



Guidance Notes

**RETURNS OF CLASS 1A NATIONAL INSURANCE CONTRIBUTIONS,
EXPENSES PAYMENTS AND BENEFITS**

TAX YEAR ENDED 5 APRIL 2019



THE AIM OF THESE GUIDANCE NOTES

These notes have been prepared to help you identify the information required to complete correctly the Returns of Class 1A NICs, Expenses Payments and Benefits (P11D).

HM Revenue & Customs issue detailed guidance notes to employers explaining details of the procedures to be followed. We recommend to all our clients that they are familiar with the guidance notes issued by HM Revenue & Customs. You should have these, but if you do not, please obtain copies and read them.

WHY IS IT IMPORTANT?

It is HM Revenue & Customs policy to carry out compliance visits. One purpose of these visits is to check that employers are meeting their responsibilities and correctly applying the rules and procedures. If errors or mistakes are made, HM Revenue & Customs have the power to charge you income tax, interest and penalties. In certain cases this may lead to a tax investigation.

PENALTY REGIME

The Returns of Class 1A NICs, Expenses Payments and Benefits for the year ended 5 April 2019 should be submitted to HM Revenue & Customs by 6 July 2019.

HM Revenue & Customs may levy penalties if the Returns are not submitted by the filing date of up to £300 per form and a further penalty of up to £60 per day while such a failure continues.

In addition, they will levy a Class 1A NIC penalty of £100 per month, or part-month, of lateness for every fifty, or part-batch of fifty, employees provided with benefits. If the failure continues beyond twelve months there is a further penalty, not exceeding the amount of Class 1A NICs unpaid at the filing date.

The rules governing the taxation of benefits can be complex, but your obligation is to submit correct, complete Returns and keep records supporting the entries shown. Where HM Revenue & Customs discover that incomplete or incorrect information has been provided or adequate records have not been kept, they can pursue further penalties of up to £3,000 for each failure of this type in addition to collecting income tax, Class 1A NICs and interest from the employer.



An incorrect return made fraudulently or negligently also attracts a Class 1A NIC penalty not exceeding the difference between the amount of NICs shown on the return and the amount that should have been shown.

In practice, penalties may be mitigated but there is no guarantee of penalties being reduced so, to the best of your ability, you must ensure that you are confident that accurate Returns are submitted and you have the detailed records available to show this.

FORM P11D PROCEDURES

The general rule is that this form must be completed for each director and employee, irrespective of salary. The previous exemption for employees with a salary (including benefits) below £8,500 has now been abolished.

DECLARATION FORM P11D(b)

As an employer you must also complete a general declaration form P11D(b). This tells HM Revenue & Customs that you have completed all the forms P11D needed and these forms include all the required information. Only you are in a position to make such a declaration and we would ask you to consider this matter carefully before completing this form.

OTHER IMPORTANT INFORMATION

We would also like to draw your attention to the following matters:

1. Details of the amounts returned must be given to employees by 6 July 2019.
2. You can give the information to the employees in whatever way you choose, either by giving them a copy of the Return or using a different format.

Furthermore, you may ask employees to certify that draft Returns are complete and accurate to the best of their knowledge before they are sent to HM Revenue & Customs. Such certification can give added confidence and may help resolve any problem issues at an early stage before HM Revenue & Customs are involved.

3. If an employee leaves employment before details of the benefits returned are given to them, you are advised to send a copy to their last known address.
4. You have to show all benefits and expense payments, paid directly or arranged through a third party, on the Returns. Under Self Assessment you have to calculate the cash equivalent of all benefits. This is because employees need this information to complete Self Assessment Tax Returns.
5. You should keep copies of Returns, supporting details and records for at least 6 years following the end of the tax year, i.e. to 5 April 2025 or later. This will involve keeping such items as:-
 - Expense claims
 - Business mileage records
 - Records of business telephone calls

If you fail to do this you may be liable to pay a penalty (see above).

6. In addition to the Returns there are optional working sheets to calculate the cash equivalent of the following benefits:

Sheet 1 - living accommodation
Sheet 2 - car and fuel benefit
Sheet 3 - van benefits
Sheet 4 - interest free/low interest loans
Sheet 5 - relocation expenses
Sheet 6 - mileage allowance and passenger payments

The working sheets are to help you correctly calculate the cash equivalent of these benefits. You are not obliged to use them but their use is recommended because they help with accurate completion of the P11D and provide a record of the appropriate entry.



PAYE SETTLEMENT AGREEMENTS (PSA)

A PSA is applicable where the company provides gifts or minor benefits to employees or provides a Christmas Party, which costs in excess of the £150 per head limit (which the legislation provides).

