

## Chapter 1 - Introduction to the taxation and valuation of employer-provided benefits

### Part 05-01-01a

This manual should be read in conjunction with Part 5 of the Taxes Consolidation Act 1997 (TCA)

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## 1 Benefit-in-Kind or Perquisite

This manual sets out a general overview of the tax treatment applicable when an employer provides a benefit to an employee or director, together with general guidance on how such benefits should be valued. In examining the tax treatment and valuation of a benefit, it is necessary to know the distinction between a Benefit-in-Kind (BIK) and a perquisite.

The term perquisite is not defined in tax legislation and therefore its meaning is taken from the extensive body of case law on the subject. Generally, a perquisite ('perk') denotes something which is money, or which can be turned into money (i.e. to pecuniary account).

A BIK, on the other hand, is generally something which an office holder or employee has the use of without having ownership of. Therefore, where a benefit acquired is not capable of being turned into money, it is generally not a perquisite but may be regarded as a BIK.

For example, two free tickets to a match in Croke Park given by an employer to an employee is a perquisite, as such tickets can be turned into money (i.e. sold). Similarly, an employer paying a supermarket bill on behalf of an employee would be regarded as a perquisite. Having the free use of a house or a car owned by an employer would however be regarded as a BIK.

In addition, if an employer transfers the ownership of an asset to an employee or director, the transfer of ownership of the asset is taxable as a perquisite.

The following examples further demonstrate the differences between a BIK and a perquisite:

#### Employee Accommodation

- An employee leases an apartment and the rent is paid by the employer – this is a perquisite.
- An employer owns an apartment and allows an employee to reside there rent free – this is a BIK.

#### Car

- An employee leases a car and the employer pays the monthly repayments – this is a perquisite.
- An employer purchases a car and allows an employee to use the car for private use – this is a BIK.

Other examples of a perquisite include:

- An employer paying a bill on behalf of an employee.
- An employer giving an employee a voucher.

## 2 Taxation and Valuation of Perquisites

### 2.1 Determining the charge to tax on Perquisites

As outlined above, when considering whether a 'benefit' is taxable, the first step is to determine whether it is a perquisite or a BIK. If the 'benefit' is a perquisite, then it is taxable under s112 of the Taxes Consolidation Act 1997 (TCA 1997) and in accordance with the provisions of that section.

Section 112 TCA 1997 provides that a charge to income tax under Schedule E arises on any perquisite received by an employee or director from his/her employer.

### 2.2 Valuation of Perquisites

Generally, it is the market value of the perquisite on the date which it is given to an employee or director that is taxable under Schedule E, and not the cost to the employer of providing the perquisite.

Certain perquisites are however valued in a different way, as set out below.

### 2.3 Payments on Behalf of Employees

In the case of the payment of club subscriptions, credit card bills or other such payments on behalf of an employee, it is generally the expense incurred by the employer less any amount made good by the employee that is taken into account for PAYE, PRSI and USC purposes.

### 2.4 Medical Insurance Premium

In the case of medical insurance premiums, the cost to the employer and the amount on which PAYE, PRSI and USC is charged is based on the gross invoiced premium, before tax relief.

Where the employer is an insurer, or connected entity, the cost to the employer is based on the gross premium that would usually be charged to an unconnected customer.

See Tax and Duty Manual (TDM) [Part 15-01-14](#) for further information on the tax treatment of and relief available for medical insurance premiums, and the impact of any COVID-19 related refund in respect of same.

## 2.5 Vouchers

In certain circumstances an employer may provide an employee with a voucher without giving rise to a charge to tax. This is known as the small benefit exemption and further information on the conditions attaching to same can be found in TDM [Part 05-01-01e](#).

If the small benefit exemption does not apply, the provision of a voucher will be a taxable perquisite and will be liable to PAYE, PRSI and USC. In such cases, the value of the taxable benefit cannot be less than the expense incurred by the employer in providing the voucher, less any amount made good to the employer by the employee.

In some cases, the amount realisable by the employee for the voucher, i.e. its market value, may not be equal to the expense incurred by the employer in providing the voucher.

Where the amount realisable by the employee would not be materially higher than the expense incurred by the employer, the value of the benefit for PAYE, PRSI and USC purposes may be the expense incurred by the employer in providing the voucher.

Where the amount realisable by the employee would be materially higher than the expense incurred by the employer, the value of the benefit for PAYE, PRSI and USC purposes will be the market value of the voucher.

The amount realisable by the employee for the voucher may be materially higher than the expense incurred by the employer in providing the voucher for a number of reasons including, for example, the employer and provider of the voucher being connected.

