



The Healthcare Financial Management Association's response to the HMRC's consultation on salary sacrifice for the provision of benefits in kind

Consultation response, October 2016

Who we are

The Healthcare Financial Management Association (HFMA) is the voice of NHS finance directors and finance staff working in healthcare with over 12,000 members. For the past 60 years, it has provided independent and objective advice to its members and the wider healthcare community. We are a charitable organisation that promotes best practice and innovation in financial management and governance across the UK health economy through our local and national networks. We also analyse and respond to national policy and aim to exert influence in shaping the wider healthcare agenda. We have a particular interest in promoting the highest professional standards in financial management and governance and are keen to work with other organisations to promote approaches that really are 'fit for purpose' and effective.

Our comments

We welcome the opportunity to comment on these proposals.

Question 1: *Alongside annual leave, are there any other salary sacrifice arrangements that the government should be made aware of that do not strictly involve receipt of a benefit?*

We are not aware of any other such arrangements.

Question 2: *What are the likely impacts on employers and employees of limiting the scope of benefits in kind that can obtain tax advantages when offered through salary sacrifice arrangements?*

The use of salary sacrifice schemes in the NHS is varied. Some NHS bodies do not use them at all while others offer a substantial number of schemes to their employees. Based on anecdotal information from members, we think that such schemes are used to some extent by the majority of NHS bodies.

As well as those schemes unaffected by these proposals such as childcare vouchers and cycle to work the schemes commonly offered by NHS bodies include:

- lease cars arrangements
- the purchase of information technology (IT) equipment such as laptops, tablets and mobile phones
- the purchase of white goods
- car parking schemes
- staff accommodation
- gym membership.

Clearly, for those NHS bodies who do not use salary sacrifice schemes this proposal will have no impact. For those who do use such schemes the impact will be both financial and non-financial.

Financial impact on employees and employers

The financial impact will be the additional tax cost to employees and additional class NIC 1A costs to employers. Our members are still working through the likely financial impact but it will vary depending on the scheme. Early indications are that the biggest cost will be in relation to car parking and IT equipment/white goods (particularly mobile phone) schemes.

Other impacts for NHS employers

The biggest non-financial impact for NHS employers will be on staff recruitment and retention. NHS bodies have very little flexibility in the terms and conditions they can offer their staff but salary sacrifice schemes are one area where they are able to offer competitive terms and conditions.

Most NHS bodies are currently struggling to recruit and retain permanent clinical staff which means that many are forced to engage agency and locum staff in order to provide a safe healthcare service. Our members are concerned that this proposal will make salary sacrifice schemes less attractive financially and staff may decide that they would prefer to work elsewhere.

Clinical staff may decide that it is financially better for them to work on an agency or locum basis where the terms and conditions are more favourable. This would have a detrimental impact on patient care as well as adding an additional cost pressure to the NHS at the point when it is least affordable. Non clinical staff often have wider opportunities outside of the NHS and incentives such as salary sacrifice schemes can help attract the best people for the jobs.

Some NHS bodies provide staff accommodation through a salary sacrifice scheme. This enables the lowest paid staff to be able to access accommodation at competitive rates, and increases the ability of NHS bodies to attract staff at a time of significant workforce gaps in key clinical areas.

Other impacts for employees

Our members are concerned that this proposal will adversely affect lower paid staff more than those in higher pay bands. Schemes involving accommodation, the purchase of white goods and IT equipment tend to be taken up by staff in lower pay bands possibly because they have poor credit ratings. Members are concerned that this proposal may put those staff off of these arrangements and instead push them into less affordable finance arrangements (such as payday loans).

In our member's experience, lease car arrangements tend to be attractive to all staff but for different reasons. Lower paid staff who are often younger are attracted to these arrangements due to the saving they also make on insurance premiums. They may not be able to afford a car without these schemes. Higher paid staff enter into the scheme because it is relatively straight forward but we expect these staff will have better credit ratings meaning that they have alternative finance options available to them if salary sacrifice becomes less financially beneficial.

The consultation indicates salary sacrifice schemes are inequitable to staff working on or near minimum or national living wage. Our members are concerned that removing some of the benefits from salary sacrifice will add to that inequality rather than remove it.

Question 3: *Are these impacts different, or are there different considerations, for large/small businesses or particular business sectors?*

We think that the impact will vary based on the types of arrangements in place rather than the sector that any organisation works in. Salary sacrifice schemes are more attractive for larger organisations to run but all NHS bodies fall into this category.

It is worth noting that any additional cost to public sector bodies as employers will have a neutral effect at the whole of government level. Only, the additional tax paid by NHS staff will result in an increase in tax revenues.

Question 4: *Are the impacts different for particular benefits in kind?*

Yes, our members are working out the implications now but they expect that the impact will be greater for some schemes than for others. Early indications are that the impact will be greatest in relation to car parking schemes and schemes to enable the purchase of IT equipment/ white goods.

Question 5: *Do you think that the government needs to take any steps to mitigate any negative consequences of this change for employees and employers, such as those who may be locked into salary sacrifice arrangements? If responding, it would be helpful to understand specific examples and factors the government should take into consideration.*

Our members are concerned that this change will have an unexpected effect for employees and employers who are part way through multi-year arrangements. This is particularly the case for lease car arrangements but will also impact on other salary sacrifice schemes which last more than a year and which involve a third party contract.

