

Tax rules and the purchase of occupational health support



INTRODUCTION

Business and industry needs healthy workers and safe workplaces. To achieve this employers may sometimes wish to buy specialist advice or special equipment or to provide advice and health care to those who work for them. This leaflet sets out in broad terms the tax and National Insurance Contributions (NICs) treatment of these purchased services, as agreed with the Inland Revenue.

Determining the tax and NIC treatment of Occupational Health Support, requires consideration of:

- whether deductions for employer's expenditure are allowable against the employer's business profits; and
- benefits for the employee.

Deductions for employer's expenditure

The first question is whether the expenditure by the employer is capital expenditure or revenue expenditure. If it is expenditure on acquiring an asset or improving or altering an asset, then it is capital expenditure and the employer cannot deduct the cost, or depreciation of the cost, in arriving at their taxable profit. But some capital expenditure qualifies for special allowances known as capital allowances:

- If the employer is buying equipment then the expenditure will qualify for relief under "plant and machinery" capital allowances rules (PMAs).
- If the employer spends money on alterations to the fabric of a building (for example, to install a permanent access ramp or to enlarge a doorway to facilitate wheelchair access) then this does not normally qualify for any capital allowances. But if the building is a qualifying hotel or an industrial or agricultural building then the expenditure may qualify for relief under the industrial building allowance (IBA) code or the agricultural building allowance (ABA) rules.

The employer can deduct everyday ("revenue") expenditure in arriving at taxable profits, providing that it is paid wholly and exclusively for the purposes of the business. It will be exceptional for everyday expenditure on employees not to be paid wholly and exclusively for the purposes of the business. An example where it is possible that the expenditure is not wholly and exclusively for the purposes of the business is where the employee is a close relative of the employer. The rules are the same whether or not the employer is obliged by law to incur the expenditure (for example as a "reasonable adjustment" under the Disability Discrimination Act).

Employee benefits

The benefit of private medical care provided free or cheaply by employers to employees is generally subject to tax on the employee. If tax is due, there will also be National Insurance Contributions (Class 1A) due from the employer on the same amount as for tax. There are however circumstances where a benefits charge does not arise on health related items, as follows:

(i) *Work-related conditions or accidents*

Where an injury or condition derives solely and directly from the employee carrying out their duties, eg a firefighter receiving employer financed treatment for burns or stress in tackling a fire, or for other accidents or conditions which derive solely from the employee carrying out their job, the cost of the treatment would not be chargeable.

(ii) *Health screening and check-ups*

The cost of health screenings and check-ups is not a chargeable benefit.

(iii) *Welfare counselling*

Employer provided welfare counselling was made exempt in August 2000 whether provided in-house or bought in from outside specialists. This exemption covers a wide range of advice on health matters, eg stress, depression, marital/family problems, alcohol abuse, stop-smoking guidance, back pain clinics, but does not extend to costs of medical treatment.

(iv) *Equipment and services for disabled workers*

Regulations (Statutory Instrument 1596/2002¹) made in June 2002 exempt items specially provided for disabled people to do their job but which may also be used significantly outside work (such as hearing aids and wheelchairs).

(v) *Recreational and sporting facilities*

Employee-only gymnasiums, sports fields, exercise classes and other recreational facilities available to employees generally are also exempt (but not the cost of subscriptions to gyms or facilities which are open to the public).

¹Can be accessed at <http://www.inlandrevenue.gov.uk/pdfs/emp2003/480-03.pdf>

N.B. It is important to be aware that these benefits exemptions do not apply if the provision is by way of the employer giving the employee money to pay for these items, or meeting the employee's own liability to pay for them. In these cases the money will generally be treated like salary, on which, in addition to tax on the employee, liability to Class 1 NICs - both employer and employee - will apply.

The following examples illustrate the rules regarding both a deduction or allowance against business profits for the employer and benefits provided to or for the employee. (As noted, where the item is taxable on the employee, the employer will generally be liable for Class 1A NICs.) But it must be remembered that they are illustrative only; whether a particular health item or service paid for by the employer for an employee is exempt or not may depend on the precise circumstances.