## 2.6 Transfer of Assets

Where an employer gives an asset (e.g. a car or house) to an employee by way of transfer, or otherwise, the value of the taxable benefit for the year in which the benefit is provided must be calculated by reference to the higher of:

- the expense incurred by the employer in connection with the provision of the benefit, or
- the value realisable on sale

less any amount made good to the employer by the employee.

However, where the benefit takes the form of the transfer of an asset after it has been used or depreciated by the employer, it is the market value of the asset at the date of transfer, and not the cost of acquisition to the employer, which is the value of the taxable benefit.

**Note: This manual is currently subject to review and may not reflect up-to-date position. Most recent version.**

## 3 Taxation and Valuation of Benefit-in-Kind

### 3.1 Determining the Charge to Tax on Benefit-in-Kind

If the 'benefit' is a BIK rather than a perquisite, it is necessary to determine where the charge to income tax lies.

There are specific rules setting out the way certain benefits should be treated for tax purposes, as outlined below:

- Provision of living accommodation - s118(3) TCA 1997
- Provision of travel passes - s118(5A) TCA 1997
- Provision of office equipment - s118(5B), (5C) and (5D) TCA 1997
- Provision of bicycle or safety equipment - s118(5G) TCA 1997
- Provision of security assets - s118A TCA 1997
- Salary sacrifice arrangements - s118B TCA 1997
- Provision of cars or vans - s121 and s121A TCA 1997
- Making of preferential loans - s122 TCA 1997

The specific tax treatment provided for under these rules is set out throughout the consolidated guidance on the taxation of benefits - see TDM [Part 05-01-01](#) for a breakdown of the subject matter contained in each of the chapters included within the manual.

Where the benefit is not chargeable to income tax under one of the specific sections outlined above, the general BIK provisions set out in s118 TCA 1997 apply.

#### 3.1.1 The General BIK Provision – Section 118 TCA 1997

Section 118 TCA 1997 is effectively the 'last port of call' in establishing the tax charging provision for BIK (i.e. this section applies where the benefit is not otherwise chargeable to tax).

The key elements which must be present in order for s118 TCA 1997 to apply are:

1. the employer (or someone connected with the employer) incurs expense in providing a BIK; and
2. the expense is not chargeable to income tax under any other section of the TCA.

Where s118 TCA 1997 applies, the expense incurred by the employer in providing a BIK is taxable in accordance with the provisions of s112 TCA 1997 which, as outlined above, provides that a charge to income tax under Schedule E arises. This is subject to any tax deduction for expenses, which may be available under s114 TCA 1997.

It is important to note that sections of legislation relating to specific BIK (such as the provision of employer provided vehicles), may contain wider charging provision (i.e. the charge to tax arises where the BIK arises merely by reason of the employment).

### 3.1.2 Employees and Directors

The BIK provisions contained throughout Part 5 Chapter 3 TCA 1997 apply to both employees and company directors. In addition, section 120 TCA 1997 provides that the rules which apply to an employee of a body corporate, equally apply to an employee of a sole trader, a partnership or a public body.

The definition of an employee or director for the purpose of the BIK provisions is very broad, and employers may be obliged to deduct tax on any BIK provided to the spouse, civil partner, family, children of the civil partner, dependants or guests of an employee or director etc. - see s116(2) TCA 1997.

BIK is generally not that common in a public sector context, however it should be noted that where a public sector employee receives a BIK the provisions apply in the normal manner, unless a specific exemption provides otherwise.

Where the cost of providing a taxable benefit to a public sector employee is incurred by a public body other than the one which employs the individual, the onus is on the employing public body to obtain the details of the expense incurred by the other body so as to enable it to calculate and deduct the correct liability on the BIK.

### 3.1.2.1 Connected Persons

Several of the BIK provisions apply not only to employees, as defined above, but also to persons connected with the employee. Section 10 TCA 1997 provides a definition of connected persons and a detailed list of circumstances in which individuals and companies may be connected is set out below.

Where a rule provides that one person is connected with another person, this is to be taken as meaning that the converse also applies, namely, that the other person is connected with the first person.

The following persons are connected under s10 TCA 1997:

#### **Individuals:**

- an individual and his/her spouse,
- an individual and his/her civil partner,
- an individual and a relative of the individual,
- an individual and a relative of the individual's spouse,
- an individual and a relative of the individual's civil partner,
- an individual and the spouse of a relative of the individual,
- an individual and the civil partner of a relative of the individual,
- an individual and the spouse of a relative of the individual's spouse, and
- an individual and the civil partner of a relative of the individual's civil partner.

A relative, for BIK purposes, includes siblings (brother, sister), ancestors (parent, grandparent, great-grandparent) and lineal descendants (children, grandchildren).

