Uncertainty over ECO schemes is a 'nightmare' for businesses

Fleets advised to postpone taking new entrants to employee car ownership schemes

By Gareth Roberts

HMRC is expected to clarify in the next few weeks whether employee car ownership (ECO) schemes will fall under new tax rules.

The Finance Bill introduced legislation designed to remove the tax benefits of Optional Remuneration Arrangements (OpRA). However, while it was clearly targeted at employers who were running salary sacrifice and cash or car allowance arrangements, it failed to clarify whether ECO schemes would be impacted.

"It's a nightmare," said Keith Cook, deputy financial controller at Computacenter.

The IT service provider funds around half of its 1,250 cars through an ECO scheme, saving the firm £1.5 million per year. However, Cook told *Fleet News:* "That is completely under threat."

Computacenter has stopped writing new ECO contracts until HMRC clarifies its tax treatment, but Cook admitted: "As it stands there is a massive question mark over the future of ECO schemes."

Deloitte has been advising employers since last November not to allow new entrants onto any such schemes until they can come up with an alternative structure.

Dan Rees, an associate director and specialist consultant in the Deloitte Car and Mobility Consulting team, said: "There is some confusion in the market around whether or not ECO schemes are caught by OpRA. But in our view, it's quite clear that where cash and AMAP [Approved Mileage Allowance Payments] is varied monthly to provide funding to a driver for their private car, then it's caught by OpRA."

"As it stands, there is a massive question mark over the future of ECO schemes"

Keith Cook, Computacenter

KPMG, like Deloitte, has recommended suspending new entrants to ECO schemes until further clarification has been received. It says that the status of each arrangement as an OpRA, or not, will rest on the merits of each individual scheme. Therefore a review of employer policy, employee contract and any communication wording would be required in order to understand the likely position, based on the legislation as drafted.

Colin Ben-Nathan, a partner at the tax advisory firm, said: "Further HMRC guidance has been a very long time coming and so we hope it will be much more comprehensive than the draft guidance previously issued – particularly around HMRC's view on ECO and similar arrangements."

The number of fleet operators and company drivers that fund their vehicles through ECO schemes is hard to quantify. However, the most recent FN50 data suggested it was the fourth most popular funding choice for the top 50 firms, after contract hire, salary sacrifice and finance lease. Alphabet (GB) is one of the biggest funders, with a not insignificant 10,339 vehicles obtained through ECO, according to the survey.

Rees said: "There are several large schemes and a number of smaller ones that we are aware of. However, the mathematics relating to how these schemes work compared to significant and rising employee benefit-in-kind (BIK) tax in a company car arrangement is actually compelling in terms of employer savings."

ECO schemes can provide both the employer and its employees with a tax-efficient alternative to company cars.

Unlike traditional company car schemes, the employee has legal ownership of the vehicle and neither the employee nor the employer is subject to any company car tax or national insurance contributions (NIC) on the benefit.

An employer will offer employees a monthly salary allowance to spend on a car of their choice. This allowance is generally based on the employee's grade, tax bracket and annual business mileage.

Vehicles within an ECO scheme are sold directly to employees through a credit sale agreement, with contract terms and mileage limits to suit them.

Employees do not pay BIK as is usually required within a traditional company car scheme. Rather, they make a personal contribution to the vehicle via payments deducted directly from their salary each month.

As part of this payment, insurance, accident and breakdown cover and servicing of the vehicle are included and, because employees legally own the vehicle, the fleet operator may benefit from the tax-efficient nature of business mileage reim-

FLEETS MUST WAIT FOR AMENDED FORMS

Legislation has confirmed when OpRA will apply and what the calculation of the benefit charge will be, but fleets will have to wait for tax forms to be amended.

HMRC systems and processes i.e. the P46 (car) forms used to notify HMRC of the company car benefit amount and P11D forms used to confirm company benefits for each employee at the end of a tax year, will not be amended until April 2018.

Claire Evans, head of fleet consultancy at Zenith, said: "What this means is that where the benefit charge should be based on the salary sacrifice amount/cash allowance and not the company car benefit, there will be no formal mechanism for the employee or employer to declare this and the employee will pay tax in all cases on the company car benefit charge. If the salary sacrifice or cash allowance was the greater value then any unpaid tax would be recovered from the employee into 2018/19 tax year instead."

Employers can declare the correct amount of benefit under OpRA for the 2017/18 tax year from April 2018 (per the usual timescales) and HMRC will use this to calculate any unpaid tax due from the employee and make adjustments to their tax code in 2018/19 tax year.

For cars delivered from April 2018, the new P46 (car) forms will be available which allow employers to declare the cash equivalent value.

Evans said: "To date, HMRC has not communicated what the new forms will look like and, as such, leasing companies will be adapting systems to produce the information they think HMRC will require post April 2018, both to collect backdated tax and to process correctly going forward."

Dan Rees, from the Deloitte Car and Mobility Consulting team, added: "There's nothing that can be done here except to warn affected drivers that this will happen."