

## **Welcome to the seventh edition**

Hello and welcome to Whiting & Partners Payroll Update issue 7. We circulate the latest Payroll & Construction Industry Scheme updates in this twice-yearly newsletter to help employers and contractors keep up to date with the latest developments.

If you wish to know more about any topic and how it affects you, please contact our Payroll Department on 01353 662595 or at [payroll@whitingandpartners.co.uk](mailto:payroll@whitingandpartners.co.uk)

## **General Data Protection Regulation (GDPR)**

May 2018 will see the implementation of the GDPR; Europe's new framework for data protection laws. It replaces the previous Data Protection Act which current UK law is based on.

Its purpose remains the same as the current regime: to protect the rights and privacy of individuals. GDPR means new rights for people to access the information companies hold about them, obligations for better data management for businesses, and a new regime of fines.

## **Brexit**

Although this is a European directive, the Government has confirmed its intention to bring the GDPR into UK law, post Brexit.

Further information and guidance will be issued soon.

In the meantime, The Information Commissioner's Office (ICO) has published some useful information

[www.ico.org.uk](http://www.ico.org.uk)

## **Apprenticeship Levy – Groups of Companies**

If you are part of a group of companies, only one PAYE reference may claim the £15,000 levy allowance, in much the same way as only one PAYE reference can claim the Employment allowance .

The levy will be paid to HMRC through PAYE and will be calculated, reported and paid through the PAYE process alongside tax and NICs. If you have calculated that you will be liable, you will need to declare this and include payment with your usual PAYE payment to HMRC.

## **National Minimum Wage & The National Living Wage**

There are no increases to the National Minimum Wage or the National Living Wage in October 2017. The NMW and NLW will be increased every April.

## **Holiday Pay**

We would like to remind you of the change in case law regarding the inclusion of commission and overtime in holiday pay. Recent court judgements have confirmed that any commission or overtime that a worker would ordinarily receive should be included in holiday pay calculations. We strongly advise that you review your policy on holiday pay, particularly if you pay regular commission and overtime payments to your workers. There is still no definitive guidance on how to calculate holiday pay, taking into account the above changes. However, the Employment Rights Act refers to using the previous 12 weeks (prior to an employee taking their holiday), to calculate an average amount to base the holiday pay on.

## **The Taylor Review**

The Taylor Review was commissioned by The Government to look at how employment practises need to change in order to keep pace with modern business models. The review considered the implications of new forms of work such as zero hours contracts, casual workers and it also addressed the issue of the “gig economy” with the suggestion being that the many people who work within it should be treated more like employees. Recommendations include:

- **National Minimum Wage**

Taylor proposes, in his review, that the Low Pay Commission be tasked with examining whether a higher rate of national minimum wage should apply to those working non-guaranteed hours, i.e. hours which are not contracted. The new higher rate would be set at a level which incentivises employers to schedule guaranteed hours. Employers would still be able to offer zero hours contracts but would have to compensate those workers for the additional flexibility demanded of them.

- **Holiday Pay**

The review recommends that the pay reference period should be increased to 52 weeks to take into account the seasonal nature of some casual and zero hours work.

The report also recommends that workers should have greater choice in the way they receive paid annual leave. They recommend that workers should have the choice of being paid their holiday entitlement in real time known as “rolled up” holiday pay. This would mean workers could receive a 12.07% premium on their pay. For example, someone earning the current national minimum wage of £7.50 could actually end up being paid £8.41 per hour.

- **Equal Tax Treatment for different forms of employment**

The report concluded that treating different forms of employment more equally would be fairer. Taylor suggests that the levels of NICs paid by employees and self employed people should be moved closer to parity.

Theresa May has announced that she will review the report in full and respond in detail later on this year.