For the purposes of the BIK provisions, a relative does not include an aunt, uncle, niece or nephew.

**Business Partners:**

- a person and a business partner of the person (except where partnership assets are bought or sold under bona fide commercial arrangements),
- person and the spouse or civil partner of a business partner of the person (except where partnership assets are bought or sold under bona fide commercial arrangements), and
- a person and a relative of a business partner of the person (except where partnership assets are bought or sold under bona fide commercial arrangements).

The definition of a relative is as set out above.

**Trustees:**

- a trustee of a settlement and the settlor of the settlement (if the settlor is an individual),
- a trustee of a settlement and any person who is connected with the settlor of the settlement (if the settlor is an individual), and
- a trustee of a settlement and a body corporate which at any time in any accounting period or year of assessment, is a close company (including a company which would be a close company except for the fact that it is not resident in the State) the participators in which include the trustees of the settlement or a beneficiary under the settlement.

**Companies:**

- a company and another company where the same person has control of both companies,
- a company and another company where a person has control of one company and persons connected with that person or that person and persons connected with that person have control of the other company,
- a company and another company where a group of 2 or more persons has control of each company and the groups consist of the same persons or could be regarded as consisting of the same persons if a member of either group was replaced by a person connected with that member, and
- a company and a person where the person has control of the company or the person and persons connected with the person control the company.

The members of a group of 2 or more persons who act together, to obtain control of, or a holding in, a company are (in relation to that company) treated as connected with one another. The group members are also treated as connected with any person acting on the direction of any member of the group to obtain control of, or a holding in, the company.

### 3.1.3 De minimis threshold

There are a number of BIK types which are specifically exempt from tax, some of which are set out in section 118. Where a specific exemption is in place it applies to all individuals in receipt of the relevant BIK.

Where there is no specific exemption in place, and the individual receiving the BIK is a director of the company concerned, the BIK is taxable regardless of the level of remuneration received.

Where there is no specific exemption in place and the employee receiving the BIK is not a director, the BIK is generally not taxable unless the individual's total remuneration (including all benefits i.e. both BIK and perquisites) is €1,905 or more in the tax year - see section 116(3)(a).

The BIK to which the de minimis rule does not apply are small in number and are highlighted in the relevant parts of the consolidated Manual on the Taxation of Benefits. Therefore, unless otherwise provided, it may be the case that the de minimis rule may apply where the individual receiving the BIK is not a director.

#### **3.1.3.1 Determining if the de minimis threshold has been met**

In some cases, an employee may hold more than one employment. For the purposes of determining whether or not the €1,905 threshold has been met, all connected employments will be treated as a single employment.

Employments will be connected if one business controls the other, or if both businesses are controlled by the same third party.

This means that income earned from employment with one or more businesses under the same parent company, in the same year of assessment, must be combined when considering the €1,905 threshold.

This applies to employments held concurrently or at different times in the year of assessment.

For example, during the first half of 2020 an employee works part time for both Company A and Company B and earns €500 in respect of each employment. At the end of June 2020, the employee ceases both of these employments and commences full time employment with Company C in July. The employee works for Company C until the end of the year and earns €1,500 from this employment.

All three of these companies are part of the ABC Group and are therefore connected. The employee's total remuneration is therefore in excess of €1,905 and, subject to certain exceptions, any BIK or perquisites received by the employee will be taxable.

Income from a previous employment does not count towards the €1,905 threshold unless the previous employment was with a connected employer.

Therefore, in the above example, if Company A and B were part of a different Group, the employee's remuneration would not be in excess of the €1,905 threshold. This is because the combined earnings from the connected employments in Company A and Company B is €1,000. As the employment with Company C is not connected to the previous employments in this instance, the €1,500 earned from employment with Company C is therefore considered in isolation.

## 3.2 Valuation of Benefit-in-Kind

This section sets out the general rules for valuing BIK that apply where there are no specific statutory rules in place. In such cases the value of the BIK, i.e. the notional pay, which will be liable to PAYE, PRSI and USC will be the higher of:

- the expense incurred by the employer in connection with the provision of the benefit to the employee, or
- the value realisable by the employee for the benefit in money or money's worth

less any amount made good to the employer by the employee.

### 3.2.1 Goods Provided by Employer

Where an employer purchases goods such as a television or white goods for, or otherwise provides same to an employee, the amount chargeable to PAYE, PRSI and USC is the higher of:

- the expense incurred by the employer in connection with the provision of the goods, or
- the value realisable on sale of the goods by the employee

less any amount made good to the employer by the employee.