Example 1

The manager of a small business offers staff who are suffering from chronic back pain some money (£25) towards paying for chiropractor or physiotherapy treatment which they arrange for themselves.

Deductibility for the employer

An employer's expenditure in making payments to employees is deductible in computing the employer's taxable profits unless the employer has a non-business (for example a personal) reason for making the payments.

Employee benefits: tax and NICs position

The cash amount the employer gives to the employees is treated like salary in their hands, liable to tax and Class1 (employer and employee) NICs.

NB There is no suggestion that the back condition arises solely from the job, so the cost of treatment would not be exempt even if provided as a 'benefit', ie arranged and paid for direct by the employer.

Example 2

An experienced office worker, whom the business would be sorry to lose, is confined to a wheelchair following a car accident. The worker wants to return to work but the workplace will need modifications: ramps to external doors, a disabled toilet, new office furniture for the worker and some other internal refurbishment because the worker needs an office on the ground floor. The worker also needs modifications to their car to get to work and has asked for help with purchasing "a state of the art" wheelchair.

Deductibility for the employer

In this example, the employer is paying for work to be done on their own property and also for work to be done on the employee's property. Some small items may be allowable as repairs expenditure, such as the cost of changing the doors on toilet cubicles so that instead of opening inwards they open outwards. But, apart from that, the work on the employer's premises is capital expenditure as the employer is altering the premises. If the work is carried out to an industrial or agricultural building or "qualifying hotel" then relief will be given for the expenditure at the rate of 4% a year, under the IBA or ABA code.

The cost of making building alterations to toilets (for example, to widen a doorway to facilitate wheelchair access) is capital expenditure, however the cost of any new sanitary ware would qualify for PMAs. In addition any costs of altering the premises, which are "incidental" to the installation of that sanitary ware, would also qualify for PMAs. The employer is buying new office furniture. This is capital expenditure, but will qualify for PMAs.

The employer has given money towards the cost of modifying the employee's car and also helped the employee buy a "state of the art" wheelchair. These are part of the costs of employing staff. It is not capital expenditure. It will normally be allowable expenditure. If the employer bought the wheelchair instead of contributing to the cost then the cost is capital expenditure which would qualify for PMAs.

Employee benefits: tax and NICs position

The provision of new or modified work equipment at the office has no employee tax or NICs consequences. As regards the new wheelchair or the modifications to

the employee's own car, the consequences of giving money to the employee are set out in Example 1. (NB If on the other hand, it is the employer who is providing the wheelchair because it is needed for the employee's work purposes - for example as a reasonable adjustment under the Disability Discrimination Act - the exemption referred to at paragraph (iv) of the section on 'Employee benefits' above could apply).

Example 3

A local gym is offering a promotion. The business can join as a "patron" and employees will receive half-price membership. As a "business patron" the company would arrange for all employees to receive an annual "check-up" from a private health provider.

Deductibility for the employer

The annual cost of being a "patron" can be offset against tax, unless there is any non-business reason for the employer's decision to patronise that particular gym.

Employee benefits: tax and NICs position

The health check-ups are exempt, but the cost of the (public) gym membership met by the employer is a chargeable benefit for tax and the employer will pay Class 1A NICs.

Example 4

A local health promotion service has suggested they spend a day in the workplace to give employees an opportunity to have a health check-up, blood pressure, cholesterol, heart rate, diet questionnaires etc. The day will include a talk about workplace health and safety and there will be an emphasis on keeping healthy at work. There is a charge for the day.

Deductibility for the employer

The employer can offset the charge against tax.

Employee benefits: tax and NICs position

The health check-ups and counselling are exempt.

Example 5

A company is so pleased with the services provided by a local health promotion service that they decide to make the service regularly available and arrange with the provider to extend the service to provide holiday vaccinations.

Deductibility for the employer

The employer can offset the charge against tax.

