
Schools Income Tax Manual

This document is solely for the use and guidance of Kent County Council employees

June 2015

Issued by the Chief Accountant's Team

For any queries on these procedures please email
financetrainingteam@kent.gov.uk

Introduction

The purpose of this manual is to provide a basic guide to Income Tax as it applies to Kent County Council. It should be used with the following points in mind:

1. Income tax legislation is often ambiguous and changes regularly, it is therefore essential that current advice be sought.
2. If the meaning of what is written in the manual is not clear, do not attempt to interpret the wording. What may seem a fair or just interpretation may not be correct.
3. Despite recent attempts to harmonise tax and National Insurance there are still differing treatments for many expenses and benefits. Both aspects should be considered when providing any of these as often the records, which are required to be kept by H M Revenue & Customs (HMRC), are not the same for income tax and National Insurance. It is possible that the way in which the benefit is provided or the expense reimbursed may impact on these two areas differently.
4. The amounts to be included on the benefit in kind statement (P11D) should include VAT irrespective of whether or not it is recoverable.
5. This manual does not give details of amounts that may be claimed for a particular expense, merely the tax treatment of that expense or benefit.
6. Most tax settlements arise because benefits are not recognised as benefits, or because an expense was not taxed when paid. It is therefore important to consider the tax consequences of financial transactions.

It is not possible to cover every eventuality in a manual such as this, but the Schools Financial Services Team and Chief Accountant's Team are available to advise.

Schools Financial Services – ST
schoolsfinancialservices@kent.gov.uk
03000 415415

Finance Chief Accountant's Team Enquiries - ST
CATenquiriesKCC@kent.gov.uk
03000 421447

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Warnings - penalties

At the end of each tax year, the K.C.C. is obliged to return to HMRC, details of benefits and expenses it has given to its employees on a form P11D. The current penalty regime is as follows:-

- Up to £3,000 for each incorrectly completed P11D.
- Up to £300 per P11D for late submission plus a further £60 per form per day thereafter.

In addition to the above, late payment of income tax and National Insurance will be subject to an interest charge.

HMRC has audit teams designed to target employers with large numbers of employees. These audit teams regularly visit local authorities.

Rates of tax

	2013/14	2014/15	2015/16
Basic rate	20%	20%	20%
Higher rate	40%	40%	40%
Additional rate	45%	45%	45%
Taxable income on which higher rate applies	£32,011 - £150,000	£31,866 - £150,000	£31,785 - £150,000
Additional Rate applies	Over £150,000	Over £150,000	Over £150,000

Main Personal Reliefs

Personal allowance	£9,440	£10,000	£10,500
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HMRC Statutory Mileage Rate

For all engine sizes	To 10,000 Miles	Over 10,000 Miles
up to 31 March 2011	40p	25p
With effect from 1 April 2011	45p	25p

Fuel scale charges

The car fuel benefit charge is calculated by multiplying the fixed sum (£21,100 for 2013/14, £21,700 for 2014/15 and RPI increases thereafter) by the 'appropriate percentage' used to calculate the car benefit.

Dispensation

What is a dispensation?

At the end of each tax year, the Council is obliged to send HMRC details of any expense payments and benefits provided to its employees. If the expense by the employee was made for business purposes, the employee may submit a claim to say that they should not be taxed on the expense. To avoid having to go through the process of reporting expenses and the employee then having to make a claim, employers may ask HMRC for a dispensation. This will be granted where the expense is made for business purposes and HMRC are happy that the expense is properly controlled.

The dispensation

The following expenses have been included in the Council's dispensation and will not therefore need to be returned at the end of the tax year for inclusion on Form P11D. Similarly, employees need not include the following expenses on their tax returns:

- Subsistence allowances – reimbursement of the actual cost of meals (on production of receipts) whilst away from home and away from the normal place of employment.

- Entertainment - reimbursement of reasonable amounts of actual expenditure incurred when entertaining external visitors.
- Clothing - protective or distinctive clothing not suitable for wear other than in the course of the employment.
- Laundry - reimbursement of actual expenditure incurred on protective or distinctive clothing not suitable for wear other than in the course of the employment.
- Telephones - reimbursement of business telephone calls (excluding rental).
- Employer's Credit Cards - where the expenditure is restricted to business use or any private purchases are reimbursed by the employee.
- Benefits available to employees through K.C.C. employee discount card.

Statutory dispensation

A number of benefits that were formerly included in our dispensation are now covered by statute. These include

- External training courses that are related to the needs of the employment including such activities as first aid and health and safety training.
- Subscriptions to approved bodies where membership is a requirement of the employment.
- Accommodation - provided for employees falling within the provisions of Chapter 5 of the Income Tax (Earnings and Pensions) Act 2003.
- Travelling Expenses –
- Mileage Allowances - not exceeding the tax free mileage rates paid to staff using their own cars on official business, excluding any home to office journeys.
- Reimbursed expenses for travel on official business, excluding any home to office journeys.

The KCC dispensation may be added to at any time. It is therefore important to draw attention to any expense or benefit which, though provided for employees, is for business use.

Remember if the item is not included in the dispensation it must be reported to the HMRC at the year-end (unless taxed through the payroll).

Mileage claims

The two questions that are of importance are:

1. Is the journey a business journey, a private journey or both? - see this page
2. Does the rate of reimbursement contain an element of profit? - see overleaf

Business journey

A business journey is one that is necessarily incurred in the performance of the duties of the office. In practise this means travel from one place of work to another.

Journeys between an employee's home and their normal place of work are not business journeys. A 'normal place of work' is somewhere where the employee spends the majority of their time (not necessarily where their contract says they are based).

If it is not possible to say where the employee's normal place of work is, see special circumstances listed below.

Business mileage should be claimed as 'non-taxable' on a claim form. This means that it is not taxed when paid, but there may still be a liability if the rate of reimbursement contains an element of profit (see overleaf).

Private journey

This is a journey other than a business journey.

A private journey is taxable when it is paid and should be shown under the 'taxable' column on an expenses claim form.

It is rare that the K.C.C. will be reimbursing an employee for a private journey, but there could be a private element to a journey between an employee's home and a second place of work.

Special circumstances

Home to second place of work

If an employee travels on business from home to a location other than his/her normal place of work, the distance is the actual business miles travelled. The business mileage to be paid can be calculated by deducting the normal home to office mileage from the actual business miles travelled.

The mileage after the first business appointment can also be claimed.

The same rule applies for journeys when returning home.

Site based

From the 6th April 1998 travel to sites is business mileage providing it is for a period of less than 24 months.

Travelling appointment

This is a worker who has no normal place of work and no pattern to their work. Normally all their journeys will be considered business. Do not assume this is applicable unless you have taken advice.

External Training Courses

If an employee is attending a work-related course, any mileage over their normal home to office mileage may be considered business mileage so long as the course is not longer than 24 months.

Secondment

Where an employee (who has a permanent place of work) is seconded to another temporary place of employment, any mileage is to be treated as 'business mileage' provided

- (a) the absence was not intended at the outset to last more than 24 months and
- (b) it did not in fact last longer than 24 months.

If circumstances change during the absence and it becomes apparent that the secondment will be for more than 24 months, any mileage will become taxable from the time that this is realised.

[Disturbance Allowance \(formerly Appendix E\)](#)

There are some circumstances under which the K.C.C. will pay an employee as a result of them being transferred to work at another site. This payment is known as 'Appendix E' and is taxed through the payroll when it is paid.

