

Key Points and Actions of Meeting MOD/HMRC 8 April 2009

Attendees:

HMRC: [REDACTED] Senior Policy Advisor Public Departments
Employer Compliance Team – Employer Liaison Team Manager
Employer Compliance Team - MOD Liaison officer

MOD: [REDACTED] DSCOM (Defence Supply Chain Operations & Movements)
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SPVA (Service Personnel & Veterans Agency)
SPPOL (Service Personnel Policy)
MOD Tax Focal Point (Director Financial Management area)

- 1) Background - MOD official cars are sometimes used for ordinary commuting by service personnel without a tax liability arising, although these journeys are considered private use by HMRC. This situation appears to have resulted from a Hansard statement in 1977 which referred to the tax free status of reimbursed expenses for these journeys (i.e. the Home to Duty allowance). MOD has interpreted this to include Home to Duty journeys in staff cars etc and has assumed that there are no tax liabilities on all home to duty journeys by Service Personnel. This usage, by Service Personnel, was highlighted in an audit of the MOD by HMRC in 1999 but no action was taken by HMRC at that time, although a PAYE settlement was set up on the civilian side to settle the tax liability for senior civil servants. However, HMRC have now informed MOD that this extension of the concession to the use of MOD provided transport has been withdrawn from April 2009. The concession for the Home to Duty allowance will remain in place.
- 2) Senior Staff Cars – HMRC stated that the default position would be that cars allocated to a particular officer are available for private usage unless there are restrictions in place. MOD stated that no cars are provided for private use (other than ordinary commuting). MOD controls the use of cars through regulations (JSP 800) and there is a compliance audit regime in place. The Staff Car Review Group decides who will get an allocated staff car. These cars are allocated to a post, not an individual and usually have a driver. The cars are not usually kept overnight at the officers' home address, although they can be used for ordinary commuting. There is no tax liability if the car is kept overnight at the drivers' address.

Those allocated with car and drivers are normally 3 or 4 star officers with a representational role, although some 2 star officers are included. The majority are allocated with a car for their own use although there are a small number of cases, approximately 8 to 9, where the cars are shared.

HMRC accepted that these cars are required as part of the job of senior staff and restrictions are in place to restrict private travel to commuting only. The MOD confirmed that strict controls are in place and audit checks are undertaken on the use of the cars to confirm that these comply with MOD Regulations. It was therefore agreed that HMRC would accept a PAYE Settlement Agreement (PSA) in respect of the tax liability for senior staff cars. This would mean that MOD settles the tax rather than the liability falling on the individual.

The PSA agreement will be agreed on an annual basis and the methodology for calculating the liability will be reviewed every 3 years. It was agreed that SPVA would negotiate the PSA and arrange for payment. DSCOM would provide the necessary data.

Calculation :

- a) The car benefit charge is dependent on the list price of the car and the CO2 emissions figure, and no reduction is made for the amount of business travel. There is a car benefit calculator on the HMRC website.
- b) The fuel charge is calculated on a set amount, regardless of the amount of private mileage, and is based on the figure £16,900 x appropriate % (as used in the car benefit charge)
- c) However, how the benefit charge for the driver is calculated will be the subject of MOD/HMRC negotiation in order to arise at a reasonable and fair settlement. This will be charged calculated on the basis of the private travel (i.e. the commuting journeys) only; there is no charge for the business use of driver of the car. [REDACTED] (HMRC) suggested that, if the drivers are salaried, then an estimated average could be obtained of how long the drivers are employed on commuting journeys per day (e.g. 1 hour per day) and that figure used as the basis for the calculation. [REDACTED] proposed that a sample of the journeys undertaken over a period of three months could be used to determine the estimated average costs. HMRC will require confirmation in writing of the salary arrangements for the drivers.

