

DRAFT GUIDANCE: REFORM TO WORKPLACE CHARGING EXEMPTIONS

Response by the Association of Taxation Technicians

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to provide comments on the HMRC draft guidance *Reform to workplace charging exemptions* (‘the Draft Guidance’) issued on 12 April 2018.¹
- 1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 We note that the exemption covered by the Draft Guidance took effect from 6 April 2018, but that it has not yet been legislated for. It is difficult to provide comprehensive comments on Draft Guidance without sight of the underlying legislation, either in draft or final form. In particular, it is not possible to comment on whether the guidance accurately reflects the law, or whether there are any areas where further guidance would be helpful to aid interpretation.
- 1.4 In this response, we discuss our understanding of the scope of the exemption based on the Draft Guidance in Section 2. We then go on to make more detailed comments on specific areas of the Draft Guidance in Section 3.

2 Scope of exemption

- 2.1 The exemption covered by the Draft Guidance was originally announced at the Autumn Budget 2017. We note that paragraph 3.13 of the Autumn Budget document² stated:

“Benefits in kind: electric vehicles – From April 2018, there will be no benefit in kind charge on electricity that employers provide to charge employees’ electric vehicles.”

¹ The Draft Guidance can be found at <https://www.gov.uk/government/consultations/draft-guidance-reform-to-workplace-charging-tax-exemptions>

² See para 3.13 on page 32 of the Red Book at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/661480/autumn_budget_2017_web.pdf

This indicated a broad ranging exemption for all employer provided electricity used to charge personally owned vehicles.

- 2.2 However, the Draft Guidance appears to indicate that the exemption will have a narrower scope, and apply only to the charging of electric cars at the workplace. In particular, we note that the guidance states that the exemption does not apply to *“payment of an employee’s personal expenditure in respect of electric charging away from the employer’s premises, for example at a motorway service station”*.
- 2.3 This restriction is surprising and disappointing, as the Autumn Budget announcement did not indicate any restriction based on location, or that the exemption would only apply to workplace charging.
- 2.4 We also note that, whilst the original announcement indicated a clear encouragement of the use of electric vehicles, the Draft Guidance paints a different picture, and will create a degree of uncertainty for those considering such vehicles - particularly given their current limited range and the reliance on availability of charging points.

3 Specific comments on Draft Guidance

- 3.1 It would be helpful to make it very clear at the start of the Draft Guidance that it applies only to cars personally owned by the employee. The first paragraph of the Draft Guidance currently refers to the employee’s *“own car or van”*, but we would recommend following this with an explicit statement that it does not apply to *company* cars. A link could then be provided to the equivalent guidance for company cars, and the section at the end of the Draft Guidance which mentions company cars and vans could also be moved up and brought in at this point.
- 3.2 The section ‘What the exemption covers’ refers to *“any connected services”*. It would be helpful to have an example of what this may include in practice.
- 3.3 In the section ‘What the exemption doesn’t apply to’, the second paragraph states: *“Where an employer reimburses an employee’s electricity costs for charging the vehicle other than on the employer’s premises and the electricity is then used on a business journey, the employee may be entitled to Approved Mileage Allowance Payments (AMAPs) or Mileage Allowance Relief (MAR) (see EIM31205)”*.

We find this paragraph confusing and uninformative and suggest the following alternative wording:

“Although the exemption does not apply to an employer’s reimbursement of an employee’s expenditure on electric charging, if an employee uses their all-electric or plug-in hybrid vehicle for a business journey and their employer pays them a business mileage rate not exceeding the normal Approved Mileage Allowance Payments (AMAPs), the employee’s business mileage receipt is covered by the same exemption that applies to other cars and vans (see EIM31205). That applies regardless of whether the vehicle was charged at the employee’s home, elsewhere at the

employee's expense or at their employer's premises. If the Mileage Allowance Payment is less than the AMAP, the employee may be entitled to Mileage Allowance Relief (MAR) (see EIM31330)."

3.4 In the 'Qualifying conditions' section, we assume that the conditions in question are:

- Dedicated charging points
- Location of charging facilities
- Provided to employees generally.

However, this is not clear from the current layout of the Draft Guidance, where the above all seem to be separate headings and not part of the same 'Qualifying conditions' section.

3.5 In the 'Dedicated charging points' section, we consider that the restriction to a dedicated charging point could restrict the benefit to employees.

Not all employers will be prepared to incur costs installing a specialised charging point for a limited number of employees and many electric cars can (amongst other ways) be charged directly from a traditional mains socket. Precluding this simple recharging approach from the benefit of the exemption seems unnecessarily restrictive. If there is a well-founded safety concern about charging via a traditional mains socket, then we would suggest that the requirement that the company simply has an initial or annual electrical check by a qualified electrician would be sufficient and less costly than installing a dedicated charging point.

3.6 Under 'Location of charging facilities' it states that the charging facilities have to be provided at "*premises under the control of the employer*". It would be helpful to provide further guidance as to what this means in practice. Presumably it would cover a workplace which is either owned or leased by the employer. However, could it extend further to include a place owned or leased by a third party (for example a car park, warehouse or depot) where an agreement is in place with the employer to allow charging of employees' cars there?

4 Summary and conclusions

4.1 As set out in Section 2, we find it disappointing that the exemption set out in the Draft Guidance appears to be of a more limited scope than that previously announced at the Autumn Budget. If the intention of the exemption is truly to incentivise the use of electric cars we would recommend that consideration be given to widening its scope, for example so that it extends to charging away from the workplace and the use of normal mains sockets.

4.2 We are also disappointed that the exemption covered by the Draft Guidance will be introduced by legislation with retrospective effect. The delay in legislating for this exemption puts employers and employees in an uncertain position, and it would be a pity if this were to adversely affect the uptake of electric cars as a result.

5 Contact details

- 5.1 We would be pleased to join in any further discussion relating to this Draft Guidance. Should you wish to discuss any aspect of this response, please contact our relevant Technical Officer, Emma Rawson, on 07773 087111 or at erawson@att.org.uk.

Yours sincerely

Yvette Nunn, Co-Chair of ATT Technical Steering Group

6 Note

- 6.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has over 8,000 members and Fellows together with over 5,700 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.