Nottinghamshire and City of Nottingham
Fire and Rescue Authority

TAX REVIEW OUTCOMES

Report of the Chief Fire Officer

Date: 28 September 2018

Purpose of Report:

To provide an update on the outcome of the recent tax review.

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1. BACKGROUND

1.1 Following recent changes in tax legislation around the use of blue light cars by officers, a tax review was undertaken by PSTAX, a leading blue light tax consultancy firm. The remit of the review was to ensure that Nottinghamshire Fire and Rescue Service (NFRS) is compliant with all current employment tax and VAT regulations.

1.2 The review resulted in several recommendations, mostly around updating policies and procedures, changes to the way that VAT is recovered, and improving VAT awareness training. The review, however, also identified that significant changes were required in respect of car allowances. Potential underpayments of tax and National Insurance (NI) contributions that have arisen in previous years and needed addressing in the future.

1.3 PSTAX has worked with the Service to identify the extent to which underpayments of tax have occurred and what options are available to correct the situation.

1.4 The purpose of this report is to provide an update to the Fire Authority regarding action being taken and seek decisions regarding past liabilities.

2. REPORT

2.1 The review identified five principal areas of concern with regard to the provision of cars and car allowances:

- Lease cars;
- Essential user lump sums;
- Temporary postings;
- Principal Officer cars;
- Home to base mileage.

LEASE CARS

2.2 The Service operates a car leasing scheme which provides essential users the option of obtaining a lease car through VIA, a company owned jointly by Nottinghamshire County Council and Cornwall County Council.

2.3 Participants sign a lease arrangement directly with VIA, and pay the full amount of the leasing costs themselves. However, the process also involves NFRS in that the service pays VIA directly on an annual basis, and recovers the cost directly from salary on a monthly basis. A nationally agreed 'lump sum' allowance is paid to the officers; however, no contribution is paid by NFRS for the provision of the vehicles.

2.4 The tax review has judged that this administrative arrangement would be considered by HMRC as an employer provided car scheme and thus would be treated as benefits in kind. The associated impact of this is that travel payments for business usage can only claim tax and NI relief on the HMRC agreed rates for such schemes (generally between 9p and 14p per mile). Since the Service currently pays 45p per mile, a tax and NI liability on all business mileage has been incurred on the difference.

2.5 Arrangements are being put in place with VIA to enable scheme participants to make payments directly to them and remove NFRS from the administrative process, and therefore removing the tax 'liability' going forward.

ESSENTIAL USER LUMP SUMS

2.6 The review also identified that essential user lump sums should be taxed. Officers are in the process of being informed and this will be corrected from October 2018.

TEMPORARY PROMOTIONS

2.7 During periods of temporary promotions officers are generally provided with a modified pool car. Providing that the temporary period is less than two years, then no benefit in kind will arise so long as the use of the vehicle is limited to home to work and business travel only and there is a strict and enforceable policy that prohibits all other private use. Although this is the accepted terms of use, an explicit policy is required which is in the process of being addressed through a larger review of all travel policies.

PRINCIPAL OFFICER CARS

2.8 PSTAX consider that the current arrangements in place for the provided cars for Principal Officers are correct, and they are seeking confirmation from HMRC. Policy documents may need to be reviewed to reflect best practice and ensure compliance.

HOME TO BASE MILEAGE

2.9 There are some inconsistencies surrounding home to work mileage claims. For tax purposes, all home to work mileage should be taxable and clear guidance needs to be provided to all staff, and all home to base mileage paid will be taxed going forward.

MOVING FORWARD

2.10 The issues which need addressing as a matter of urgency are:

- Negotiations with HMRC need to take place regarding past liabilities, including 2017/18 and current year until new arrangements can be put into place;

- Clear guidance needs to be provided to all staff with regards to how travel claims will be taxed in the future;

- Revised policies are required to provide clear guidance to staff and to ensure that the Service's tax arrangements meet HMRC requirements.

- Travel policies and claims to be scheduled for internal audit going forward.

2.11 It is recognised that the previous errors have been ongoing for a number of years, and on advice received from PSTAX, HMRC is likely to view self-audit and full disclosure positively and limit past liabilities to four years.

2.12 As NFRS had not previously notified employees of the prevailing tax liabilities, it is proposed that the Authority agrees to pay HMRC the arrears whilst it works towards resolving the liabilities going forward, or passes them directly to the individuals.

2.13 Any liabilities could be backdated by HMRC to cover up to seven years, however, PSTAX is confident that the positive steps taken by the Authority will reduce this to four years. Prior liabilities are still being calculated and will be subject to final negotiations with HMRC however, it is anticipated that backdated costs will be in the region of £225k – £250k.

2.14 Once all processes and procedures have been amended, there will be no financial liabilities on the Authority going forward, and to provide assurance to Members, the revised travel policies will be subject to review through the internal audit process and reported to Finance and Resources Committee.

3. FINANCIAL IMPLICATIONS

The actual cost of previous liabilities will only be known when negotiations with HMRC are concluded, however PSTAX consider the positive work undertaken by the Service will limit the impact to four years, and therefore not exceed £250k. If required, reserves can be used to meet this cost.

4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

4.1 Both Human Resources and employee representatives have been included in the discussions with PSTAX to ensure that human resources implications are considered.

4.2 As issues are resolved they will be communicated with those affected. Changes in policies will go through the normal approval process including 28-day consultation.

5. EQUALITIES IMPLICATIONS

An equality impact assessment has not been undertaken at this stage, but will be undertaken when travel policies are updated.

6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

7. LEGAL IMPLICATIONS

The purpose of the tax review was to ensure that the Service remains tax compliant. Full disclosure and amendment to policies and procedures will ensure full compliance going forward.

8. RISK MANAGEMENT IMPLICATIONS

Incorrect tax and VAT calculations could result in significant financial penalties and backdated claims from HMRC. Whilst it has raised a number of issues, the tax review ensures the Service has taken a pro-active approach to ensure future tax compliance. Having taken this approach assists greatly when negotiating with HMRC regarding backdated claims and will limit the liability.

9. COLLABORATION IMPLICATIONS

The opportunity of collaborating with neighbouring fire services is being explored with relation to jointly creating comprehensive travel policies.

10. RECOMMENDATIONS

That Members agree up to a maximum of £250k to meet the costs of the previous liabilities identified within the report.

11. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)

None.

John Buckley
CHIEF FIRE OFFICER