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Flexible benefits

Tax 2019

Tax

Flexible benefits should be an option for all. The company's total payroll costs are unchanged, but the variety of benefits is made visible and the advantages greater – because it is the employee who combines the salary package based on own wishes and needs.

Opting in or out of pension contributions etc. can also be included and, thus, a potential tax saving on certain benefits is just one element that makes individual salary agreements tax attractive.

Over the past years, flexible benefits has been a significant tool for companies in the efforts to attract and maintain the best and most qualified employees. The employees get greater influence on how the salary package is combined, in order to optimise it for the employee – without increasing the costs for the employer. In times of crisis and cutbacks, flexible benefits are also a current topic.

Freedom of choice and the possibility to finance employee benefits through a reduction of the cash salary can be an alternative to discontinue schemes with existing employee benefits.

When implementing and applying flexible benefits, a number of conditions are vital in relation to taxation of the employee and the employer's duty to report. We refer to our publications on for example:

- Benefits.
- IT taxation.
- Employer-contributed health care.

The publications can be downloaded at: www.deloitte.dk.

One must be aware that a deduction in the gross salary before tax of already earned cash salary is not possible, as this is not in accordance with the rules in the Danish Withholding Tax Act regarding withholding of taxes at source. The only way is that the employer and employee enter into a new individual salary agreement (possibly as an addendum to the existing contract/ agreement), where a general actual reduction of the cash salary with effect going forward is agreed upon – which is what the Danish Tax Agency refers to as salary change.

All companies should make the necessary analyses before an arrangement with flexible benefits is set up.

Setting up flexible benefits
It is important to clarify what the company can and will offer and, subsequently, ensure that the employees are clearly informed of the possibilities.

The employer must determine the framework of the flexible salary package, which is not only an offer of employee benefits with tax credits. A flexible salary package can for example also include the possibility for the employee to choose the size of the pension contribution or the opting in or out of extra days off.

All employees – in both the public and private sector – can, based on current tax rules and practice, enter into a flexible agreement with the employer, and both parties are free to agree on which benefits to include in the agreement.

However, it is decisive for a flexible benefit set-up that the individual employee enters into a new salary agreement for future purposes. The only limitations are in cases where the employee does not have the possibility of negotiating salary on an individual level, e.g. on the basis of treaties, or if the employer does not offer negotiation.

However, a new salary agreement, including cash salary changes, is not a magic solution! It is not the actual reduction of the cash salary that causes a tax saving.

Taxation and indirect financing of employer-contributed benefits are two independent matters. The taxation is, thus, not dependent on whether for example a data connection is fully or partially paid by the employer, or whether the employee contributes indirectly to the payment, e.g. via a salary reduction or working extra hours etc.

Taxation and reporting
A reduction of the cash salary cannot be considered an employee contribution because it is not a case of taxed funds. Thus, regardless of whether a benefit is offered through a flexible benefit set-up with fully or partially financing through a reduction of the gross salary, the tax treatment will comply with the standard rules – as regards valuation and employer's duty to report.

Tax-attractive benefits
Most benefits can be included in a flexible benefit set-up and indirectly be financed via a reduction of the employee's gross salary, or if the employee accepts a smaller, prospective increase in the gross salary than the one originally planned. However, all benefits are not equally tax-attractive.

Examples of benefits that cannot be included in a flexible benefit set-up
A number of benefits are considered tax-exempt because they are defined as general employee welfare. The condition for tax-exemption are that these are benefits without significant value, integrated in the conditions of employment where it would usually be difficult to calculate and attribute a specific value to each individual employee.

Therefore, these benefits may not be individual (optional) and can, therefore, not be included in a flexible benefit set-up or financed via a salary reduction. If these benefits are included in a flexible benefit set-up, they cannot be considered as benefits that are provided as part of general employee welfare, as they are considered to be part of the salary determination.

For example, this could be the employer's contribution to a canteen scheme or employee association or expenses for a general, minor medical check-up.

Examples of goods that can be included in a flexible benefit set-up
For tax purposes, the benefits are only appealing and obvious benefits when the valuation for tax purposes is less than the market value, or benefits which are fully tax-exempt – and this only comprises few benefits.

If the employer offers benefits with tax credits, it is important that the benefit can be treated pursuant to such specific rules – so that the benefit – in any event – complies with the rules.

The following employer-contributed benefits with an integrated tax concession can beneficially be included in an individual flexible salary package.

Benefits	Taxation
Land line and mobile telephones and data connection (broadband connection). Includes set-up, subscription and usage expenditures and the actual telephone device/terminal.	Free telephone taxation with a fixed yearly value of DKK 2,800. *Read our publication on IT taxation.*
Data connection with access to the employer's network. Includes set-up, subscription and usage expenditures.	Tax-exempt. Only includes broadband connections with regular and integrated additional services. *Read our publication on IT taxation.*
Public transport between home and workplace.	Tax-exempt, if the employee refrains from choosing the regular deductible expense.
Newspapers.	Not tax-excempt, but can – based on a concrete assessment – be attributed to the special trifle threshold. If it is the second newspaper in the household, the value can be fixed at DKK 0.
Parking, which is offered in connection with the employment.	Tax-exempt.
Education, courses etc.	Tax-exempt, if not solely of a private nature.
Prevention and treatment of work-related injuries (e.g. massage, reflexology, chiropractic, acupuncture etc.).	Tax-exempt. *Read our publication on Employer-contributed health care.*
Treatment of alcohol and substance abuse problems.	Tax-exempt, if it is a general arrangement offered to all employees on equal terms. *Read our publication on Employer-contributed health care.*
Company car.	Value subject to tax is calculated as a percentage of a fixed basis of calculation, independent of the kilometres driven, and can, therefore, be appealing, depending on the employee's pattern of driving etc. *Read our publication on Company car / Own car.*

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