Workplace charging tax exemption draft guidance – ATT and CIOT comments

Employment Tax

01 August 2018

The ATT and CIOT have submitted comments on draft guidance covering the workplace charging tax exemption for electric and plug-in hybrid vehicles.

At Autumn Budget 2017 the government announced that it would legislate to exempt employer-provided electricity from being taxed as a benefit-in-kind.

The exemption will apply to electricity provided in workplace charging points for electric or hybrid cars owned by employees. The relevant legislative changes to the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 will be made in Finance Bill 2018-19 and will have retrospective effect from 6 April 2018. The draft legislation was published on 6 July 2018.

As reported in June's Technical Newsdesk HMRC previously published for consultation a draft update to the Employment Income Manual (EIM) to cover this workplace charging tax exemption. This draft guidance can be found on GOV.UK.

The ATT comments on this draft guidance can be found on the ATT website and the CIOT comments on the CIOT website.

ATT comments

In their submission the ATT note that it is difficult to provide comprehensive comments on draft guidance without sight of the underlying legislation. In particular, it is not possible to comment on whether the draft guidance accurately reflects the law, or whether there are areas where further guidance is needed.

It is disappointing that the exemption set out in the draft guidance appears to be of a more limited scope than was announced at the Autumn Budget. In particular, that announcement referred to an exemption for ‘electricity that employers provide to charge employees’ electric vehicles’. However, the draft guidance indicates the exemption will be narrower than this, and apply only to charging cars at the workplace, and not payment of employee’s expenditure in charging a car elsewhere (for example at a motorway service station).

The ATT are also concerned by the requirement in the draft guidance for electricity to be provided through a ‘dedicated charging point’. Not all employers will be prepared to incur costs installing a specialised charging point for a limited number of employees, and many electric cars can (amongst other ways) be charged directly from a traditional mains socket. Precluding this simple recharging approach from the benefit of the exemption seems unnecessarily restrictive.

Overall the ATT recommend that, if the intention of the exemption is to truly to incentivise the use of electric cars, consideration be given to widening its scope so that it extends to charging away from the workplace and the use of normal mains sockets.

CIOT comments

In their submission the CIOT also note that it is difficult to comment on guidance without being able to cross-reference to the legislation and thought that the draft legislation should have been published alongside the draft guidance.

The CIOT is concerned that the scope of the exemption, as indicated in the draft guidance, may limit the effectiveness of the exemption. We think the scope of the exemption should be as broad as possible to encourage the adoption of electric vehicles and therefore that vehicles charged via a standard electrical outlet or a high-capacity appliance outlet should also benefit from the exemption. We add that as technology improves the need for dedicated charging points may become a thing of the past.

The draft guidance indicates that the exemption will not apply where the charging facilities are at the employee’s home. The CIOT query the position if the employee’s workplace is his or her home and recommends that the exemption include any charging facilities provided by the employer, whether at the employer’s premises or

elsewhere.

The CIOT also queries the need for charging facilities to be available to all the employer’s employees generally and asks whether the condition fails if the employer does not install sufficient charging points to meet demand or restricts use of charging points based on selective criteria (e.g. those who use their own car for business journeys, distance from workplace, etc.).

In summary the CIOT suggest that to encourage electric vehicle ownership the benefit-in-kind exemption for charging an employee’s car at the employer’s expense should extend to any circumstance where employers provide electricity to charge an employee’s electric vehicle.