[Mileage payments](#)

[Does the rate of reimbursement contain an element of profit?](#)

[Lease car user - Private Mileage](#)

This is all considered to be profit and must have tax and National Insurance Contributions deducted from it when it is paid. Failure to do this may result in a fuel benefit.

[Lease Car User - Business Mileage](#)

The payment rate does not contain an element of profit and is therefore not taxed.

[Casual user - Private Mileage](#)

This is all considered to be profit and must have tax and National Insurance Contributions deducted from it when it is paid.

[Casual User - Business Mileage](#)

The payment made is compared to the HMRC's statutory mileage rate and any amount in excess of this (deemed to be profit) is reported on form P11D after the end of the tax year. National Insurance is due on any profit element when paid. There is no taxable benefit arising from the Kent Scheme rates of 45p (payable from 1 May 2011).

[Essential user - Private Mileage](#)

This is all considered to be profit and must have tax and National Insurance Contributions deducted from it when it is paid.

[Essential User - Business Mileage](#)

The lump sum and the mileage payments made are added together and compared to the HMRC's statutory mileage rate; any amount in excess of this (deemed to be profit) is reported on form P11D after the end of the tax year.

The lump sum is not taxed when paid but does have National Insurance Contributions deducted.

Benefits are calculated based on the number of business miles actually paid in the tax year.

[Other rates \(employee provided car\) - Private Mileage](#)

This is all considered to be profit and must have tax and National Insurance deducted from it when it is paid.

[Other rates \(employee provided car\) - Business Mileage](#)

A profit will arise if the rate per mile being reimbursed is more than the HMRC tax free rates. If this is the case, you must consider if the method of reimbursement will result in the payment being reported at the year end.

Note: The HMRC tax free rates reduce after 10,000 miles have been claimed.

Other rates (employer provided car) - Private Mileage

This is all considered to be profit and must have tax and National Insurance Contributions deducted from it when paid.

Other rates (employer provided car) - Business Mileage

Any payment above the normal lease car rates will result in a tax liability that must be subject to tax and National Insurance Contributions.

Reimbursement of public transport

If the journey is a business journey there is no tax liability for reimbursement. If the journey is a private journey the payment must be subject to tax and National Insurance Contributions.

If the journey is from home to a secondary place of work, there is no apportionment carried out as there is for mileage (normal commuting) and the journey is considered business.

Mileage allowance

Taxable Benefits

Calculating Mileage Profits for Casual and Essential Users.

- The Government introduced a statutory basis from April 2002 for the assessment of amounts reimbursed to employees when using their own car for business purposes.
- Where the mileage allowance paid in respect of a business journey is below the HMRC Approved Mileage Allowance Payments (AMAP) no tax liability arises.
- The AMAP rate is 45p per mile for the first 10,000 miles travelled in a tax year and 25p per mile thereafter. These rates apply regardless of the engine size of the vehicle.
- Any excess over the AMAP payment is taxable in full and must be returned to the HMRC on form P11D after the end of the tax year. The HMRC will adjust employees' PAYE codings to incorporate the additional liability arising from any profit element included in the mileage reimbursement rate.
- National Insurance contributions are due on any profit element in the period in which they are paid rather than being dealt with at the end of the year
- Benefits are calculated based on the number of business miles actually paid in the tax year.

Examples

Casual Users

Casual users on Kent Scheme terms and conditions are paid 45p per mile and therefore no taxable benefit or NICs liability arises. However staff paid on NJC terms and conditions or local rate may be paid in excess of 45p and tax and NICs are both due.

If a casual user paid on NJC rates has a 1600cc car and travels 1000 business miles then the taxable benefit will be:

The difference between the reimbursement rate and the AMAP rate x by the number of business miles travelled

$$65p - 45p = 20 \times 1000 \text{ miles} = \text{£}200$$

Essential Users

Essential users are paid a lump sum to cover some of the fixed costs of owning a car and are reimbursed their mileage expenses. Both elements must be considered when comparing payments to the AMAP

If an essential user paid Kent Scheme rates travels 3000 business miles in a year and receives a lump sum of £833 per annum then the taxable benefit will be:

The total of the lump sum and the mileage reimbursement compared to the AMAP rate x by the number of business miles travelled.

	£
Lump Sum	833
3000 miles at 34.4p	1,032
Total	1,865
HMRC allowance	
3000 miles at 45p	1,350
Mileage Profit	515

Lease car tax liability

Taxable benefits for lease cars

The tax charge is based on a percentage of the manufacturer's list price graduated according to the level of its carbon dioxide emissions. For cars with CO2 emissions of between 1g/km and exactly 75g/km (unrounded) there will be a special rate of 5% for the 5 year period 06th April 2010 until 05th April 2015.

For 2012-13 & 2013-14 the 10% band is 76 to 99g/km and 76 to 94 g/km respectively; the percentage then increases by 1% for each 5g/km. The exact CO2 emissions figure should be rounded down to the nearest 5 grams per kilometre except where noted.

The table below sets out the relevant carbon dioxide emissions and associated percentages for cars with petrol engines for future years as known at this time.

CO2 emissions (g/km) (see note)	2012/13	2013/14	2014/15	2015-16
Zero	Exempt	Exempt	Exempt	13%
0 to 50	0%	0%	0%	5%
51 to 75	5%	5%	5%	9%
76 to 94	10%	10%	11%	13%
95 to 99	10%	11%	12%	14%
100 to 104	11%	12%	13%	15%
105 to 109	12%	13%	14%	16%
110 to 114	13%	14%	15%	17%
115 to 119	14%	15%	16%	18%
120 to 124	15%	16%	17%	19%
125 to 129	16%	17%	18%	20%
130 to 134	17%	18%	19%	21%

135 to 139	18%	19%	20%	22%
140 to 144	19%	20%	21%	23%
145 to 149	20%	21%	22%	24%
150 to 154	21%	22%	23%	25%
155 to 159	22%	23%	24%	26%
160 to 164	23%	24%	25%	27%
165 to 169	24%	25%	26%	28%
170 to 174	25%	26%	27%	29%
175 to 179	26%	27%	28%	30%
180 to 184	27%	28%	29%	31%
185 to 189	28%	29%	30%	32%
190 to 194	29%	30%	31%	33%
195 to 199	30%	31%	32%	34%
200 to 204	31%	32%	33%	35%
205 to 209	32%	33%	34%	36%
210 to 214	33%	34%	35%	37%
215 to 219	34%	35%	35%	37%
220 to 224	35%	35%	35%	37%
225 to 229	35%	35%	35%	37%
230 and over	35%	35%	35%	37%

The above ready reckoner gives the appropriate percentage for cars powered by petrol (type P).

From 2012/13 the special rules for QUALECS (qualifying low emission cars, those with CO2 emissions not exceeding exactly 120g/km is abolished.

The lowest appropriate percentage up to an including 2014/15 will be 5%, but will apply to cars with CO2 emissions up to 75g/km.

The next table shows all of the adjustments to the appropriate percentage for cars powered by other fuels.