Employee benefits: tax and NICs position

The health check-ups and counselling are exempt but the cost of the holiday vaccinations met by the employer is a chargeable benefit for tax and the employer will pay Class 1A NICs.

Example 6

The business is a plastics moulding company. A number of employees have complained of headaches and sickness absence is rising; this recently caused you to miss the deadline on an important order. A ventilation engineer has said the system meets health and safety requirements; employees have argued it clearly needs replacing.

Deductibility for the employer

The cost of consulting the engineer is an allowable business expense. As regards the cost of improvements or replacement: repairs to equipment are an allowable business expense. Expenditure on improving or replacing equipment is not deductible in computing trading profits, but is likely to qualify for capital allowances that can be set off against trading profits.

Employee benefits: tax and NICs position

The cost of the improvements to the building is not a taxable benefit on the employees.

Example 7

An employee who uses display screen equipment a lot has complained of headaches, back pains and pains in their right wrist. The employee says they have continued to suffer from back and wrist pains and have asked for an “ergonomic chair and keyboard”. They are currently off sick waiting to see a consultant about their back. They are a key worker and you really need them in the office.

Deductibility for the employer

The cost of employing an ergonomist to assess the employee’s workstation can be offset against tax, as can the cost of any medical treatment to the employees which the employer might pay for unless there was a non-business reason for paying for the treatment of a particular employee.

For the cost of a new chair and keyboard capital allowances may be claimed.

Employee benefits: tax and NICs position

There is no charge on the equipment provided in the office for work use. As regards payments for medical treatment met by the employer, if the condition has arisen solely from the job there would be no tax charge or NICs liability on such payments; but otherwise there would be.

Example 8

The employer runs a small photocopying, printing and sign making business. An employee who usually works in the shop, standing all day operating photocopiers and serving customers has injured their back in a DIY accident at home. They cannot stand all day and the injury prevents them from doing their job. Their doctor has referred them for treatment, but the waiting time is weeks. You have arranged for them to receive treatment from a local physiotherapist and agreed to pay the physio directly for this.

Deductibility for the employer

The employer could offset the money paid against tax.

Employee benefits: tax and NICs position

The cost of the treatment would be chargeable on the employee since the condition does not arise from his work. The employer would be liable for Class 1A NICs.

Example 9

The employer has a large data input section in which staff use keyboards for most of the day. They are careful to ensure that the workstations meet DSE requirements and uses a consultant ergonomist on a regular basis. One of the employees has started complaining of severe pains in their left wrist. The employer knows they are also a keen amateur violinist and suspect the pains are as much to do with that as with their work. The employee has said they intend to go on playing the violin for as long as they can. The ergonomist has suggested modifications such as a new keyboard and mouse and/or a voice activated computer.

Deductibility for the employer

Capital allowances may be claimed for the costs (consultant and equipment) incurred.

Employee benefits: tax and NICs position

There is no tax charge on the employee, or NICs liability, for the cost of new work equipment (or the associated consultant's fees) provided on the employer's premises.

Example 10

Following a workplace accident, for which the employer has admitted liability, an employee has lost a leg. The employee wishes to come back to work, however this will mean modifications to their workplace (machinery changes).

Deductibility for the employer

The consultancy fees are deductible in computing the employer's taxable trading profits. Expenditure on new machinery is not, but will qualify for capital allowances that may be set off against the trading profits.

Employee benefits: tax and NICs position

There is no employee benefits charge resulting from this workplace expenditure.

FURTHER GUIDANCE

If further guidance is needed on the tax and NIC treatment of occupational health support you can contact

- The **Employer's Helpline on 0845 7 143 143** for guidance in relation to **employee benefits**. The helpline is available from 8 am to 8 pm Monday to Friday and 8 am to 5 pm at weekends.
- Any **Inland Revenue office or Enquiry Centre** for guidance on **whether purchases are allowable as a deduction against business profits**. Addresses and telephone numbers are in your local telephone book under 'Inland Revenue'. Most offices are open to the public from 8.30 am to 5 pm, Monday to Friday, and some are also open outside these hours.

