax. In this scenario the Government believe that there should be some statutory limit or override on gross to net pay in any given period. A benchmark figure might be 50% of the total cash pay in the relevant period. The rules will need to address how to report the balance.

Q7 The Government is interested to hear from employers experienced in payrolling on dealing with the issues covered at paragraphs 6.1 – 6.5. What are employers' experiences of this, and do the options described provide workable alternatives?

6.5 Introducing a voluntary model will mean dual systems will be created and that will impact employees who move between payrolling and non payrolling employers so rules will be required dealing with apportionment for new employees.

A simple example is Patrick who works for employer, ABC Design. ABC Design provides private medical insurance (PMI) at a cost of £300 for annual cover. An estimate of £300 is included in Patrick's tax code for 2014-2015. In September 2014 Patrick changes employer and moves to GHI Ltd who provide identical PMI at the same cost but they payroll the BiK. Although the benefit is the same, if Patrick's tax code for 2014-2015 is not amended, he will pay tax on the BiK through his code and through payrolling with GHI Ltd. From the start of 2015-16, if payrolled correctly, the tax on Patrick's PMI would be collected in real time.

Common practical issues

- 7.1 In addition to the key questions for a payrolling model, there are discrete issues that are more closely associated with individual BiKs or those where the tax rules operate in a certain way.
- 7.2 This consultation already covers some areas where payrolling works well either the BiK value is known at the start of the year so it can be evenly spread, or where it relates to a relatively small one off item which can be taxed in the month or week it is provided. However, because of the many different forms BiKs can take and the different decisions employers may make in how they provide them, getting early input from employers is essential in order to develop a model that will work for the greatest number of employers.
- 7.3 Because of the wide range and scope of the issues this consultation does not directly address every question at this stage. However, the Government has prioritised three areas where feedback would be particularly useful in order to inform further discussion and consultation as necessary. The Government is particularly interested in hearing how those currently payrolling overcome these challenges or how respondents think a payrolling model should be shaped.

Q8 Company Cars and Fuel

a) How do employers deal with any payments or contributions for private use made retrospectively, and particularly those made from 6 April to 6 July?

b) Do employers continue to submit form P46(Car) to report changes?

Q9 PMI (or gym membership fees) paid on behalf of the employee

a) Where the policy renewal period falls part way through the tax year, unless the premium for the year is agreed in advance, what value is payrolled? Do employers project a value based on a previous year premium, or estimate the premium and begin payrolling on that basis and adjust once premium for that year is agreed?

b) Do employers payroll the total annual premium in the month paid?

Q10 One off large BiKs in the form of the transfer of an asset (a property or valuable antique).

These items with a large tax charge will require a significant deduction of tax in a single pay period.

a) Do any employers payroll these items? If so, are how are they dealt with? Do employers spread the value of these across the remainder of the year or do they payroll the total in one pay period, or

b) Do employers report items on a P11D with a note that it is a one off?

Delivery Timescales

- 8.1 The consultation does not address detailed implementation timelines and instead looks at the principles and constraints of a voluntary model, and what process and system changes may be required for both employers and HMRC to support delivery of a payrolling framework.
- 8.2 Because of the range of issues that need to be considered this consultation covers only the first phase of what will need to be a phased delivery and addresses what is required to deliver a first tranche of enabling legislation that formalises payrolling as a concept within the current PAYE rules from April 2015.
- 8.3 More detailed consultation and any supporting legislation will then follow with remaining items and issues prioritised according to employer need and appetite and deliverability. This includes consideration of how the current employer processes support payrolling, the requirements of a HMRC compliance framework, and the impact on form P11D.
- 8.3 We are aware that software developers will not automatically incorporate every feature or change of legislation into a commercial product and are keen to engage on the challenges a 'voluntary' model may pose. Detailed consideration will include the current RTI Full Payment Submission, and Earlier Years Update processes and timelines.