Where the difference between the expense incurred by the employer in providing brought-in goods and the value realisable on sale of the goods by the employee is unlikely to be significant, the expense incurred by the employer may be taken as the value of the BIK for PAYE, PRSI and USC purposes.

Where the employer is the manufacturer of the goods concerned, the expense incurred in providing the employee with the BIK is normally lower than the amount that the goods would realise if sold on the open market. The higher of these two amounts is the value subject to PAYE, PRSI and USC in such cases.

Where durable goods have been used or depreciated by the employer before being provided to the employee, it is the value of the goods at the time of their provision to the employee that should be charged to PAYE, PRSI and USC. This is the case even if that value is less than the cost of the goods to the employer.

### 3.2.2 Free Use of Assets (other than Accommodation, Employer Provided Cars or Vans)

Where an asset (other than accommodation or an employer provided car/van) remains in the possession of an employer and is made available for use by an employee, the value of the BIK for the purposes of PAYE, PRSI and USC is the annual value of the use of the asset<sup>1</sup>.

The annual value of the use of the asset is 5% of the market value of the asset when it was first provided as a benefit by the employer to **any** employee.

If any annual amount paid by the employer for the long-term lease of the asset is greater than the annual value, the value of the BIK for the purposes of PAYE, PRSI and USC will be the annual amount paid by the employer.

Any other annual running costs incurred by the employer is a taxable benefit. The value of such benefits is the amount incurred by the employer in meeting those costs, less any amount made good to the employer by the employee.

The taxable BIK in respect of the asset will apply for each tax year for which an employee has the free use of it. Where there is free use of an asset for part of the year only, the amount of the BIK should be time-apportioned accordingly.

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<sup>1</sup> Motorcycles weighing less than 410 kilograms fall into this category. Free use of motorcycles weighing more than 410 kilograms is taxed in accordance with the provisions set out in s121 TCA 1997, as detailed in TDM [Part 05-01-01b](#).

**Example 1**

On 1 January, an employer furnishes an employee's apartment with new furniture, at no cost to the employee. The furnishings, which remain the property of the employer cost €10,000. Three years later the furnishings are provided to another employee, at which point they are valued at €7,000.

The annual value of the use of the furniture for the first employee is €500 ( $€10,000 \times 5\%$ ). The annual value for the second employee is the same, as the taxable BIK is calculated based on the value of the asset when it was first provided to any employee.

**Example 2**

On 1 August, an employer provides an employee with the free use of furniture which was previously used in the employer's showrooms. The original cost of the furniture was €5,000. The furniture was professionally valued at €3,500 on the date the furniture was first provided as a benefit.

The annual value of the use of the furniture is €175 ( $€3,500 \times 5\%$ ), as this is the value of the asset when it was first provided to any employee. As the employee had free use of the asset for part of the year only, the charge to BIK must be time apportioned. The amount liable to PAYE, PRSI and USC is therefore €73 ( $€175 \times 5/12$ ).

If the furniture is provided to another employee in subsequent years, the taxable BIK would be calculated based on the value of the furniture when it was first provided to any employee i.e. €3,500.

## 4 Summary Table for Common Benefits

The table below summarises the information set out above in relation to some commonly available benefits which are not subject to the specific statutory rules referred to in [section 3.1](#) above.

Benefit	Examples	Amount for PAYE, PRSI and USC
Payments on behalf of Employees (Perquisite)	Life Assurance Premiums, club subscriptions, private element of telephone bills (call and rental charges), rented accommodation charges and crèche costs	Expense incurred by employer less any amount made good by the employee  (Amount for <a href="#">Medical Insurance</a> premiums are subject to related rules)
Vouchers (Perquisite)	Shopping vouchers, holiday vouchers, bonus bonds and cash vouchers	Expense incurred by employer less any amount made good by the employee  (Subject to exception provided for in TDM <a href="#">Part 05-01-01e</a> )
Free use of goods provided by Employer (BIK)	Electrical goods e.g., TVs, white goods etc.	The higher of: <ul style="list-style-type: none"> <li>• expense incurred by the employer, and</li> <li>• realisable value,</li> </ul> less any amount made good by the employee

Benefit	Examples	Amount for PAYE, PRSI and USC
Transfer of Assets	Cars, Houses, Yachts	<p>The higher of:</p> <ul style="list-style-type: none"> <li>• expense incurred by the employer, and</li> <li>• realisable value</li> </ul> <p>less any amount made good by the employee</p>
Free use of Assets other than Accommodation, Employer Provided Cars or Vans (BIK)	Furniture, Artwork	<p>5% of the market value of the asset when it was first provided as a benefit by the employer to any employee</p> <p>plus any other annual running costs incurred by the employer</p> <p>less any amount made good by the employee</p>