Code	2010/2011	2011/2012 to 2014/2015
P	Petrol as per table	
D	Diesel (not Euro IV) per table plus supplement: 3% subject to overall maximum percentage of 35%	Diesel cars of all kinds (includes current types D & L registered before 01/01/2006) plus supplement : 3% subject to overall maximum percentage of 35% up to 2014/15
L	Diesel (Euro IV) per table plus supplement: 3%	
E	Electric only -0%	Zero emissions cars, whatever the technology : 0%
H	Hybrid electric :as per table	
B	Gas only :as per table	
B	Bi-fuel with CO2 emissions figure for gas :as per table	
G	Bio-ethanol as per table	
C	Bi- fuel conversion, or other bi-fuel not within type B: as per table	

A	All other kinds (current types P, B, C, H and G) as per table
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Notes

Subject to the overall maximum appropriate percentage of 35%, 37% from 2015/16 Cars which were type approved as bi-fuel cars and were first registered on or after 1 January 2000. These cars have two approved CO2 emissions figures, one each for petrol and gas (though only one may appear on the Vehicle Registration Certificate, V5C)

Benefit Calculation

The calculation is the manufacturers list price multiplied by the relevant percentage less the annual contribution towards private use.

Example:

PEUGEOT 308 1.6 S 5dr Hatch back, list price £16,034, contribution £2,560, CO2 emissions 155 g/km for 2014/15

$$£16,034 \times 24\% = £3,848 \text{ less } £2,560 = £1,288$$

Tax will be payable at the employees marginal rate of 20% or 40% for higher rate taxpayers.

Your tax code

It is important to monitor your tax code throughout the period that you have a benefit-in-kind or are paid expenses to ensure that the correct figure is shown.

The tax code is the means by which individuals who are employed are given their personal allowances and taxed on their benefits.

Every person is entitled to earn a certain amount before they pay tax (£10,500 for 14/15) but employee's codes may vary due to the fact that they receive extra allowances e.g. transferable tax allowance for married couples, or have benefits e.g. a lease car.

The taxable benefits that an employee receives are taxed by reducing the employee's personal allowances, thus a single person with a lease car (taxable benefit £500) will have a tax code calculated as follows:

Allowances: Personal allowance £10,500

Deductions: Benefits (car) £500

$$\text{Allowances less deductions: } 10,500 - 500 = £10,000$$

HMRC remove the last digit of the total to create the tax code. Therefore in this example the tax code would be 1000 (10,00)

Although KCC supplies HMRC with the information to calculate the correct tax code, the ultimate responsibility for ensuring it is correct is the employee's.

Notifying the HMRC

Individuals should contact the HMRC when circumstances occur which will affect their tax code.

Examples of these are:

- Change of car
- Change in contributions
- When first provided with a lease car
- When first becoming a casual / essential user - and when you finish.
- When receiving a taxable benefit

HMRC Contact Details:

Telephone - 0300 200 3300 ask for the P.A.Y.E. dept. and quote your National Insurance Number

Post - write to the postal address on the most recent HMRC correspondence or to:

H.M. Revenue & Customs
West Hampshire Area
Pay As You Earn
PO Box 1970
Liverpool, L75 1WX

Pool cars and vans

Any car or van made available to an employee for non-business use may result in a tax charge on the employee.

This may be avoided if the car is designated a "pool car". To qualify as a pool car all of the following conditions must all be met:

- The car is available to and used by more than one employee and is not used by any one of them to the exclusion of the others
- Any private use of the car by any employee is merely incidental to its business use
- It is not normally kept overnight at or near the home of any of the employees unless it is kept on premises occupied by the council

Meaning of "merely incidental to"

This expression implies a qualitative rather than a quantitative test. A business journey, which includes some limited private use, would be within the meaning of the term.

Example:

An employee who is to undertake a long business journey the next day, takes the car home in readiness for an early morning start the next day. In this context the home to office journey although private is subordinate to the lengthy business trip the following day and is undertaken to further the business trip.

If the car is taken home too often, condition 3 may be breached.

Meaning of "not normally left overnight"

A car is "not normally left overnight" at or near the homes of employees, if the number of occasions on which it is taken home by employees does not amount to more than 60% of

the year. If the car is taken home often it is unlikely that the entire home to office journeys will satisfy the "merely incidental" test, see condition 2.

Note:

If a car is incorrectly classed as a pool car the tax owing will have to be paid to the HMRC. If no payments have been made by the individual this will include a tax liability for the car and also for fuel.

If you are unclear as to whether the use of a car breaches the conditions above, take advice as the tax liabilities associated with vehicles can be very large.

Car fuel benefits

Where a car (not van) is made available for private use and the cost of the private fuel is met by the employer there is a taxable benefit in respect of the private fuel in addition to the benefit of the vehicle.

This fuel benefit charge may be avoided if the employee is required to make good the cost of all the fuel by payment or replacement of the fuel.

Pool Cars

A fuel charge will not arise as private mileage is not allowable.

Non-pool cars

For 2014/15 the car fuel benefit charge is calculated by multiplying the fixed sum of £21,700 and the 'appropriate percentage' used to calculate the car benefit. The charge may be proportionately reduced to account for periods during which the car was unavailable.

Employed or Self-Employed

Employment Status

Whether an individual is employed or self-employed will depend on the nature of the relationship with the person for whom the services are provided.

Usually it is easy to decide whether someone is an employee or self-employed. However there will be some cases where greater care is required in coming to the correct judgement. The object of this note is to give guidance on these cases.

Where there is still doubt further advice can be given including seeking a ruling from HMRC.

Taxation

If an employer treats an individual as self-employed and is subsequently advised by HMRC that the individual is an employee, it is the employer who is responsible for the tax and National Insurance contributions (NICs) due on the payments.

The HMRC can seek the tax and NICs for the recategorised individuals over the previous six years.

Penalties

In addition to seeking the unpaid tax the HMRC can impose penalties for failing to complete, in respect of these individuals, correct end of year returns.

Legislation

There is very little legislation relating to employment status, except for teaching staff and agency workers. The rules given below are derived from case law.

Fact Finding

In order to make the necessary judgements it is important to gather all of the necessary facts. A primary source of information is the contract between the employer and the worker providing the service.

Questionnaire

To help staff in collecting the relevant facts a questionnaire based on an HMRC document is attached. Not all of the questions will apply to each engagement

Misconceptions

Whether a contract is one of employment or self-employment depends on the nature of that particular contract and not any others the individual may have. For this reason none of the following are proof of self-employment

- a letter from the individual's accountant stating that they are self-employed.
- a letter from the individual's tax office stating that they have records there as self-employed.
- evidence that the individual is paying Class 2 NICs.

Danger areas

In the following situations extreme care is needed:

- engaging a "consultant".
- taking on an ex-employee as self-employed.
- any worker engaged without a written contract – this should be avoided as the individual if treated as self-employed may subsequently argue that they were an employee to secure employee benefits e.g. unfair dismissal, redundancy.

Decision making process

After completing the notes on the questionnaire judgements may be made where appropriate as to whether the facts indicate mild/moderate/strong or conclusive evidence of employment or self-employment. The explanations set out below will help in making these judgements.

Painting the picture

When considering the all of the points set out below it is important not to treat it as a check list of factors that are present. Not all of the details are of equal weight or importance in any given situation and they may also vary in importance from one situation to another.

The right approach is to stand back and look at the picture as a whole to see if the overall effect is that of a person in business on his or her own account or a person working as an employee in someone else's business.

Engager's business

The HMRC will take into account the nature of our business particularly if the sub contract workers are undertaking similar work to employees.

