Headlines

- Lease Payments via Director’s Loan Account: Do They Reduce Company Car BIK?
- Tax Treatment of RSUs When Returning to the UK
- HMRC Increases Scrutiny on Directors’ Loans

View our comprehensive Library of Informative You-tube videos.

Lease Payments via Director’s Loan Account: Do They Reduce Company Car BIK?

Where a company provides a car to a director for private use, the benefit in kind (BIK) is calculated under specific provisions of ITEPA 2003. It’s not uncommon for companies to lease such vehicles and pay the lease premiums directly, later debiting those amounts to the director’s loan account (DLA). The key question is whether those lease payments reduce the BIK charge.

They do not.

Capital Contributions – s132 ITEPA 2003

Only capital contributions made by the employee/director can reduce the BIK value. These must be payments toward the cost of the car or its accessories, and typically occur at or around the time the car is first made available. For tax purposes, the maximum allowable deduction is £5,000.

Lease payments made over time are not capital in nature, they are considered ongoing revenue costs. As such, debiting them to the DLA does not qualify them as capital contributions and has no impact on the BIK calculation.

Payments for Private Use – s144 ITEPA 2003

A deduction from the BIK can also be made where the director is contractually required to make payments for private use and those payments are made by 6 July following the end of the tax year. These can be made by direct payment, net salary deduction, or a suitable debit to the DLA.

Importantly, deductions from gross salary before tax and NIC do not count. The condition to make a private use payment must be clear, and evidence (such as written agreements or correspondence) must support the arrangement in case of an HMRC compliance check.

It’s also essential to distinguish between payments for private use of the vehicle and payments for private fuel. Even if the car BIK is reduced to zero, if fuel is provided for private journeys, a separate fuel BIK will still arise unless the director repays the full value of private fuel provided.

Conclusion

Regular lease payments debited to a director’s loan account do not reduce the company car BIK. Only qualifying capital contributions and private use payments, properly structured and evidenced — will reduce the tax charge. Clear documentation and timely payments are critical to ensure compliance.

Tax Treatment of RSUs When Returning to the UK

Restricted stock units (RSUs) are a common part of remuneration packages, particularly from US employers. When an employee receives RSU grants while working overseas and then returns to the UK, the UK tax treatment can become complex depending on the vesting period and residency status.

From 6 April 2016, UK legislation confirmed that RSUs fall under the securities option rules rather than the general earnings provisions. This is covered under ITEPA 2003, section 418(1A), which takes priority over the money’s worth principle in section 62. RSUs are therefore taxed as employment-related securities under Part 2, Chapter 5B of ITEPA 2003.

Income Tax Treatment Based on Vesting Period and Residency

The taxable portion of the RSU gain is determined by how much of the vesting period falls within UK tax residency. Only the portion of the gain that relates to UK duties is subject to UK income tax.

For example, if an RSU is granted on 1 April 2022 and vests on 31 March 2025, and the employee is UK resident for 5 out of 36 months, only 5/36 of the gain is taxable in the UK.
Depending on circumstances, the gain may fall into one of the following categories:

- Chargeable securities income where overseas workday relief applies for non-domiciled individuals under section 26A
- Chargeable overseas income where overseas workday relief does not apply under section 22
- Unchargeable income for periods of non-UK residence or under split-year treatment

Capital Gains Tax Considerations

There can be some uncertainty around how RSUs affect the CGT base cost, particularly where the RSU does not qualify as a formal option under section 420(8). However, many RSU schemes do meet the conditions through the wording in the grant documentation.

Where part of the RSU value is not subject to UK income tax, this untaxed portion reduces the base cost for CGT purposes under sections 119A and 119B of TCGA 1992. The usual market value rule in section 17 is disapplied by section 149A, and section 144ZA prevents a tax-free uplift on the option exercise.

Continuing the earlier example, if the shares are sold shortly after vesting for £2,100, and £278 of the RSU value was subject to UK income tax, the CGT gain would be £1,822.

Foreign Tax Credit Relief

If RSUs have been taxed in another country during the vesting period, there may be relief available to avoid double taxation. The untaxed portion of the RSU in the UK may have already been taxed abroad. If the rate of tax in that jurisdiction is equal to or higher than the UK CGT rate, foreign tax credit can apply.
This restores the base cost for CGT purposes and ensures only the true economic gain is taxed in the UK.

HMRC guidance at INTM169040 confirms that foreign tax credits can be applied where the foreign tax relates to the same gain, even if the timing of the charge differs.

Practical Considerations

Cross-border RSUs require careful handling. It is important to:

- Maintain a detailed record of grant and vesting schedules
- Track residency and work location during the vesting period
- Build and maintain a compliant share pool for UK tax reporting
- Coordinate with overseas tax advisers to ensure credits are claimable

Proper planning ensures accurate tax treatment and prevents unnecessary exposure to double taxation.

HMRC Increases Scrutiny on Directors’ Loans

HMRC has launched a compliance campaign targeting directors who owed money to their companies and had l

---

oans written off or waived between April 2019 and April 2023. The focus is on cases where these amounts were not reported in self-assessment tax returns or disclosed by any other means.

Why this matters

When a company writes off or releases a loan to a director, shareholder, or employee, that amount is treated as **taxable income.** The tax treatment depends on the nature of the relationship that gave rise to the debt:

- If the loan was linked to employment, it is taxed as earnings and may attract Class 1 National Insurance.
- If it was made by virtue of shareholding, it is taxed as a distribution, in line with dividend rates.

The latter is generally more favourable in terms of tax payable.

Potential risks

Failing to report written-off loans correctly can result in both personal tax liabilities and issues for the company. For employment-related loans, companies should have reported the benefit and paid the necessary NIC. If they did not, both the director and the company could be subject to investigation.

What to do next?

If you realise a written-off or waived loan was not declared, or you receive a letter from HMRC, it is important to take action. The correct route depends on timing:

- If the loan was written off after **5 April 2023**, you should amend your 2023/24 tax return.
- If it was written off **before this date**, or you did not file a return for the relevant year, use **HMRC's online disclosure service.**

Voluntarily disclosing this information may help reduce any penalties that HMRC could impose.

Final reminder

HMRC is actively identifying directors who failed to declare loan write-offs during the 2019 to 2023 period. If you are affected, making a prompt disclosure will be in your best interest.

Interesting Reads

1257L Tax Code in the UK: What Does it Mean?

1257L is a common tax code that appears on most UK employees' payslips. While it might seem like a puzzle, it provides important information.

UK Tax Codes - What Do They Mean?

Have you ever taken a look at your payslip and found yourself puzzling over that perplexing set of numbers and letters?

Side Hustle Taxes - Calculate Your Tax-Free Earnings

Our e-mail address is:

clearhouse@chacc.co.uk