Both employees and employers entered into existing agreements understanding the costs and the benefits at that point in time. If these changes are implemented in April 2017 and are applied to all schemes in place on that date then there would be an immediate additional cost to both employee and employer. It is not clear from the consultation that the change in the tax rules would constitute a 'life-changing event' which would allow the arrangement to be terminated. If contracts can be terminated there is likely to be a fee which will have to be borne by either the employee or employer.

Our members are concerned that, for some staff this change may make the arrangement itself unaffordable and that there will be a cost to exiting the scheme.

Our members would strongly support phased implementation of any changes so that agreements which are already in place are not affected.

The impact on NHS bodies as employers will be an additional cost pressure when the NHS as a whole is facing immense financial pressure. As we have said earlier, there will also be a recruitment and retention issue which may result in increased use of costly temporary staff as well as having an impact on patient care.

Question 6: *Do you consider that the approach proposed for legislation would work as intended?*

As we have already said we think that there will be unintended consequences in terms of staff recruitment and retention. We also think that the financial impact of this proposed change will be greatest for lower paid staff.

Question 7: *Are there any consequences the government has not considered in proposing to legislate in this way?*

We think that the government needs to consider all of the wider implications of this proposal not simply the implication in relation to tax and NICs.

From a purely taxation point of view, our members are concerned that salary sacrifice arrangements would in effect be taxed twice. They would be taxed each month under the normal PAYE arrangements and then again under the P11d process.

This is already something which members have to explain to employees. For example, those staff who have entered into salary sacrifice lease car schemes do not understand why they are reimbursed for mileage at the company car rates rather than the normal rate, given that they are paying for the car via salary sacrifice and consider it to be their own car. It can be explained that this is because they are making a tax saving. If they are no longer making any tax savings and being taxed again on the benefit, it will be difficult to explain why this is fair.

This proposal may also have an impact on VAT revenues if salary sacrifice schemes become less attractive and are not entered into. However, this would only be the case if the purchase was not then made by another route.

We have already identified detrimental impacts on:

- staff recruitment and retention in the NHS with the consequent impact on healthcare
- the overall health and well-being of staff as gym membership schemes become less attractive
- lower paid staff who may have to turn to more expensive credit options with the removal of the financial incentive to join a gym.

Our members expect that the impact on lease car schemes will be less than other salary sacrifice schemes. However, the impact will be greatest for the most fuel efficient cars which runs counter to the government's broader environmental agenda.

If schemes which enable the purchase of IT equipment are no longer viable, this will reduce the use of technology in people's homes, with a commensurate impact on the emerging government 'Digital Strategy' and the success of 'government online'.

Some NHS bodies provide on-site car parking through salary sacrifice schemes, and use the income generated to fund the cost of operating the car parks and the provision of security for staff. This will inevitably increase costs for the majority of staff, at a time of significant pay restraint.

There are a large number of companies which provide a fully managed salary sacrifice service. If the opportunity to utilise salary sacrifice schemes is curtailed then this will potentially lead to a contraction of the scheme provider sector, impacting on the UK's economic growth and reducing the taxes generated.

On a more positive note, operating salary sacrifice schemes does place an administrative burden on employers which is currently offset by the benefit of running those schemes. If

the schemes become unattractive and are withdrawn then there will be a reduction in that administrative burden once the initial change has been implemented.

Question 8: *Would this timeline present employers with difficulty, for example with updating payroll software?*

Our members are concerned that this will present a difficulty both in terms up updating payroll systems but also in ensuring the necessary administrative arrangements are in place and that staff communications are clear and have sufficient time to be absorbed.

The government is already consulting on a change to the off payroll rules in the public sector as well as the implementation of the apprenticeship levy. Both of these changes have proposed implementation dates of April 2017 and will affect NHS bodies. It will be difficult to implement any one of these changes to payroll systems in the time available. The implementation of all three changes at once may not be possible or, at least, increases the risks around the implementation process.

Salary sacrifice schemes are, by their very nature, complex and NHS bodies have worked hard to inform employees exactly what the full impact of entering into such a scheme is both on their take home pay and its wider impact such as on their pension. The information provided to employees will have to be updated and the value for money decision the employee makes when entering into a salary sacrifice schemes will change. Clearly, there is an impact on taxable pay but also for members of the NHS pension scheme there may be an impact on pension contributions and to the pension received on retirement if they decide not to continue in a scheme or not to enter into a scheme at all. For all employees, any change in national insurance contributions could affect their future state pension as well.

The impact of these changes will have to be communicated to staff in time for them to be able to understand the implications for their personal financial position and make a decision about whether to remain in the scheme or withdraw from it if possible. The employer will then have to take action as a result of that decision.

The NHS is currently facing a financial crisis. As a result NHS bodies have been asked by NHS Improvement and NHS England to submit their operational plans for 2017/18 and 2018/19 by the end of the calendar year. The financial element of those plans will be based on the current expectations in relation to salary sacrifice schemes. Managing the effect of the outcome of this consultation on those plans within a very tight timescale will add to an already substantial burden for NHS bodies.

Question 9: *Are there any other changes that employers would need to make?*

Other than the changes already referred to, no.

Question 10: *Are there any other compliance considerations which HMRC should be aware of?*

There is an assumption in the consultation document that benefits in kind offered as a salary sacrifice are easily identified. This is usually the case but for some higher paid employees where remuneration packages are negotiable it may be difficult to identify whether a benefit is an addition to salary (which would not be affected by these changes) or in lieu of salary (which would be affected). Perhaps only benefits in kind which are not offered to all staff in a particular group should be excluded from these changes.

Contact

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