Nature of the job

If the worker has replaced another worker who was an employee, or was previously an employee of the business and became self-employed without any change in the terms and conditions of the engagement, this is an indication of employment

Contracts

It is necessary to establish the original terms and conditions under which the job was offered, and under which the worker was taken on. For example, whether the worker was taken on to perform duties which are an essential and continuous part of the business.

If the worker needs to be trained to do the job this would indicate employment.

Any changes in the terms and conditions need to be established and a check should be carried out to see if the pattern of working matches the terms of the contract.

A contract is important, as it should determine the workers' rights and obligations

In Business on Own Account Test

One of the basic questions to be answered is whether a person who has been engaged to perform services is performing them as a person in business on his or her own account. If the answer to the question is 'yes' then the person will be self-employed and, if the answer is 'no', then the person will be an employee.

In deciding whether a person is in business on his or her own account it is useful to consider the following factors:

- control
- personal service
- equipment
- financial risk
- basis of payment
- mutuality of obligation
- holiday pay, sick pay and pension rights
- part and parcel of the organisation
- right of dismissal
- opportunity to profit from sound management
- personal factors
- length of engagement
- intention of the parties
- Looking at these factors in more detail

Control

The right of an engager to exert control over a worker is a strong pointer towards employment. If the right of control exists, even if it is little exercised, for example with highly skilled workers, it points to employment.

Control may be exercised in the following ways

- control over what work is done
- control over where the work is done
- control over when the work is done
- control over how the work is done

Control will not necessarily exist in all areas. The greater the level of control the more likely the contract is one of employment but the right of control in itself is not conclusive evidence of employment.

Personal Service

A very important factor to take into account is whether the worker provides a personal service. If the worker is free to hire someone else to do it or give substantial help it is unlikely that the worker is an employee. The right to provide a substitute is important, whether or not it is exercised.

The engager should not have any direct influence over the substitute other than to require that the substitute is suitably qualified.

To ensure that the right to substitute is genuine the investigator will normally expect the right to be included in the original written contract. If it is alleged that a verbal agreement exists it will be necessary to provide evidence to support this position.

If a substitute is used then the worker must engage and pay the substitute if the contract is one of self-employment.

Provision of Equipment

A self-employed worker usually provides all the necessary tools to do the job. In some trades, such as plumbing or carpentry, the worker customarily provides small tools whether employed or self-employed and this will not determine status.

If the employer provides any necessary equipment, this points towards a contract of employment. This is only one factor in the overall picture.

Financial Risk

A strong indication of self-employment can be the financial risk that the worker runs in doing the job. Normally the greater the financial risk the stronger the pointer towards self-employment. For example, a worker who buys significant assets and bears the running costs, or pays for materials or overheads, is likely to be self-employed.

If the worker is required to put right mistakes or poor workmanship in his own time, then this is a pointer towards self-employment. The pointer to self-employment will increase if the worker also has to supply replacement materials.

Basis of Payment

The way in which remuneration is calculated and how often it is paid can be important but is not conclusive on its own. How someone is paid can show the underlying nature of the contract.

Employees are normally paid a fixed amount per week or month, but may also receive overtime payments.

The self-employed tend to be paid a fixed sum for a particular job. The payment may be made on completion or the contract may allow for stage payments. Invariably an invoice is submitted for the work carried out.

If a fixed price tender is submitted a financial risk is taken by the worker and is therefore an indication of self-employment.

Mutuality of Obligation

If there is an obligation on the part of the engager to offer further work and an obligation for the worker to accept it there is a mild indication of self-employment. This factor is more important in establishing employment rights and should be given little weight in determining employment status.

Holiday Pay, Maternity Pay, Statutory Sick Pay and Pension Rights

Entitlement to paid holidays suggests that an employment contract exists.

Entitlement to Statutory Sick Pay (SSP), Statutory Maternity Pay (SMP) and pension rights are consequences of employment and not indicators of employment. It is possible but unlikely that a self-employed person has been given these rights in error. It may therefore be necessary to check a workers right to receive SSP, SMP or pension rights.

Part and Parcel of the Organisation

Sometimes it is obvious that a worker is carrying on business outside and separate from the business of the engager. For example if an expert gives advice on specific problems from time to time for a fixed fee.

If however a worker is required to wear a firm's uniform, which is provided by the engager, or represents himself to customers as a member of the engager's business then these are pointers to employment.

Where the worker has management responsibilities for employees of the engager this is a pointer to employment.

In recent years the courts have played down this test and it should be given low weighting.

Right of Dismissal

Where a contract requires the engager to give the worker notice of dismissal unless there has been a serious breach of contract, this indicates a contract of employment.

A contract for services (self-employment) is indicated if:

- the engager has the power to dismiss the worker without notice, or
- the contract specifies that the engagement can only be ended if there has been a serious breach of contract
-

In short term or casual contracts the right of dismissal has little significance in determining status.

Opportunity to Profit from Sound Management

A self-employed person often has the opportunity to profit from sound management of a task. Where a worker quotes a fixed price for the job, then the level of profit or loss will depend on the speed and efficiency of the worker and the capacity to reduce overheads and organise work effectively.

Personal Factors

Factors that are personal to the worker may have to be taken into account particularly when there is a very large number of very short-term engagements. These would not form part of the contract between the worker and the engager and the engager may not be aware of them. For example, the worker may have spent significant sums of money on providing his own equipment or he may work for a large number of clients.

Length of Engagement

Where work is offered and accepted occasionally and irregularly there is unlikely to be a continuous contract of employment but each engagement may itself represent employment.

Although a worker may have a number of short engagements with different engagers these may all be contracts of employment and not self-employment. It is necessary to look at the other relevant factors before reaching a decision.

In most cases the longer the engagement the more likely it will be a contract of employment

Intention of the Parties

If after gathering all the relevant facts the case is a borderline one then the intention of the parties may be relevant. Where the relationship is ambiguous and other factors are neutral, the intention of the parties can be decisive provided the intention expressed is accepted as genuine.

There is some specific legislation that applies to teaching staff and associated activities and also for agency staff.

Teachers and Lecturers

For full time and part time teachers, lecturers and instructors their status will be clear, as they will have been given a contract of employment.

For visiting or occasional teachers, lecturers and instructors the position is more complex. For income tax purposes their employment status must be decided on the basis of the tests set out above

Peripatetic music teachers if employed by a school, unless the above conditions are met, will be employees. If, however, the teacher contracts directly with the parents of the children in question and receives payment directly from the parents, the arrangement is outside the scope of the regulations.

Agency Staff

When using an agency to supply a worker it is important to check that the correct income tax and National Insurance procedures are applied. In situations where payments are made direct to a worker problems may occur.

It is strongly advised that KCC should not make direct payments to a worker supplied by an agency. Where the agency pays the worker; tax and NICs should be deducted by the agency.

If KCC paid the worker direct then PAYE should be operated by KCC but NICs are due from the agency.

One Man Service Companies

When contracting with a one man service company PAYE need not be operated on payments to one man companies provided the contractual arrangements are such that the individual is supplied by the company and is not contracting in their own right. These are called the IR35 rules. The rules require that where the income would have been deemed to arise from a contract of employment, a PAYE obligation falls on the intermediary concerned rather than the engager.

The IR35 rules have no relevance whatsoever where an individual is engaged. In such cases it is the responsibility of the engager to ensure that the individual is correctly categorised as employed or self-employed under basic principles.

