



## Income tax: statutory exemption for trivial benefits-in-kind

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### Who is likely to be affected?

Any employer who provides to their employees certain low value benefits-in-kind (BiKs) which will, in some circumstances, become exempt from income tax.

Individuals who currently pay income tax on certain low value BiKs provided by their employer, which will become exempt from income tax.

### General description of the measure

The measure will introduce a statutory exemption which will allow employers to identify and treat certain low value BiKs provided to employees as 'trivial'. Those BiKs will become exempt from income tax and NICs and therefore not need to be reported to HM Revenue & Customs (HMRC).

### Policy objective

The measure is intended to provide a simplification to the current approach for dealing with low value BiKs, whereby employers are required to agree with HMRC whether certain BiKs can be treated as trivial. This is a burdensome process for both employers and HMRC, and is disproportionate to the amounts of tax and NICs involved.

A statutory definition of a trivial BiK will provide certainty to employers as to the treatment of such BiKs, and therefore allow employers to identify them in "real-time", avoiding the need to contact HMRC or report such BiKs on P11D or PAYE Settlement Agreement (PSA) forms after the end of the tax year.

### Background to the measure

The measure was announced by the Chancellor at Budget 2014 as part of a package of measures aimed at simplifying the administration of employee BiKs and expenses. This followed the Office for Tax Simplification's review of employee BiKs and expenses, published in January 2014.

A consultation document entitled *Employee Benefits and Expenses – Trivial Benefits exemption* was published on 18 June 2014. The consultation closed on 9 September 2014 and a summary of responses was published on 10 December 2014.

## Detailed proposal

### Operative date

This measure will have effect on and after 6 April 2015.

## Current law

Employers are currently required to report all BiKs and expenses provided to their employees annually on forms P11D or P9D. There is currently no minimum cost threshold for BiKs having a tax charge or NICs liability, but employers can apply to HMRC for agreement to exclude BiKs on the grounds that they are 'trivial'. The arrangements are concessionary under HMRC's collection and management powers: HMRC takes certain factors into consideration when agreeing to such arrangements. When HMRC agrees that the BiKs are trivial, by concession the employer does not have to report them on form P11D or P9D and there is no charge to income tax for the employee nor Class 1A NICs for the employer.

The Income Tax (Earnings and Pensions) Act (ITEPA) 2003 imposes a charge to income tax on employment income. Section 6(1) ITEPA provides that the charge to tax on employment income is a charge to tax on general earnings and specific employment income.

Section 201(2) defines a benefit as 'a benefit or facility of any kind' and defines an 'employment-related benefit' as any benefit other than an excluded benefit that is provided in a tax year to an employee or for a member of the employee's family or household by reason of the employment.

## Proposed revisions

Legislation will be introduced in Finance Bill 2015 to introduce a new section into Part 4 of ITEPA – "Section 323A Trivial Benefits from employers" - to provide a statutory definition of a trivial benefit-in-kind. The exemption provides a number of conditions that must be met for a BiK to qualify as trivial, including an upper limit per individual BiK of £50.

The legislation will also amend section 716(2) (alterations of amount by Treasury order) and section 717(4) (negative procedure not to apply to certain statutory instruments) so as to enable the Treasury to make Regulations amending both the upper limit per individual BiK, and the conditions of the exemption, subject to the affirmative resolution procedure.

A Statutory Instrument will be laid to disregard from Class 1 NICs any non-cash vouchers provided that meet the trivial BiKs exemption in section 323A of ITEPA.

A Statutory Instrument will also be laid to extend the exemption to qualifying BiKs provided to former employees, by amending the Employers-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) Regulations 2007.

## Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	-10	-5	-10	-10	-10
	These figures are set out in Table 2.1 of Autumn Statement 2104 as <i>Office of Tax Simplification: Review of Expenses</i> , and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2014.					
	These figures also incorporate the Exchequer impact of <i>Income tax: abolition of the £8,500 threshold for benefits in kind</i> and <i>Real time collection of tax on benefits in kind and expenses through voluntary payrolling</i> .					
Economic impact	The measure is not expected to have any significant economic impacts.					

<b>Impact on individuals, households and families</b>	<p>This measure is not expected to have a significant on individuals and households or on family formation, stability or breakdown.</p> <p>Some employees (individuals) will no longer have to pay income tax on certain BiKs currently included on P11D forms. It is not possible however to estimate how many individuals will be affected.</p> <p>The measure is not expected to impact on family formation, stability or breakdown.</p>
<b>Equalities impacts</b>	<p>HMRC does not hold data on the protected characteristics of those affected, but the measure is not expected to have equality impacts on groups sharing protected characteristics.</p>
<b>Impact on business including civil society organisations</b>	<p>This measure is expected to create negligible ongoing administrative savings for those businesses and civil society organisations that provide such benefits, as it will reduce the burden associated with filing P11D and making PSA applications.</p>
<b>Operational impact (£m) (HMRC or other)</b>	<p>The measure is expected to create an administrative saving for HMRC as a result of a reduced number of BiKs recorded on P11D forms and PSA agreements. The administrative savings are anticipated to be negligible.</p>
<b>Other impacts</b>	<p>Other impacts have been considered and none have been identified.</p>

### **Monitoring and evaluation**

The measure will be monitored and assessed alongside other measures in the government's package of employee BiKs and expenses simplifications, through communication with affected taxpayer groups.

The legislation also includes provision for the monetary limit for a trivial benefit-in-kind to be updated in the future. The government will keep the monetary limit under review.

### **Further advice**

If you have any questions about this change, please contact the Employment Income Policy Team ([employmentincome.policy@hmrc.gsi.gov.uk](mailto:employmentincome.policy@hmrc.gsi.gov.uk)).