

Contractor Doctor: Can I give my spouse a company car with no 'benefit in kind' due?

Dear Contractor Doctor,

I'm an interim management contractor working through my own [limited company](#). I employ my husband as company secretary and to do the bookkeeping and general business admin.

One of my business associates has told me that there is an exemption for low-paid workers that might mean my company does not have to submit a P11D for employees who aren't a company director earning under £8,500. And I understand that, without a [P11D](#), the employee won't have to pay a benefit in kind tax (BIK) charge on benefits like a [company car](#).

Can I use the P11D exemption to provide my husband with a company car with no 'benefit in kind' tax due?

Thanks

Katie

Contractor Doctor says:

"The short answer is 'no'. You can't give a company car to a low paid spouse without payment of 'benefit in kind' (BIK) tax charges," explains [James Abbott](#), owner and head of tax at contractor accountant [Abbott Moore LLP](#).

"It is a common pitfall for contracting business owners to assume that, just because they pay their spouse less than the P11D threshold, which is currently £8,500, and therefore do not have to submit a P11D, there is no 'benefit in kind' charge for company car ownership."

He continues. "This is a classic contractor tax 'urban myth', which HMRC became wise to many years ago. Contractors falling for it could end up paying out significant sums of back taxes, interest and penalties if they get caught."

Models of company car ownership

According to Abbott, there are only two models of company car ownership that a contractor can adopt if they want to make available a company car to their spouse, and avoid intense scrutiny by HMRC. Both result in a benefit in kind charge so may not be particularly tax efficient.

"When you make a company car available for private use by a household, which could include a contractor and their spouse or partner," says Abbott, "the two options relate to whether the tax charge for the company car will fall on the contractor or the spouse."

If the spouse's total package, including any wage and benefits taken from the contractor's limited company, was justified by the duties they performed for that company then the company car would be taxed on the spouse.

Alternatively, the car will be treated as being provided to the contractor and will therefore be taxed on the contractor.

Justifying a company car as normal commercial practice

This particular tax 'urban myth' originally arose from a genuine attempt some years ago by HMRC to make life easier for workers who used company cars. Abbott acknowledges that "it could just be" a third model of tax-efficient company car ownership, but he says the chances of a contractor being able to prove it are slim to non-existent.

"The £8,500 limit below which a P11D was not required has been the same since 1979, and when first introduced that sum was a reasonable salary. So you could make a company car available to an employee who might have been in a role for which £8,500 was a realistic salary, and a car was needed to perform the duties of that role.

"HMRC's rules say that a contractor could make a company car available to an employee earning less than £8,500, such as a spouse or partner, without a benefit in kind charge. However, the contractor would have to justify the arrangement as being normal commercial practice."

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James Abbott, Abbott Moore LLP



James Abbott

Owner

Abbott Moore LLP

James Abbott is the owner of Abbott Moore LLP and often speaks on freelancer / contractor tax matters. He has his own growing portfolio of contractor clients.

Abbott Moore LLP are PCG Accredited Accountants and specialise in providing tax advice to freelancers as well as dealing with their year end accounts and tax returns. [Read Full Profile...](#)

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And Abbott confirms that providing a company car to a spouse or partner on a salary of under £8,500, and who is performing company secretarial, bookkeeping and administration duties, is unlikely to be justifiable as normal commercial practice.

"I've known contractors who tried this approach," concludes Abbott, "but have yet to hear of a justification that could convince HMRC."

Good luck with your contracting!

Contractor Doctor

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