



Mileage payments may be made to employees who use their own cars for business travel. The payments can be paid free of tax and National Insurance up to certain limits. However, the tax and National Insurance rules work in different ways. Following a recent decision, fixed sum car allowances may now benefit from the National Insurance disregard, and where National Insurance contributions have been paid on qualifying mileage allowances, a refund may be due.

Key dates

The tax-free amount is calculated by reference to business mileage and mileage payments made for the tax year as a whole. The National Insurance disregard is calculated separately for each earnings period.

This note explains the rules and when National Insurance refund may be due.

Tax rules

For tax purposes, mileage allowance payments may be made tax free to an employee who use their own car for business journeys up to the approved amount. The approved amount is simply the total business mileage driven by the employee in their own car in the tax year multiplied by the tax-free rates. For cars and vans, the tax-free amount is 45p per mile for the first 10,000 business miles in the tax year and 25p per mile for any subsequent business miles. So, if an employee drives 12,000 business miles in the tax year, the approved amount is £5,000 ((10,000 miles @ 45p) + (2,000 miles @ 25p)). If the total amount paid in the tax year exceeds the approved amount, the excess is taxable. If the amount paid is less than the approved amount (or if mileage payments are not made), the employee can claim tax relief for the shortfall.

The approved amount is the maximum amount that can be paid tax free, even if the actual costs are higher.

National Insurance rules

The rules applying for National Insurance purposes are similar but not identical to the tax rules. This is because, unlike tax, National Insurance is calculated separately for each earnings period rather than on a cumulative basis.

Under the National Insurance rules, payments of 'relevant motoring expenditure' are disregarded in calculating earnings for National Insurance purposes up to the qualifying amount. This is simply the business mileage in the earnings period multiplied by the NIC-free rate. For cars and vans this is 45p per mile, regardless of the number of business miles undertaken in the tax year.

Wider definition of 'relevant motoring expenditure'

Payments can only be made free of National Insurance if they count as 'relevant motoring expenditure' (RME).

In a recent decision, the Upper Tribunal found that the type of payments that can fall within the definition of RME was wider than the definition applied by HMRC. More specifically, the tribunal found that the definition RME was not limited to payments for actual use of the car; it also applied to payments relation to potential and anticipated use of the employee's car for business purposes.

This decision means that where an employee has been paid a car allowance, the allowance can be disregarded up to the level of the qualifying amount. For example, if an employee received a monthly car allowance of £200 and undertook 320 business miles in that month, £144 of that allowance (320 miles @ 45p per mile) would be excluded from earnings in calculating National Insurance.

Prior to the decision, HMRC's view was that a car allowance was not RME, with the result that National Insurance contributions were due on the full amount of the allowance.

Refund claims

Where National Insurance has been paid on the full amount of a car allowance, a refund may be due on the qualifying amount of that allowance.

Employers may be able to correct the position via Real Time Information (RTI). Claims must be substantiated on a pay-by-pay period basis and HMRC will require the following evidence:

- a list of employees included in the claim, together with their National Insurance numbers;
- evidence of the business mileage undertaken by each employee;
- details of any other RME payments received by the employees (such as mileage payments);
- the primary and secondary Class 1 National Insurance contributions that are being reclaimed.

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Where it is not possible to correct an overpayment through RTI, claims can be made in writing to HMRC using the reference 'Relevant Motoring Expenditure'. The claim must include the details listed above, together with an explanation why a correction cannot be made through RTI.

Employers paying car allowances to employees who use their own cars for business should review their records to see if they are entitled to a refund.

We can help

Please call us on **01753 888 211** or email **info@nhllp.com** if you would like to revisit your profit extraction strategy for the new tax year, 2024-25, or for the remainder of the current tax year.