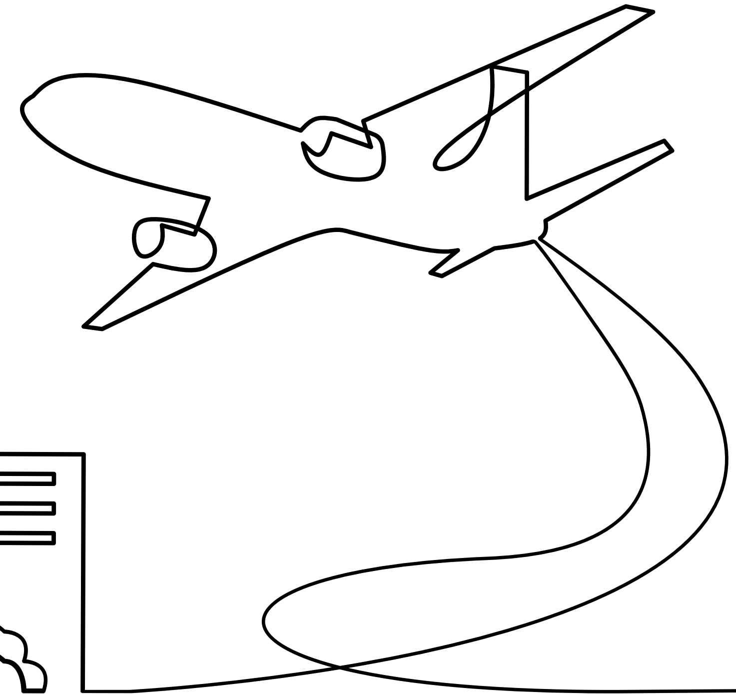
Oury Clark Quick Guides:

Salary Sacrifice

Employee Non-Cash Benefits



Employment: H21

A salary sacrifice arrangement involves an employee giving up part of his or her entitlement to salary in exchange for a non-cash benefit.

This arrangement means that there are savings for both the employee and employer. The employee benefits from reduced income tax and National Insurance (but will receive lower net pay) and the employer is subject to lower NICs.

Salary sacrifice arrangements need to be set up carefully and must legally constitute a variation of the contract of employment. The right to receive cash wages must be given up before the employee is entitled to receive the remuneration under the original contract. The true construction of the revised contractual arrangement between employer and employee must be that the employee is entitled to lower cash remuneration and a non-cash benefit in its place.

Agreements usually apply for a minimum term, but an employee can change the terms (opt in/out) of a salary sacrifice agreement if there is a 'lifestyle change' such as marriage/divorce, becoming redundant or pregnant. The expected tax and NIC advantages obtained under a SS agreement will not apply if an employee swaps between cash earnings and a non-cash benefit whenever they like.

The salary sacrifice arrangement can be set up through your payroll and administered at no additional ongoing cost.

It is essential that you take tax advice before setting up a salary sacrifice arrangement as there are specific technicalities relevant to different benefits.

Also, since April 2017, the Optional Remuneration Arrangement (OpRA) rules (below) need to be considered when implementing a salary sacrifice agreement.

Optional Remuneration Arrangement (OpRA)

These rules apply to two situations: Type A and Type B.

Type A is where the employee gives up a right to receive earnings in return for a non-cash benefit (traditional SS).

Type B is where the employee chooses to receive a benefit rather than a salary. The most common type of a Type B arrangement is choosing between

a company car or a car allowance. Where Type B arrangements apply, the employee will be taxed on the higher of:

- The cash amount the employee would have received
- The taxable benefit amount determined under the benefit rules.

The higher amount is also subject to Class 1A NIC's. If the salary is exchanged for an exempt benefit, the taxable benefit amount under the benefit rules, that is to be compared with the amount foregone, is deemed to be nil.

Enhanced Pension Contributions

This is an agreement between an employer and an employee, where the employee agrees to exchange part of their gross salary, bonus or even redundancy package for a pension contribution.

Salary sacrifice is a tax efficient and simple way to save money on a pension scheme and to improve the benefits package an employer might offer to employees.

The main advantage is both employers and employees pay less National Insurance contributions (NIC), and employees will pay less income tax.

An employer can decide how to reinvest those savings. They can keep some or all of the savings to reinvest back into the business, or pass some or all on to the employee, by adding it to their pension contribution.

Employers can also decide if employee's savings will be reinvested in their pension or their take home pay. Employers can give employees the choice, although this additional flexibility increases the administration for employers.

Whatever the choice, there's no increased pension contribution cost.

Cycle to Work

Cycle to Work schemes were set up in the UK to encourage healthier lifestyles for employees. They work by allowing employers to pay the full cost of bicycles and cycling equipment for staff, Employers may now offer cycling equipment above the £1,000 limit allowed under most salary sacrifice cycle-to-work schemes, by running the scheme through an FCA-approved third-party provider.

The employee then reimburses the employer through a salary sacrifice arrangement which will usually be over a 12-month period but can be up to 18 months.

Employers can save up to 13.8% on NICs and boost their green credentials.

You can find more information in this OC quick guide

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