HMRC Employment Status Tool

HMRC have introduced an employment status tool that can be used to determine employment. You will need to read these notes or those of HMRC prior to using the tool.

The tool can be accessed at <http://www.hmrc.gov.uk/calcs/esi-01.htm>

Always print off the ruling and keep with other relevant papers.

Construction industry scheme

From 6 April 2007 schools are outside of the Construction Industry Scheme.

The Government has passed new legislation regulating the operation of the Construction Industry Scheme (CIS) that came into effect on 6 April 2007.

Schools with a delegated budget will be outside of the new CIS for all construction work where the head teacher or governing body contracts for the construction work.

Where KCC contracts for construction work the new CIS rules must be followed. Thus the construction works listed below remain within the CIS:

- emergency maintenance, planned maintenance
- "classcare"
- major building works funded centrally

Contracts placed by the governors of voluntary aided schools remain outside of the CIS.

Mobile telephones / car phones

With effect from 01 April 2006 the exemption from taxable benefit is restricted to only one mobile phone per employee. Any employee having more than one business mobile phone will be liable for a taxable benefit.

HMRC have now reviewed their definition of a mobile phone with the changing technology of smart phones. HMRC now accept that smart phones qualify as 'mobile phones' and that some modern PDAs are also likely to be smart phones. This does not apply to devices that are solely PDAs.

This view applies to smart phones as configured and understood at the start of 2012.

Personal Digital Assistants

Where an employer provides an employee with a PDA, that is not a smart phone, it is exempt by legislation provided there is no significant private use.

Pay as you go phones may create a tax liability

Employer provided phone cards

Where an employer provides an employee with a phone card, under special legislation relating to the provision of vouchers in general, it is regarded as earnings and is liable to income tax and National Insurance Contributions.

Employee provides phone cards

If the employee purchases the voucher, then if reimbursed, the value should be included on their expense claim as a taxable expense. Most mobile phone users do not receive an itemised telephone bill and it is not therefore possible to prove that any calls made are business calls and thereby obtain relief from income tax. However some mobile phone companies now offer an itemised bill and in these circumstances business calls can be identified and need not be taxed.

Hands-Free Kit

Following the introduction of the ban on using mobile phones whilst driving a vehicle from 1 December 2003 some users may wish to have hands-free kit fitted in their vehicle.

Where an employer installs hands-free kit in a lease car the company car legislation excludes such items from a charge to tax.

If the employee installs a hands free kit into his own car and that expense is reimbursed by the employer this sum is to be subject to PAYE for the kit, but not the phone itself.

If the employer buys the kit for an employee's car and transfers ownership to the employee at less than market value then there will be a benefit charge.

It is KCC policy that mobile phones should not be used whilst driving.

Home telephones

If KCC reimburses an employee for using their telephone, there are two separate elements to be considered:

- (a) the calls
- (b) the rental element

Calls

If only business calls are reimbursed there is no taxable benefit (see dispensation) but the employee must keep a log of the time of the calls or an itemised bill (for N.I. purposes).

Rental

If this element of the bill is being reimbursed it will be a taxable expense and must be claimed on the taxable section of the expenses claim form.

Taxation of broadband internet access

HMRC has relaxed its position where employers lend their employees a computer and also contract and pay for Internet connection and rental fees. Providing these Internet costs are met solely for the purpose of enabling the employee to carry out the duties of the employment at home, and the private use is not significant compared with work use; no tax charge will arise.

Where a connection is installed solely for work purposes under a package where there is no separate billing or record of access calls, and no breakdown between work and private use is possible relief from tax may still be granted.

HMRC requires that there are significant employment duties to be carried out by the employee at home on that Internet connection and the cost is not greater because there is private use.

The position where an employee has contracted pays the bill and seeks reimbursement by completing an expense claim form remains unchanged. As the authority is meeting the employee's liability this must be subjected to tax and NICs

Kent has two categories of homeworking staff that may be expected to meet the above criteria these being home based mobile and home based fixed. Other staff who choose to work from home are unlikely to satisfy HMRC requirements.

Assets used privately by an employee

(not accommodation / mobile phones / vans / cars)

If an asset is used privately by an employee there is a taxable benefit which is calculated as follows:

The greater of:

(a) 20 % of the asset's market value when first used as a benefit

or

(b) the hire or rental charge for the asset

plus

Any running costs arising from private use.

The total of the above is then apportioned on an appropriate basis; usually number of day's that the asset is available.

Assets transferred to employee

Where an asset, (which has been applied as a benefit) not a car, is transferred to an employee a tax liability will arise on the difference between the sums paid for the asset by the employee and the higher of:

(a) The market value of the asset as at the date of transfer

or

(b) The market value of the asset when first applied as a benefit less any amounts already taken into account for tax purposes already.

Where a car or other asset not previously used as a benefit is transferred to an employee, the taxable benefit is the market value of the asset at the time of transfer.

Loans

Post 6 April 2014 benefit

From the 6 April 2014 loans of up to £10,000 may be made to employees without a taxable benefit arising. This amount is currently the maximum available to Kent County Council staff.

Benefits for earlier years:

Employer loans below £5,000

An employer may loan an employee up to £5000 without there being a tax implication.

Employer loans above £5,000

There will be a taxable benefit if the interest that is actually paid on the loan is less than the interest which would have been paid if the loan was made at the official rate. The official rate is notified by the HMRC each year. The benefit is calculated on the average balance of the loan unless either the employee or the HMRC elects for it to be calculated on the daily balance outstanding.

Example:

An employee is given a loan of £6,000 repayable over 3 years. The interest paid is £150 per annum.

The official rate of interest for the year 2013/14 is 4%.

Average Balance	=	$\frac{£6000 + £4000}{2}$	=	£5000	(£4,000 is balance outstanding at end of year 1)
				£5000 @ 4%	= £200
				Interest Paid	= £150
				Taxable Benefit	= £50

Loans to employees written off

If a loan to an employee is written off it is a taxable benefit. The details of which must be returned to Chief Accountants Team (Tax Accountant) at the year-end for inclusion in the P11D.

The only exception to this is where the employee dies.

Tax free benefits

The following are all tax free benefits:

Accommodation and Subsistence

- (a) Living accommodation, which constitutes "representative" accommodation. Take advice on this (see number 18).
- (b) Free or subsidised meals in a staff canteen provided that they are available to all employees on similar terms.

Travel

- (a) The provision of a car parking space at or near the place of work.
- (b) A payment for additional transport costs or the cost of overnight accommodation when public transport is disrupted by industrial action

- (c) A payment of a taxi or hired car for an employee who is occasionally required to work late (after 9pm) in circumstances where either public transport has ceased or it would be unreasonable to expect the employee to use it. To apply, such arrangements must not occur frequently (60 times per year) or regularly (e.g. every Friday).

Education

Certain payments made by an employer to an employee for attendance at a qualifying training or retraining course.

Removal Expenses

Certain expenses may be met up to a limit of £8,000.

Entertainment

The provision of a Christmas party provided that the cost is no more than £150 per head and it is available to all employees.

Miscellaneous

- (a) Long service awards - If in excess of 20 years, a gift (not money) worth £50 per year of service.
- (b) Awards under a formally constituted staff suggestion scheme.
- (c) Gifts (other than cash) received by reason of employment from someone other than the employer provided that they amount to less than £150 in a tax year from a particular source.
- (d) Assets or services provided to improve an employee's personal physical security from a threat arising out of their employment.