9. Summary of questions

Q1	Do respondents agree that a voluntary payrolling framework presents the best overall opportunity for simplification?
Q2	Should employers have to payroll all BiKs endorsed by HMRC, or choose freely from a set 'approved' list produced by HMRC to suit their business?
Q3	Should payrolling apply to all employees within a PAYE scheme subject to a limited number of exceptions and special cases, what should these exceptions be?
Q4	What might cause an employer to need to cease payrolling? Would employers prefer payrolling arrangements to be irrevocable once entered into, or for HMRC to develop terms of withdrawal which accommodate the necessary protection?
Q5	Would respondents welcome the option to account for Class 1A NICs in real time where the BiKs were being payrolled?
Q6	For employers experienced in payrolling, what are the most common reasons for errors in the amount of tax deducted, and what actions are commonly taken to address this, in particular after the payroll has closed?
Q6A	Do you agree that where tax is under-deducted the government should follow the existing rules for PAYE, retaining recourse to the employer using existing principles?
Q6B	What other exceptions exist where new PAYE rules may be required, for example, where HMRC issue a tax code to be operated on a week 1 / month 1 basis?
Q7	The Government is interested to hear from employers experienced in payrolling on dealing with the issues covered at paragraphs 6.1 – 6.5. What are employers' experiences of this, and do the options described provide workable alternatives?
Q8	<p>Company Cars and Fuel</p> <p>a) How do employers deal with any payments or contributions for private use made retrospectively, and particularly those made from 6 April to 6 July?</p> <p>b) Do employers continue to submit form P46(Car) to report changes?</p>
Q9	<p>PMI (or gym membership fees) paid on behalf of the employee</p> <p>a) Where the policy renewal period falls part way through the tax year, unless the premium for the year is agreed in advance, what value is payrolled? Do employers project a value based on a previous year premium, or estimate the premium and begin payrolling on that basis and adjust once premium for that year is agreed?</p> <p>b) Do employers payroll the total annual premium in the month paid?</p>
Q10	<p>One off large BiKs in the form of the transfer of an asset (a property or valuable antique).</p> <p>These items with a large tax charge will require a significant deduction of tax in a single pay period.</p> <p>a) Do any employers payroll these items? If so, are how are they dealt with? Do employers spread the value of these across the remainder of the year or do they payroll the total in one pay period, or</p> <p>b) Do employers report items on a P11D with a note that it is a one off?</p>

10. Consultation process

This consultation is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

A summary of the questions in this consultation is included at chapter 9.

If you have any queries or would like to respond to any of the issues raised in this consultation document please send your responses by 9 September 2014, by e-mail if possible to employmentincome.policy@hmrc.gsi.gov.uk

or by post to:

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

The consultation will run for 12 weeks from 18 June 2014.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Oliver Toop, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A – Summary employer reporting obligations

This annex provides a summary of employer reporting obligations and related information.

Nature of Payment/ Deduction (1)	HMRC	Employee	By When
Salary/ Wages	RTI Submission	P60	(On or before submission)
Tax and Class 1 NICs deducted from Salary/ Wages	RTI Submission	P60	(On or before submission)
Benefits and Expenses provided to employees paid at a rate of more than £8,500 per year (for tax purposes)	P11D	P11D (copy if still in that employment)	HMRC by 6 July Employee by 6 July
Report Class 1A NICs	P11D (b)	N/A	HMRC by 6 July Employee by 6 July
Remit Class 1A NICs	N/A	N/A	HMRC by 19 July (or by 22 July if paying electronically)
Benefits and Expenses provided to employees paid at a rate of less than £8,500 per year (for tax purposes) (2)	P9D	P9D (copy if still in that employment)	HMRC by 6 July Employee by 6 July
Company Cars and fuel where provided	P46 (CAR)		Within 28 days of the end of the quarters ending 5 July, 5 October,

- (1) The tax and NICs due on some Benefits and Expenses can also be accounted for through a PAYE Settlement Agreement (PSA) between the employer and HMRC.
- (2) Please see the separate consultation for the proposal to withdraw the limit for lower paid employees, the £8,500 limit

Annex B Relevant (current) legislation

1. Income Tax Earnings and Pensions Act ITEPA
<http://www.legislation.gov.uk/ukpga/2003/1/contents>
 - A) Part 3 Employment income: earnings and benefits etc. treated as earnings
 - B) Part 11 Pay As You Earn
2. National Insurance Contributions
[Sections 10, 10ZA and 10ZB of the Social Security Contributions and Benefits Act 1992 \(SSCBA 1992\), as amended](#)

Annex C - Payrolling and analysis of different groups of BiKs

In advance of this consultation HMRC has worked with a small number of pilot employers and undertaken internal analysis around a voluntary payrolling framework. The benefits of a payrolling model are not equal for all BiKs or expenses, this annex provides some details of findings and assumptions developed throughout this work. Further consideration will be given against the responses to questions around the framework. This annex is provided for information but the Government welcome input on any of these topics from interested parties.

