

Employer Pensions Notice

EPN 152

Salary sacrifice

Audience This Notice will be of particular interest to:

- HR managers who deal with childcare provision or other salary sacrifice issues.

Action Replace the existing Employers' Pension Guide (EPG), Chapter 5 pages on salary sacrifice, issued under cover of EPN 112.

Note the guidance and use the model letter text as appropriate.

Timing Immediate

Salary sacrifice

1. In our previous guidance on salary sacrifice we described the impact that such arrangements could have on pension benefits. We indicated that the position would be much simpler after 6 April 2006. Now that this date has passed we are issuing the simplified guidance in the attached EPG pages.

Reference This document replaces EPN 112

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You can find copies of all current EPNs, forms and the EPG on our website
www.civilservice-pensions.gov.uk in the Employers section
username **employers** password **mc2fxqfy**

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What is salary sacrifice?

5.1.33 A salary sacrifice happens when an employee gives up the right to receive part of the cash pay due under his or her contract of employment. Usually the sacrifice is made in return for the employer's agreement to provide the employee with some form of non-cash benefit. The "sacrifice" is achieved by varying the employee's terms and conditions of employment relating to pay.

5.1.34 Salary sacrifice is primarily a matter of employment law, not tax law, although it can lead to a reduction in the tax and national insurance payable. Where an employee agrees to a salary sacrifice in return for a non-cash benefit, they give up their contractual right to future cash remuneration for that part of the salary being sacrificed. Employers who are thinking of entering into such arrangements would be well advised to obtain legal advice on whether their proposed arrangements achieve the desired result. You should use the model text at Annex 5A when you confirm to the member their entitlement to Salary sacrifice.

What are the effects on Tax and NICs?

5.1.35 The HM Revenue and Customs determines how the tax and NICs legislation applies to the various elements in the employee's remuneration package. Many payments and benefits are treated in the same way for both tax and NICs.

5.1.36 However, in some cases, where a particular benefit may be exempt from tax and/or NICs or subject to Class 1A NICs, the tax and NICs outcome will be different. For example where a salary sacrifice arrangement reduces the salary that an individual is entitled to receive, and instead they receive a tax-free benefit, then their tax bill should be reduced. Some Government initiatives allow you to provide benefits which are free from tax and/or NICs, such as an individual with children can receive childcare vouchers without the vouchers being subject to NICs or income tax.

Important note:

This guidance does not attempt to provide up to date information on the full range of non-cash benefits that may be provided free from tax and/or NICs. Up to date guidance on this aspect of salary sacrifice arrangements should be obtained from HMRC.

PCSPS benefits

5.1.37 In **premium, classic plus** and **classic** a member's pension will not be affected if they take part in a salary sacrifice arrangement. This is because their salary sacrifice will be disregarded in calculating pensionable earnings.

Implications for ASLCs and member contributions

5.1.38 Our policy is that ASLCs should reflect the cost of the benefits provided, and therefore you should calculate ASLCs on the pre-sacrifice salary.

5.1.39 Similarly, employee contributions should be based on the pre-sacrifice salary used for calculating the pension.

Implications for partnership contributions

5.1.40 Both the employer's contributions and the member's contributions should be based on the pre-sacrifice salary.

Implications for payroll

5.1.41 Employers must ensure that the amount of the salary sacrifice is recorded on their payroll system as a permanent pensionable allowance. This will ensure that the correct information is automatically sent to the relevant APAC.

Impact on state benefits

5.1.42 Any reduction in taxable earnings may also have an impact on state benefits. You should use the model text at Annex 5A when you confirm to the member their entitlement to salary sacrifice. The text includes information on the impact on state benefits.

Important note

This text is for guidance only and will have to be edited to take into account the details of any salary sacrifice arrangement you currently operate or plan to operate.

Salary sacrifice is where you agree to give up some of your salary in exchange for a form of non-cash benefit. You cannot reduce your salary below the minimum wage.

If you sacrifice some of your salary this can reduce the amount of tax and National Insurance Contributions (NICs) that you pay, for example, where a salary sacrifice arrangement reduces the salary you are entitled to receive, in exchange for a tax-free benefit, then your tax bill should be reduced.

The Government allows salary sacrifice for the following benefits to be free from tax and NICs. If you have children you can receive up to £XXXX (*you should insert the up to date limit*) in childcare vouchers without the vouchers being subject to NICs or income tax.

You can be lent a bicycle to get to and from work, along with suitable safety equipment, without the benefit being subject to tax or NICs (*you (the employer) should check that HMRC have not withdrawn this concession*).

premium, classic plus and classic benefits and contributions

Your pension will not be affected if you take part in a salary sacrifice arrangement. There may still be an impact on state benefits (see below).

If you choose to accept a salary sacrifice, your Civil Service pension contributions will be based on your pre-sacrifice salary.

Impact on State Benefits

Any reduction in your NICs could reduce your entitlement, should you make any future claim, to the State Pension, Incapacity Benefit, Jobseekers' Allowance, Statutory Sick Pay, Statutory Maternity Pay, Maternity Allowance, Statutory Paternity Pay, Statutory Adoption Pay, and any means-tested benefits or tax credits.

HMRC provide guidance on the impact on state benefits at:

<http://www.hmrc.gov.uk/manuals/eimanual/EIM42750.htm>

For further information on state benefits you should contact the Department for Work and Pensions.

For general enquiries about state pensions either contact your local social security office or pension centre, or see The Pension Service website at:

www.thepensionservice.gov.uk

The Department for Work and Pensions offer a free pension forecast. More information about this free service can be found at:

www.thepensionservice.gov.uk/atoz/atozdetailed/rpforecast.asp.

For enquiries about other benefits or allowances either contact your local social security office or Jobcentre Plus office, or the Jobcentre Plus website

(<http://www.jobcentreplus.gov.uk>).