In these cases tax and national insurance is charged on the employee. A PSA enables the company to meet these charges on the employees behalf should they wish to do so.

You do not have to make an entry on a Return of anything which is covered by a PSA entered into before 6 July 2019. Equally, employees do not have to declare such items on their Tax Returns. So entering into a PSA can also be helpful when tax relief is not available because:

Completion of Returns is simplified, and
Employees can receive tax free benefits under a PSA, and
Penalties for non-compliance with the benefit rules may be avoided

PSAs can only apply to benefits when HM Revenue & Customs are satisfied that the benefit:

Is not a major benefit provided regularly, and
It does not comprise of cash or a round sum allowance

You should take advice from Smith Cooper before entering into a PSA with HM Revenue & Customs.

The income tax and Class 1B Employers National Insurance payable as a result of a PSA with HM Revenue & Customs are due on 19 October 2019.

PROFESSIONAL FEES

If you have paid personal professional fees of a director or an employee, e.g. accounting or solicitor's fees, the VAT-inclusive amount has to be declared as a benefit. If that involves work done by Smith Cooper and you are not confident of the amount to be reported, please ask us to assist you in calculating the cash equivalent of the benefit to be declared.



AMOUNTS 'MADE GOOD'

If the director or employee has reimbursed the company (in part or in full) for the cost of a benefit, then the amount 'made good' should be declared on the Return in order to mitigate the taxable/NICable benefit. Please note that the 'gross' benefit prior to any 'making good' must always be declared, i.e. amounts must not be netted off before they are declared on the Return. Items can be 'made good' via a personal payment to the company or, if applicable, by debiting the director's/employee's loan account. The director or employee must 'make good' before 6 July following the end of the tax year.

EMPLOYER PROVIDED VANS

From the 6 April 2005 no taxable benefit arose where the employer specifically prohibits private use of employer provided vans, other than "ordinary commuting" (primarily home to work travel) and other "insignificant" private use.

The benefit charge for unrestricted private use is £3,350 p.a. A separate charge of £633 p.a. arises on private fuel provided by the employer.

PAYROLLING BENEFITS

If you're intending to payroll benefits and expenses, you must register them with HMRC using the payrolling employees' taxable benefits and expenses service, before the start of the tax year.

Using the online service for payrolling benefits and expenses means that you will not have to submit a form P11D. You must tell HMRC which benefits you want to payroll during the registration process.

The tax codes for all employees receiving these benefits will be amended, unless you exclude any employees that you do not want to payroll benefits for in the online service.

If you miss the registration deadline, you cannot payroll benefits until the following tax year unless you have a valid reason, when HMRC may agree that you can informally payroll. You must still complete form P11D at the end of the tax year and mark each P11D 'Payrolled'. This stops HMRC collecting tax that has already been deducted from your employees.



You can payroll all benefits except:

- employer provided living accommodation
- interest free and low interest (beneficial) loans

You must still report these benefits on a P11D, even if you're payroll other benefits for the same employees.

If you choose to payroll company car benefits, you do not need to submit a form P46(Car) unless the car benefit is not being payrolled.

NATIONAL INSURANCE

CLASS 1 NIC

If a benefit involves the payment of a director's or an employee's personal liability where they have contracted with the supplier, e.g. settling private home telephone or private mobile telephone bills, you should ensure that the NIC liability arising on the employer and employee has been correctly accounted for via payroll. This is a routine check performed by HM Revenue & Customs.

CLASS 1A NIC

If a benefit is provided and the employer (not the employee) has contracted with the supplier then the benefit will generally be subject to a Class 1A NIC charge.

Class 1A NICs are paid by the employer only, but no Class 1A NICs will be due on benefits which are:

- exempt from income tax
- specifically exempt from Class 1A NIC
- covered by an Extra Statutory Concession
- included in a PSA
- provided for business use but insignificant private use is allowed
- already liable for Class 1 NICs
- exempt from Class 1 NICs

Class 1A NICs are also not payable on business expense payments made to, or on behalf of, the employee.

If you are uncertain whether an item is Class 1 NICable or Class 1A NICable then Inland Revenue booklet CWG5 includes a helpful guide to the appropriate NIC treatment for commonly provided benefits. This form can be downloaded from HM Revenue & Customs website.

The address is as follows.

<https://www.gov.uk/government/publications/cwg5-class-1a-national-insurance-contributions-on-benefits-in-kind>

Class 1A NICs are payable by 19 July 2019, or by 22 July 2019 if paid by an approved electronic method.

If you have any questions or would like further details at any stage, please let us know.