# Salary sacrifice technical guide for employers

285CMT1225



Build a feel good future

This guide looks at some of the practical issues to be aware of when introducing salary sacrifice. Please note, the examples in this guide are not appropriate for Scottish taxpayers.

Please note this guide is based on our understanding of current tax laws. All the information contained in this guide is correct at the time of going to press. The law and our understanding of it may change in the future, as may the rates and allowances that have been used. Tax treatment depends on an employee's personal circumstances.

## Your NIC Savings

You'll make a saving in National Insurance Contributions of 15% of the amount of salary in excess of the Secondary Threshold (£5,000 for 2026/27) your employees sacrifice, and you're free to use this how you wish.

There are a couple of ways that you could use some of this saving to encourage pension take up amongst your staff, and to cover the costs associated with implementing salary sacrifice.

The first is to reinvest some of your savings into your employees' pension plans to further boost their payments. It could pay to offer your staff this incentive, as the more people who sign up to salary sacrifice, the greater your overall NIC saving.

## Step-by-step guide to setting up salary sacrifice

Salary sacrifice involves making changes to an employee's contract of employment and there are several steps that need to be followed to satisfy legal requirements. In addition, HM Revenue & Customs (HMRC) take an interest in how tax and NICs are affected. To avoid confusion, we've summarised the key steps you will have to take to set up a salary sacrifice arrangement. These steps are there as guidance and before doing anything you must seek employment law advice.

(A full set of salary sacrifice guidelines can be found on www.hmrc.gov.uk)

- Firstly, you will need to discuss salary sacrifice with your employees, and clearly communicate the benefits and implications. Your adviser can provide you with an employee guide to distribute to employees.
- You might want to include the option to change the arrangement should an employee experience a lifestyle change. This refers to unforeseen life events (divorce/dissolution of civil partnership, pregnancy, redundancy of partner) which could lead to circumstances where the arrangements under salary sacrifice are no longer suitable.
- It is essential the arrangement is in place and has been agreed before any salary is sacrificed.
- Payslips will need to display the amount of salary sacrificed. It is important that this is not accounted for as a deduction. This may create some extra admin for your payroll department and it is worth considering the impact this could have on computer systems and administration processes.
- You must make sure your employees' salaries don't drop below the national minimum wage as a result of salary sacrifice, and great care needs to be taken with employees whose earnings exceed (but are close to) the Primary Threshold, which is the point at which employees start making National Insurance contributions. You need to be aware that the employer is responsible for any shortfall in salary post salary sacrifice that falls below national minimum wage. You also need to be aware that the employer is responsible for

continuing salary sacrifice pension contributions in the event of certain statutory leave periods including maternity leave.

## Some things to bear in mind

Reducing an employee's salary through salary sacrifice involves making changes to their contract of employment. It is important to be aware of the implications this might have for you and your employees.

## Employees

The reduction in salary could affect your employees' entitlement to statutory benefits, which could include:

- State Pension
- Child tax credit
- Working tax credit
- Statutory sick pay
- Maternity and paternity pay

This list extends to encompass a host of additional salary-related benefits, including:

- Life Assurance
- Bonuses
- Overtime pay
- Redundancy payments
- Benefits on death

HMRC have more information about the benefits that might be affected on their website https://www.gov.uk/guidance/salary-sacrifice-and-the-effects-on-paye

The way in which pension payments are treated under a salary sacrifice arrangement could affect the benefits your employees are entitled to on death. According to Occupational Pension Scheme (OPS) rules, an employee who dies during pensionable service will normally have their payments returned. However, pension payments through salary sacrifice are treated as employer payments, and employees won't be entitled to this return on death.

Currently, a tapered annual allowance applies where an employee's "threshold income" exceeds £200,000 and their "adjusted income" exceeds £260,000. Any salary sacrificed for an employer pension contribution, on or after 9 July 2015, is still included within the threshold income calculation.

## Auto enrolment

At the moment, we believe that salary sacrifice doesn't work seamlessly with the auto enrolment process. Employers can't make an agreement for salary sacrifice a pre-condition for auto enrolment. However, employers can choose to operate salary sacrifice before or after the auto enrolment process or use it as an alternative contribution basis to a default, unreduced, basis. Alternatively, employers can look into amending contracts of employment to have the same effect as salary sacrifice. Employers may need to take expert advice on salary sacrifice and amending contracts of employment before deciding what they want to do.

## Employer

Salary sacrifice is a matter of employment law as it involves changes to an employee's contract of employment, and we strongly suggest you obtain legal advice on whether the proposed arrangement will achieve its desired outcomes and how best to introduce a salary sacrifice scheme.

One step you could take to help alleviate some of the issues your employees may face by accepting a reduced salary would be to retain a ‘notional’ (pre-sacrifice) salary for each of your employees. In this instance, their pre-sacrifice salary may be taken into account by mortgage lenders, and when their entitlement to other salary-related benefits is calculated (but not for the statutory benefits mentioned earlier).

# Need any more info?

Visit our Employer Help Centre for helpful resources or to contact us, or reach us below.

**020 3926 0333**

**www.cushon.co.uk**



Build a feel good future