Childcare Facilities

Either on the employer's premises or on other premises where the employer is at least partly responsible for the financing and management of the facilities. The child must be under 18 and the care must be primarily supervision as opposed to education. It does not extend to the provision of nursery vouchers or to reimbursement of child-minder costs.

Sports Facilities

Sports facilities available to employees and members of their families. This does not apply to facilities available to the general public.

Charities

Before a charity may reclaim income tax it must be deemed by the HMRC to be exempt from it

Exemption from income tax must be requested from the HMRC even though the charity may be registered with the Charity Commission. Not all charities are granted tax exemption (though most are) as not only must the purpose of the charity be charitable, but they must also be within the categories mentioned in the Taxes Acts.

In order to claim tax exemption the following documentation should be sent to HMRC:

- a letter requesting exemption from taxation.
- a copy of last year's income and expenditure account.
- a copy of last year's balance sheet.
- a copy of the instrument which created the charity.

Once exemption has been granted the charity will be provided with a certificate from HMRC that may be shown to third parties as evidence of eligibility to have interest paid gross.

The charity will also will also be given a reference number that should be quoted in all subsequent correspondence with the HMRC.

Funds outside KCC control / ownership

Funds which do not belong to KCC. may still be managed by employees of KCC in their capacity as officers of the fund, e.g. treasurer. These funds may have charitable status, in which case they would be entitled to the tax concessions relevant to charities or they may be unincorporated associations, in which case they will be subject to corporation tax on their income.

Examples of these funds would be school voluntary funds, social clubs and social services amenity funds.

If it cannot be established that they have charitable status, then corporation tax should be charged on their income.

Note: unless the fund has charitable status tax should be deducted from bank/building society interest.

Mutual trading

Where the income in these funds is derived from the members or beneficiaries the income will be deemed to be "mutual trading" and thus not subject to tax. An example of this is members' subscription to a social club where the subscription income is not taxable income, as it is derived from the beneficiaries.

Trading activities of funds

Bazaars, jumble sales, fireworks displays and similar activities arranged by organisations (the fund) are not charged so long as the following conditions are satisfied:

- the organisation is not regularly carrying on these activities.
- the trading is not in competition with other traders.
- the activities are supported mainly because the public are aware that profits will be devoted to charity.
- the profits are transferred to charities or applied for charitable purposes.

Further advice is available in the booklet – School Voluntary Funds Guidelines also available in [KELSI](#).

Vans

Where private use is unrestricted and a taxable benefit arises this will be a £3,090 benefit for all vans but this can be reduced if payment is made towards the private use.

If free or subsidised fuel is allowed for private use, there will be an additional taxable benefit of £581.

No taxable benefit arises if the employee has to take the van home but is not allowed other private use.

In order to have a £NIL benefit certain conditions needed to have been met by the employee during the year.

The rules allow the van benefit to be reduced to nil if:

- the van is mainly for business travel, and
- any private use other than for journeys to and from work is insignificant.

Insignificant use is not defined by HM Revenue & Customs but they have given the following examples

Insignificant Use

- taking an old mattress or other rubbish to the tip once or twice a year
- regularly making a slight detour to stop at a newsagent on the way to work
- calling at the dentist on the way home

Significant Use

- using the van to do the supermarket shopping each week
- taking the van away on a week's holiday
- using the van outside of work for social activities

In addition contracts of employment should state that no private use is permitted, except home to work, and a log book should be kept to prove that there was no other private use.

Some form of monitoring procedure should also be in place.

Uniforms

If an employee is provided with clothing by KCC it is a taxable benefit unless one of the two following conditions is complied with:

- a) The clothing is for protective purposes - a common sense approach is needed in determining whether the clothing is needed from a safety or cleaning point of view. It is also necessary to look at whether the end user really needs the clothing.
- b) The clothing is unsuitable for use outside of the employment - this would usually mean that there is a visible logo on the clothing, not that the clothing is not to the wearer's liking.

All other clothing is taxable and should be returned on the P11D to the HMRC at the year end.

If a clothing allowance is being paid to employees, it should be paid as a taxable expense unless clearance has been given by the tax office for it to be paid otherwise.

Non Uniform Clothing - Valuation for tax purposes

All other clothing provided to employees will create a taxable benefit including outdoor clothing used to protect the wearer from the weather. Any reimbursement of the cost of 'other clothing' should be made through the payroll system and be subject to tax.

Where the clothing is given permanently to the employee, the valuation for tax purposes is the cost of the clothing.

Where the clothing is loaned to the employee, the benefit is 20 % of the initial cost for each year that the clothing is provided.

Living accommodation

Living accommodation provided by an employer is a taxable benefit unless the conditions under which it is provided satisfy one of the exemptions listed below. Even if the accommodation is exempt, it may well be the case that there is a taxable benefit in respect of running expenses provided by the employer.

Exemptions:

- a) No tax charge arises in respect of accommodation where it is necessary for the proper performance of the employee's duties that he should reside in the accommodation.
- b) No tax charge will arise where the accommodation is provided for the better performance of the employee's duties and his employment is one of the kinds for which it is customary for employers to provide accommodation e.g. policemen or teachers in secondary boarding schools.
- c) No tax charge arises where there is a special threat to the employee's security and accommodation is provided as part of special security arrangements.

There is also no tax charge arising if accommodation is provided by KCC to one of its employees and the terms of the employee's occupation are no more favourable than those on which similar premises are made available to non-employees.

The taxable value if no exemption

There are potentially three benefits to be calculated in respect of accommodation provided to employees:

1. the higher of the annual value for rating purposes or the rent paid by the employer, less any employee contribution.
2. an additional benefit if the cost of the accommodation > £75,000.
3. the benefit of the expenses provided in connection with the accommodation (even if exemption applies)

This would include

- heating, lighting, and cleaning.
- repairs (other than structural repairs, maintenance and decoration)
- The provision of furniture, calculated as 20% of cost.

Note: If accommodation is exempt but there are still expenses to be calculated as benefits, there is a limit to the value of the taxable benefit.

Removal expenses

This section should be read in conjunction with the KCC schemes on offer to its employees. The first £8,000 of qualifying removal expenses and benefits will be exempt from tax so long as the expenses are eligible expenses and a number of conditions are satisfied.

- the employee changes residence as a result of starting a new employment, changing duties, or changing normal place of work.
- the new residence must be within reasonable daily travelling and the old residence must not be.
- the expenses must be incurred in the tax year the employee starts the new job or the following year.

Eligible expenses and benefits may be grouped into the following headings:

- disposal of old residence.
- acquisition of new residence.
- transporting belongings
- travelling and subsistence.
- domestic goods for new residence.
- bridging Loans.

Note: Only specific items may be included in the above headings. Those not included will be a taxable benefit and need to be returned at the year end. Please take advice on this subject

Subsistence

Subsistence is the payment for meals and refreshments consumed by an employee when the employee is necessarily **away from their normal place of work** and are therefore unable to follow their normal eating arrangements. HMRC do not consider the expense to be necessarily incurred if the employee is within 5 miles of their normal place of work. A payment made which does not fulfil these conditions is taxable.

(Strictly speaking the amount which should be allowable is any additional cost incurred by the employee through working away from base, though in practice the full cost will be allowed provided HMRC consider the amounts as reasonable. HMRC have agreed that the NJC rates for subsistence are reasonable).

