



## The Hidden Risk: Untaxed Perks and Benefits in Kind for Agency Workers



In today's competitive labour market, some agencies are offering tempting incentives to attract and retain workers such as free accommodation, paid utilities, travel allowances and "all-inclusive" packages. While these may appear generous, if they are not correctly taxed or reported, they can expose everyone involved to serious financial and legal consequences including civil liability and criminal liability.

Below are the key dangers and the steps every responsible business and worker should understand.

### What qualifies as a Benefit in Kind

A Benefit in Kind (BIK) is any non-cash perk provided by an employer or agency to a worker. Common examples include:

- Rent-free accommodation
- Employer-paid utilities such as heating and lighting
- Council tax, cleaning and maintenance costs
- Travel, meal or subsistence allowances
- Loans at low or zero interest

Even when the benefit is occasional or partial, it can still create a tax liability if not reported correctly.

### Why incorrect taxation of BIKs is so risky



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## **Employee tax liability**

When benefits are not processed correctly, workers may unknowingly underpay income tax. HMRC can recover these sums later, often with interest and penalties, leaving individuals facing unexpected debts.

## **Employer or agency penalties**

Agencies are legally responsible for reporting all taxable benefits through the P11D process and paying Class 1A National Insurance on their value. Failure to comply can result in significant penalties, backdated payments and reputational damage.

## **Reputational and contractual risk**

Operators who believe they are receiving an “all-inclusive” supply of labour may later discover that benefits were not declared correctly. This can create compliance exposure and erode trust within the supply chain.

## **Regulatory scrutiny**

HMRC has increased its investigations into arrangements that disguise pay or avoid proper taxation. If found to be non-compliant, civil or criminal investigations may be commenced and the financial consequences can be substantial for all parties involved.

## **Who carries the risk**

It is important to understand that **liability does not rest with a single party**.

### **For the Operator:**

If the end user knowingly or unknowingly engages an agency that is not compliant, HMRC can pursue the operator for unpaid taxes, National Insurance and penalties under supply chain due diligence rules. Even where the operator is not directly at fault, reputational damage and contract loss can follow.

### **For the Agency:**

Agencies have a legal duty to report and account for all taxable benefits correctly. Failure to do so can trigger HMRC investigations, fines, retrospective tax bills and, in severe cases, criminal proceedings.



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**For the Driver or Agency Worker:**

Individual workers are also exposed. If they have received untaxed benefits such as accommodation or travel, they can be held personally liable for the underpaid tax. HMRC can recover this directly from the individual, often with additional penalties and interest.

In short, **non-compliance affects everyone** – the operator, the agency and the worker.

**When a BIK may be exempt from tax**

There are limited cases where accommodation or similar benefits may be exempt, such as:

- When it is essential for the worker to perform their role (for example, they must live on site).
- When it is customary in the industry or role to provide such accommodation.
- When there is a clear security requirement for the worker to live at a specific location.

However, these exemptions are narrow and the responsibility to justify them always lies with the employer or agency.

**How the taxable value is calculated**

HMRC sets out clear rules for calculating the value of benefits such as accommodation, usually based on:

- The annual rental value or the actual cost to the employer, whichever is higher.
- Additional charges for properties valued over £75,000.
- Adjustments for shared or part-time use.
- Inclusion of utilities, cleaning or furnishings if provided.

This calculated value forms part of the worker's taxable income and must be declared accordingly.

**Best practice for agencies and operators**

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- **Be transparent:** Clearly set out how any benefits are provided and taxed.
- **Use payroll where possible:** Process benefits through PAYE so tax is collected accurately.
- **Value accurately:** Use HMRC's calculation methods to determine the correct taxable amount.
- **Avoid assumptions:** Only claim exemptions when you can demonstrate they apply.
- **Report correctly and on time:** Submit P11D and P11D(b) forms by 6 July following the tax year.
- **Review regularly:** Reassess benefits annually to stay compliant.
- **Seek expert advice:** Tax law and employment legislation are complex – specialist advice is essential.

### Why this matters to operators and drivers

If you are an operator or a driver working through an agency, you could be at risk without realising it. Free accommodation or travel allowances may sound appealing, but if they are not taxed correctly, **the liability can fall directly on you.**

Always ask:

- Are these benefits being correctly taxed and reported?
- Are they clearly included in the hourly or daily rate?
- Is the agency operating fully within PAYE, AWR and IR35 regulations?
- 

If you suspect that your agency is not calculating or declaring your tax arrangements properly, **seek independent legal or tax advice immediately.** The financial, legal and reputational consequences can be significant and long-lasting.

### The C9 Recruitment Standard

At **C9 Recruitment**, we do not engage in any practices designed to disguise or avoid tax on benefits in kind.

All benefits are fully declared and managed in line with HMRC requirements, whether through straight PAYE or via a genuine, umbrella company.

Compliance, transparency and fairness are central to our culture.



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**C9 Recruitment – Powered by People, Driven by Compliance.**

If your organisation currently uses agency staff, or if you are a driver unsure about how your tax is being managed, we strongly recommend seeking independent advice. A trusted route is through **C9 Legal Assist**, powered by **Weightmans LLP**, which provides expert legal support for transport operators, recruitment businesses and professional drivers.

 **Email:** C9legalassist@weightmans.com

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**The risks are too great to ignore and prevention is always better than cure.**

**About C9 Recruitment**

C9 Recruitment is a specialist staffing partner for the UK's HGV, PCV, logistics, engineering and back-office sectors. Known for its commitment to compliance, transparency and service excellence, C9 is trusted by operators nationwide to deliver dependable staffing solutions at pace. **Powered by people. Driven by compliance.**

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