Items	Comments
Assets Transfer	HMRC P11D data records that in the region of 20,000 transfers are reported to HMRC annually. HMRC are not aware of instances where the transfer of assets is payrolled by employers, there is potential for taxation of large items in a single period to have a distortive impact on pay.
Private Medical Insurance (PMI)	<p>Employers provide private medical cover to their employees in a number of different ways such as through group policies or individual cover arrangements and it is the most frequently provided benefit. The general approach is to apportion the cost equally over 12 months. Alternatively, an employer could payroll the entire value of the BIK in the month or period in which it is paid.</p> <p>PMI is the most significant BiK provided in terms of volume with in excess of 2 million recipients reported in recent years, around 60% of all P11Ds.</p> <p>What other items would also need similar rules developing club, for example society / gym membership?</p>
Company Cars / Vans	<p>Some employers successfully payroll company cars (and vans) on an informal basis. In the course of our recent pilot activity we have spoken to employers who payroll these items made available to their employees and believe that a workable model exists where the following assumptions are valid:</p> <ul style="list-style-type: none"> • There are twelve pay periods in a full year. • There is a chargeable car benefit. • The car is not shared. • The car has a recognised CO₂ emissions figure. • Where a capital contribution is taken into account the payment has actually been made. • Where a private use contribution is due the payment is actually made. • Payroll the exact amount for the year without rounding. <p>Based on P11D data, Company Cars represent close to 1 million</p>

	<p>recipients in recent years and Cars represent the second highest average value BiK.</p> <p>The direct link of the taxable benefit formula to emissions and green policy mean it is kept under constant review. It is unlikely in the longer term that HMRC and HMT can relinquish all Company Car Tax data.</p>
Fuel Benefit Charge	<p>Where employers provide company cars, and payroll the charge, it is commonplace to also provide fuel as part of a package which can effectively be calculated through a single system entry and payrolled as a single item. This approach does require record keeping by the employer. Some employers also use information directly from leasing companies to support management of their internal systems.</p> <p>One of the key challenges for payrolling is incorporating the facility for private use payments within a system operating in real time. In a similar fashion to the tax charge for the car, some employers have navigated this problem by agreeing these aspects up front along with the terms and conditions.</p>
AMAP (Excess)	No evidence that this is commonly payrolled
Employer provided living accommodation (EPLA)	<p>No evidence that EPLA is commonly payrolled but as it is something that could potentially remain constant for a given year (or longer) it is easy to see the attraction.</p> <p>P11D data suggests EPLA is the highest average value BiK provided to employees.</p>
Taxable cheap loans	<p>With the exception of interest free loans the current rules for taxing employer provided loans do not appear to lend themselves easily to a payrolling model because of the process of calculating the taxable benefit of the loan, the Government would be interested to hear from employers who believe they are successfully undertaking this.</p> <p>P11D data indicates around 130,000 recipients annually.</p>
Taxable Relocation Expenses	<p>We are not aware of instances of taxable relocation being payrolled. This may be because relocation expenses will generally only be taxable on amounts in excess of the £8,000 exemption, but the same items will not necessarily be free of NICs. The total number is relatively low in comparison to the overall P11D population.</p>
Taxable Expenses payments	<p>HMRC pilot activity has not uncovered specific detailed examples of employers payrolling expenses but is well suited to payrolling type arrangements because employers will be typically looking for the benefits of dealing with all matters relating to the employee through the normal payroll arrangements so is a neat fit.</p>
Other items	The current P11D allows for reporting of other items so there may be other significant issues not within the categories listed above.