However KCC policy is that subsistence is not payable except in exceptional circumstances.

Free or subsidised canteen

Free or subsidised meals provided to an employee will not be considered a taxable benefit if the following conditions apply:

- the meals are provided on the employer's premises.
- the meals are provided on a reasonable scale.
- either **all employees** are entitled to the meal or those who do not have meals provided are given subsidised vouchers.
- meals provided to teachers supervising during the lunch period would not be considered a benefit if all teachers are eligible to carry out the duty, irrespective of whether they actually do.

Entertainment

The provision of entertainment to employees is a taxable benefit unless they are entertaining external visitors and the expenditure is reasonable (both in amount and number attending).

In addition to the above, HMRC have said that they will allow the following:

- tea, coffee, and biscuits at working meetings.
- food to the value of £7 for working lunches on employer's premises.

Unless the entertaining is covered by the above it should be reported for inclusion on the P11D.

Note: The expense of entertaining colleagues, i.e. other employees of the same organisation, is not normally allowed for tax purposes. To be allowable the expense must be incurred "wholly, exclusively and necessarily in the performance of their work".

Keeping records

An employee who wishes to claim a deduction for business expenses should be able to support the claim with reasonable records of the amounts spent on particular occasions, the nature of the entertainment, the persons entertained and the reason for the entertaining.

Subscriptions

An employee may be able to claim a deduction for an annual subscription paid to a professional body or learned society where the body's activity is relevant to the duties of employment. A deduction may also be claimed for certain statutory fees paid to the body by an employee as a condition of carrying out the employment e.g. practising certificate for a solicitor.

Gift aid

The Finance Bill 2000 introduced changes to the Gift Aid Scheme the objective of which was to make it easier to give to charity. The Inland Revenue has now revised the regulations and schools wishing to attract charitable donations should be aware of the following.

- there is no minimum limit (formerly £250) for Gift Aid payments.
- donations can be large or small, regular or one off.
- donations made under deed of covenant are brought within the Gift Aid Scheme.
- donors no longer have to provide a Gift Aid certificate but can use a simpler more flexible Gift Aid declaration
- donors can give a declaration over the phone or Internet
- donors do not have to pay income tax at the basic rate equal to the tax deducted from their donations, any income tax or capital gains tax paid at any rate now qualifies
- charities can accept gifts of certain shares or securities.
- companies will no longer have to deduct tax from and give you a Gift Aid declaration in respect of their donations.
- Gift Aid relief is not available until the declaration is made
- special funds other than those registered with the Charity Commission may be able to receive Gift Aid donations providing they are for the advancement of education

Written Declarations

Donors no longer have to complete Gift Aid certificates, but can complete forms designed by the charity or can make oral declarations.

Although official forms are no longer required those designed by the charity must contain the following:

- the donors name and home address (as a minimum this can be Initials, Surname, name/number of house and postcode)
- the charity's name.
- a description of the donation to which the declaration relates e.g. 'All donations I make on or after the date of this declaration.
- a declaration that the donation is to be treated as a gift aid donation.

The written declaration must also contain a note explaining that the donor must pay income or capital gains tax equal to the tax deducted from his/her donation, and the date when the donation is made. There is no need for the donor's signature, National Insurance Number, or tax reference number. An example gift aid declaration can be found in Appendix 2 but this can be varied providing the above points are present.

Telephone/Internet Declarations

It is possible to make declarations by email, telephone and text message.

An unwritten declaration can be

- a recording of the making of a declaration by the donor or a recording of the donor confirming a declaration where the declaration is pre-recorded by the charity
- a computer record of a declaration template filled in by the donor and containing a link to the donor's banking details.
- an emailed copy of a declaration:
- a computer 'screen print' of the declaration sent to the charity
- a scanned image of the declaration, or
- a copy of a mobile text message confirmation of a declaration

If none of the above can be kept for audit purposes then a written declaration must be sent.

Both the oral and written declaration must contain

- all the details provided by the donor in his or her oral declaration.
- note explaining the requirement that the donor must pay an amount of income tax or capital gains tax equal to the tax deducted from his or her donations.
- the date on which the donor gave you the declaration.

In addition the written declaration must contain

- the date on which the charity sends the written statement to the donor, and
- a statement that the donor is entitled to cancel his declaration by giving notice in writing to the charity not later than 30 days following the date of the written statement.

A single declaration can cover any number of donations made after 6 April 2000 or intended to be made in the future.

Deeds of Covenant

The separate deed of covenant regime for charitable donations is ended, and has instead been brought within the Gift Aid Scheme.

Covenants in force before 6 April 2000 will remain in force.

On expiry of the deed, a Gift Aid declaration will be required. Deeds executed on or after 6 April 2000 must be covered by a Gift Aid declaration.

Existing Declarations

Such declarations made before 1 November 2005 will generally continue to be valid for gifts made under the new regime.

The exception is declarations known not to have a home address.

Reclaiming Tax

Tax can be reclaimed on donations made by individuals by applying to IR Charities, on form R68(i). This does not apply to gifts from companies. Reclaim forms can be obtained from HMRC or completed online.

Qualifying Funds

1. Gift Aid applies to all funds registered as charities with the Charity Commission.
2. Any other funds set up for charitable purposes, e.g. the advancement of education, may also be able to utilise Gift Aid payments. If the fund is constituted in accordance with the guidance given in the NAHT Council Memorandum 'Management, Audit and Accounting Arrangements for Non - Official Monies (School Funds)' it may well be deemed charitable. Further information is available from HMRC.
3. Please note that any fund used for charitable purposes with an income of more than £5,000 per annum is obliged to be registered with the Charity Commission (see School Voluntary Fund Guidelines).

Record Keeping

Sufficient records must be kept to show that tax reclaims are accurate. This will include:

- an audit trail linking each donation to an identifiable donor who has given you a valid gift aid declaration, and

- that all the other conditions for the tax relief are required.

The form of records that are kept is not prescribed in legislation. If you were to have an audit then FICO would expect to see in respect of a donation:

- any Gift Aid declaration detailed above
- any correspondence to or from the donor which relates to the donation, including
- any notification of a change of name or change of address
- any notification of the cancellation of the Gift Aid declaration
- your bank statements
- your paying in book stubs showing details of cheques and cash banked
- statements you receive from credit card companies showing details of credit card donations
- your cash book recording the receipt of cash donations
- if you use envelopes to collect cash donations, a sample of the envelopes and a record of the sums enclosed
- any other records you keep relating to the donation

Records do not have to be kept on paper. They may be held on the hard drive of a computer or other storage device.

If the charity is a charitable trust, records must be kept until the later of:

- the 31 January next but one after the end of the tax year to which your tax claim relates.
- one year after you make your tax reclaim, rounded to the end of the next quarter
- when FICO completes any audit it has commenced

If the charity is a company, records must be kept until six years after the end of the accounting period to which you tax claim relates.

If a donor has given a declaration which covers donations that he or she may make in the future, the records relating to the declaration must be kept in order to enable you to reclaim tax on those future donations.

[Declarations linked to sponsored events](#)

It is possible for individual sponsors to elect for their payments to be treated as a Gift Aid Donation.

Charities can design a sponsorship form than can also be used as a joint declaration form.

