

## Salary Sacrifice Briefing Note

### Nottingham City Council

With the planned introduction of Nottingham City Council's Workplace Parking Levy (WPL) scheme on the 1<sup>st</sup> October 2011 many employers are considering introducing Car Park Management Strategies (CPMS) to make best use of their available car parking places and potentially limit their liability for the WPL scheme charge.

Parking charges can form an integral part of any CPMS and the revenue can be used to offset the impact of the WPL scheme on employers.

This briefing note seeks to clarify the options available for employers who are considering introducing car parking charges for their employees.

### What are the VAT options?

When a Local Authority introduces a WPL scheme on employers that provide their employees with workplace parking, it does so under a special legal regime (sections 178-190 of the Transport Act 2000). Therefore the WPL charge is outside the scope of VAT.

***This means that no VAT will be payable to the Local Authority on the WPL charge.***

However, if the employer decides to introduce parking charges for its employees, it will be making a taxable supply of parking to its employees and this supply is subject to VAT at the standard rate. The grant or assignment of facilities for parking a vehicle is standard-rated. (The VAT Act 1994, Schedule 9 Group 1 item (h)).

***This means that, when the employer makes a charge to its employees, it will be charged VAT at the standard rate on the parking charge it imposes.***

The employees are unable to reclaim VAT, so the VAT will remain with the employees as a cost.

Following HMRC's decision on the recent Astra Zeneca case, salaries sacrificed in workplace parking schemes will be deemed a consideration for the provision of parking from 1 January 2012. Therefore VAT will be accountable on the sacrificed amount and will be recoverable on related costs, where applicable.

### What are the Direct Tax options?

If an employer provides parking spaces to its employees, these can be provided without giving rise to a benefit in kind. This remains the case

regardless of whether the employer provides a space, a car park pass for a commercially operated car park or even reimburses employees with the parking costs that they incur, so long as the parking is at, or near to, their normal place of work.

The parking spaces or costs may be provided free of charge to employees. Alternatively, many employers have introduced modest parking charges for employees who use these spaces. In order to soften the blow, however, employees can reduce the costs to themselves by using what are known as “salary sacrifice arrangements.”

### **Salary Sacrifice Agreement**

Under normal circumstances, deductions from employees for items like parking charges will be made from net (after tax) salary. However, since the benefit of workplace parking continues to be exempt from a charge to income tax, it follows that the employees can agree to forego (or sacrifice) an amount of their **gross** (pre-tax) salary and, in return, continue to be provided with the (tax-exempt) benefit of workplace parking.

By doing so, the employees retain their workplace parking places and, at the same time, save the tax and NICs that they would otherwise have paid on the amounts of salary that they have sacrificed. Employers can also make substantial savings on their Employer NICs under these arrangements.

As mentioned above, salary sacrifice agreements are from 1 January 2012 liable to VAT, where the benefit is ordinarily subject to VAT, such as off street car parking. As a consequence, although the employees would make tax and NICs savings VAT costs will be incurred by the employees.

### **What is a salary sacrifice?**

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 and, in return, receive some form of non-cash benefit of a similar value.

The “sacrifice” is achieved by making a formal variation to the employee’s terms and conditions of employment relating to pay and an actual reduction to gross basic pay occurs as a result.

As stated earlier, this means that, in effect, any parking charges are paid from gross pay before tax and NICs are deducted. Since the parking charge payments are not subject to income tax and NICs, there will be a saving on the amount by which the basic salary is reduced. Basic Rate taxpayers can save up to 31% and Higher Rate taxpayers up to 41% of the amount that they sacrifice.

There are certain limits to eligibility, in particular that the gross basic pay does not fall below the National Minimum Wage at any time during the employment the salary sacrifice reduction. (NB parents in receipt of the childcare element of the Working Tax Credit should seek further guidance before participating in a salary sacrifice scheme).

Employees can remain in the scheme as long as their salary is sufficient to cover the salary sacrifice amount. If employees are currently on maternity leave, adoption leave or on long term sickness and not in receipt of pay from their employer they will not be able to participate in a salary sacrifice agreement until they return to work and their pay before salary sacrifice is above minimum wage.

Please note that employees will need to seek further advice from HM Revenue & Customs if they are in receipt of any state benefits, such as Statutory Maternity Pay (SMP), Statutory Sick Pay (SSP) or the childcare element of Working Tax Credits. An HM Revenue & Customs guide to salary sacrifice is available and can be downloaded from:  
[www.hmrc.gov.uk/specialist/salary\\_sacrifice.pdf](http://www.hmrc.gov.uk/specialist/salary_sacrifice.pdf)

This guidance has been provided by Nottingham City Council in conjunction with RSM Tenon and is for information purposes only. Nottingham City Council strongly recommends that companies seek independent tax and salary sacrifice advice.

RSM Tenon is the UK's 7<sup>th</sup> largest accountancy practice employing more than 3,000 staff, with offices in all major commercial centres across the UK. Its Employment Tax team provides specialist tax and VAT support to public sector organisations and corporate businesses across the UK. Please find more information about RSM Tenon by visiting its website:  
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