3) Pool Cars – pool cars will not give rise to a car benefit charge provided these meet HMRC's qualifying criteria for pool cars. A car only qualifies as a pool car if all the following conditions are satisfied:

- (a) it is available to, and actually used by, more than one employee
- (b) it is made available, in the case of each of those employees, by reason of their employment
- (c) it is not ordinarily used by one of them to the exclusion of the others
- (d) any private use by an employee is merely incidental to their business use of it, and
- (e) it is not normally kept overnight on or near the residence of any of the employees unless it is kept on premises occupied by the provider of the car.

MOD confirmed that in most cases, the pooled vehicles would meet the qualifying conditioned for pooled car status. However, there are potentially a few specialised categories of employees whose use of MOD pool cars break the above rule and therefore would give rise to a benefit charge. These employees may take cars home for good business reasons. These cars, however, are not permanently allocated and can be withdrawn at any time, and are often shared between employees. The primary rule in all cases is that no other private use other than home to office travel is permitted.

These categories include groups such as Chaplains, who are required to make visits at any time to bereaved families/casualties in hospitals etc, and recruiting officers where there is no secure parking at their place of work for MOD cars.

It was noted that the car and fuel charge apply to each individual car (not the user) that is used for private purposes (i.e. commuting journeys) and this charge is only applied once per vehicle on a yearly basis. Therefore, with pool cars where several individuals use the same vehicle the car and fuel benefit charge will be levied on that car only once per year. Obviously the more cars that are used the greater the cost. Therefore, where there is a genuine business need for a MOD pool car to be used for commuting journeys, these cars need to be separately identified from the rest of the pool. In other words, the actual cars that are available to take home should be restricted in order to save costs.

Individuals who have specific cars allocated to them for their exclusive use are subject to the full car benefit charge, as is the case for cars allocated to senior staff.

It was agreed that all the additional pool car user groups, once identified, could be put into a single PSA, arranged by SPPOL.

- 4) Sponsored Vehicles – [REDACTED] (DSCOM) confirmed that all sponsored vehicles are operated as MOD vehicles under MOD regulations and no private use is allowed. All insurance and fuel costs must be met by the sponsor i.e. there are no costs involved by the MOD. No actions required.
- 5) Timescales For Payment – The tax liability has been accumulating from April 09. The payment of the tax owing for the year 2009/2010 will occur on 19 October 2010. However in order to calculate the sum due SPVA will need any final figures by June 2010.
- 6) Post Meeting Note – It must be noted that certain Senior Staff benefits are reported in the annual MOD Accounts that are presented to Parliament (the DRAC) and this will include staff cars. The timescales for the figures required may be sooner than those required by SPVA for their calculations.

Actions:

Action 1: SPPOL to agree PSA with HMRC and task SPVA with implementing the agreement.

Action 2: [REDACTED] (HMRC) and SPVA to agree the methodology for calculating the PSA for Staff Cars. This will be reviewed every 3 years.

Action 3: MOD to forward a copy of the Staff Indicative List to HMRC

Action 4: DSCOM to gather the data available for staff cars including details of driver hours spent on the commuting journeys by November 2009 and forward to HMRC. A representative three months data will be required in order to extrapolate. It was suggested that the months of June, July and September could be used.

Note – The options for the figures are to either gather the data for each car and use these figures for the next 3 years or choose a small sample and extrapolate the data.

Action 5: [REDACTED] (DSCOM) to supply [REDACTED] with the details of the Staff Cars together with details of the driver hours necessary for calculation of the PSA.

Action 6: DSCOM to conduct an exercise to scope the number, size and nature of the pool car groups by November 2009.

Action 7: DSCOM to supply this information to HMRC by November 2009, including the name of each group and the reason why this group is using the car outside of the pool rules.

Action 8: DSCOM & SPVA to agree the details required for the Group Car element of the PSA.

Action 9: [REDACTED] (HMRC) was given JSP 581 (ADO's Handbook) at the meeting. [REDACTED] to let MOD know if JSP 581 is not sufficient and DSCOM will then supply further detail on the pool car arrangements.

Action 10: Post meeting action – [REDACTED] will liaise with the DRAC team to discover timescales and the figures that they will require from DSCOM.