The declaration should be placed at the head of each sheet with each sponsor being able to opt to have his sponsorship money paid to the charity as a Gift Aid donation.

The following boxes can be below the declaration for each sponsor to complete:

- sponsor's full name- minimum initials and surname
- sponsor's full postal address – minimum number/name of house and full postcode
- amount pledge
- amount collected
- date collected
- tick box to have amount treated as a Gift Aid donation.

The form should also contain the date when the sum is handed over to the charity

A reference guide for school charities has been produced by HM Revenue & Customs called 'Gift Aid & Payroll Giving'; this includes several links to more detailed guidance.

A helpful section on Scenarios gives examples of funds received by school charities which would qualify for gift Aid.

A range of guides and other useful information can be found on Kelsi by clicking [here](#), or visiting: <http://www.kelsi.org.uk/>

Appendix 1

P11D Returns – Income Tax Benefits in Kind 2013 -14

There is a statutory requirement to make a return to HM Revenue and Customs (HMRC) of all benefits in kind provided for employees, together with details of expenses reimbursed. Some of the benefits provided by this Authority are not returnable to HMRC as a result of a dispensation being granted to the Authority. However, we are still required to maintain appropriate records, which must be available for inspection, and therefore NIL RETURNS are still required.

VAT – The amount to be included on forms P11D should include the full amount of VAT paid whether or not recovered by KCC.

For schools whose staff are paid via the Capita TRENT or Oracle Intepay systems records must be sent to the Finance Department based at County Hall who will make the return to HMRC.

The information required is contained the Closedown – Early Returns pack which is available in KELSI towards the end of January.

Schools with their own payroll or contracting with other payroll providers will need to make/arrange their own P11D submission to HMRC.

Appendix 2

Gift aid declaration

Name of Charity

Address of Charity

..... Post Code

Details of Donor:

Title Full Name

Home Address

..... Post Code

Please treat the following donation(s) made by me toname of fund).....

as Gift Aid donations.

- * The enclosed donation of £.....
- * The donation of £..... which I made on (date)
- * All donations I make on or after the date of this declaration until I notify you otherwise.

(notification must be made to us if you no longer pay an amount of Income tax and/or Capital Gains tax equal to the tax we reclaim on your donation)

* All donations I have made for the six years prior to this year,(but no earlier than 06/04/2000 and all donations I make from the date of this declaration until I notify you otherwise

* Delete as appropriate

In making this declaration, I understand that I must pay or have paid an amount of income tax or capital gains tax equal to the tax to be reclaimed on my donation(s). I realise that I may cancel this declaration at any time and that, after notifying you of the cancellation, no further tax will be reclaimed from the date of cancellation.

Signature.....

Date

Appendix 3

Employment Status Fact Finder Tool

Details needed to decide whether employed or self employed and to use HMRC Employment Status Indicator			
			Comments
Name of Worker:			
Trade of worker / nature of business:			Please write more than 'Consultant'.
What is description of job: A copy of the contract or letter of engagement must be attached.			Please give enough information for a layman to understand the work to be carried out.
Circumstances of being engaged:	Has the worker replaced another who was an employee?	YES / NO	
	Are other employees doing similar duties?	YES / NO	
	Was the worker previously an employee of KCC?	YES / NO	
	Was the job advertised and if so, how?	YES / NO	Copy of advertisement if relevant
	Is the enquiry in relation to a future contract?	YES / NO	
	Has there been/are there to be other contracts within KCC?	YES / NO	
	If yes how many & what frequency are they likely to be.		
Contract	What are the full terms and conditions if different to attached contract?		
	Are they written, verbal or both?		
Control: What?	General Control factors		
	Can the worker be told what work to do, or does worker decide what work needs to be done to complete the task without frequent direction from engager?	YES / NO	
	Did the worker need to be trained?	YES / NO	
	Are there parts of the work which can be checked by a supervisor/manager?	YES / NO	
	What happens if the work is found to be substandard?		
	Who pays any additional cost to correct the substandard work?	worker/engager	
	Is there any code of practice or working rules etc the engager has laid down that the worker must adhere to?	YES / NO	
	Can the worker be moved by the engager from one task to another as the engager's priorities change?	YES / NO	

	Where?	Who decides where the job is to be done?	worker/engager	
		Is the work carried out on KCC premises or elsewhere?	Where	
	How?	Can the worker decide how the work is done?	YES / NO	
		Does the engager give detailed instructions as to how the work is to be carried out?	YES / NO	
		Can the engager overrule the worker if the worker has decided what, when, where or how work is to be done?	YES / NO	
		Is the worker a skilled person or expert in their field?	YES / NO	
	When?	Who decides when the work is to be done?	worker/engager	
		Can the engager insist that the worker works at regular times or agreed flexible working hours OR	YES / NO	
		Can the worker decide when to do the work within reason OR	YES / NO	
		Can the worker choose when to do the work but the engager decides when the job, or a particular part of the job, must be finished?	YES / NO	
	Personal Service: Substitution	Contractually obliged:		
		Under the terms of their contract, if the worker is unable or unwilling to carry out the work personally, are they obliged to send someone else to do it?	YES / NO	
		Does engager have to agree to this substitute?	YES / NO	
Right to send substitute where unwilling:				
If the worker is unwilling to carry out the work personally, do they have any right to send someone else to do it?	YES / NO N/A			
	Does engager have to agree to this substitute?	YES / NO		
	Right to send substitute where unable:			
	If the worker is unable to carry out the work personally, do they have any right to send someone else to do it?	YES / NO		
	Does engager have to agree to this substitute?	YES / NO		
	Could bring helper			
Could the worker bring in someone to help with the work the worker is engaged to do if necessary and pay them out of their own money?	YES / NO N/A			
Personal Service: Substitution (cont)	Helper brought in (if enquiry relates to past contract)			
	Has the worker ever brought in someone to help with the work they were engaged to do in practice and paid them out of their own money?	YES / NO		
Provision of equipment and materials	Is the worker responsible for buying all the materials or supplies they need to do the work?	YES / NO		
	Is the engager responsible for buying all the materials or supplies needed to do the work, or reimburses the worker for the provided materials?	YES / NO N/A		
	Is the contract for labour only?	YES / NO		
Basis of Payment:	Is this an hourly rate, weekly rate or fixed sum			
	Is overtime paid?	YES / NO		
	What happens if the worker is absent on holiday or ill?			

	Does the worker receive any reimbursement of expenses or have expenses paid?	YES / NO	
	Does the worker issue invoices for work done or services provided?	YES / NO	
Part of the organisation :	Does the worker represent themselves to customers as being an integral part of KCC?	YES / NO	
	Are there any restrictions on the worker working for others whilst working for KCC?	YES / NO	
	Is the worker responsible for any other workers?	YES / NO	
Right to terminate	Is there any right to fire or suspend the worker?	YES / NO	
	Is either party entitled to a period of notice?	YES / NO	
Financial Risk of worker	Does the worker stand to lose if anything goes wrong?	YES / NO	
	Has the worker invested any of their own money in the work?	YES / NO	
	Can the worker make a loss on the contract?	YES / NO	
	Can the worker increase the profit in the job by more efficient working / or extra hours?	YES / NO	
	Does worker have Public Liability Insurance	YES / NO / unknown	
	Does worker have the expense of an office?	YES / NO / unknown	
Length of engagement	What is the length of the contract?		
ESI Reference No.		Date:	