## **BACS Payments/RTI Submissions**

HMRC’s introduction of reporting PAYE in real time puts BACS firmly at the centre of RTI. This is because RTI is all about aligning payroll with payments to employees. BACS is the only UK payment method that supports RTI reporting, directly linking employers’ salary payments with their RTI return to HMRC. Simply by referring to their BACS payment files an employer can confirm they are reporting RTI.

**Please ask us about our new RTI compliant BACS service.**

## **Paying HMRC**

If the electronic payment deadline date falls on a weekend you must ensure that payment reaches HMRC on time and that cleared funds are in HMRC’s bank account by the Friday before.

Find out more about paying HMRC electronically at [www.gov.uk/pay-pay-tax](http://www.gov.uk/pay-pay-tax)

Remember that it is your responsibility to make sure your payments are made on time and if your payment is late you may be charged interest and/or a late payment penalty.

### **Auto Enrolment from October 2017**

New employers from 1 October 2017 will not have a staging date.

If you become an employer for the first time on or after 1 October 2017, you will immediately have legal duties with regards to Auto Enrolment. These duties apply from the first day the first member of staff starts working for you. This is known as the duties start date. On the date your duties begin you must carry out a full assessment of all your staff and auto enrol any eligible workers into a qualifying workplace pension scheme.

In contrast to the above rule an employer who first pays an employee from 2 April 2017 onwards will have a staging date of January or February 2018 depending on when the first employee was paid.

Employers are generally able to postpone some of their auto enrolment duties for up to three months but this needs to be dealt with correctly.

### **Changes to Pension Contributions**

From 6 April 2018 the minimum pension contribution rates are increasing. This is a legal requirement of Auto Enrolment legislation. April 2018 sees the first increase by which the total minimum contribution will rise from 2% to 5% (of which the employer must contribute at least 2% whilst the employee makes up the difference). Further increases are set to follow from 6 April 2019.

Date Effective	Employer Minimum	Staff Contribution	Total Minimum Contribution
Until 5 April 2018	1%	1%	2%
6 April 2018 to 5 April 2019	2%	3%	5%
6 April 2019 onwards	3%	5%	8%

If you are concerned about Auto Enrolment or would like some assistance, please contact us. Alternatively, everything you need to know about Automatic Enrolment can be found on TPR's website.

[www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

### **Childcare Choices**

In addition to detailing free childcare provision available to working parents in England the [Childcare Choices](#) website provides working parents with an opportunity to review whether tax free childcare (TFC) is for them. TFC cannot be claimed alongside the provision of employer childcare vouchers, claims through Universal Credit or Tax Credits for Childcare.

TFC, when rolled out in full, is aimed at providing support to working families, including the self-employed in the UK who have children under 12 (or under 17 if disabled).

For every £8 you pay in, you will receive a £2 top up to the account, up to £2,000 per child.

### **Parental Bereavement (Pay and Leave) Bill Introduce to Parliament**

For the first time, parents who are employed and have suffered the death of a child would receive statutory paid leave to grieve, under a new law being supported by the Government. Currently, employees have a day-one right to take a “reasonable” amount of time off work to deal with a family or dependant emergency. What is reasonable depends on the circumstances but in practice the length of time off will be agreed between the employer and the employee. This Bill is expected to have its second reading debate on Friday 20 October 2017.

### **Voluntary Payrolling of Benefits - Registration for payrolling benefits and expenses**

If you're intending to payroll any benefits and expenses, you must register them with HM Revenue and Customs (HMRC) using the [payrolling employees taxable benefits and expenses](#) service. You must do this before the start of the tax year.

Using the online service for payrolling benefits and expenses means that you will not have to submit a form P11D. You must tell HMRC which benefits you want to payroll during the registration process. The tax codes for all employees receiving these benefits will be amended, unless you exclude any employees that you do not want to payroll benefits for in the online service.

If you miss the registration deadline, you cannot payroll benefits until the following tax year. However, if you have a valid reason, HMRC may agree that you can informally payroll the benefits, but you must still complete form P11D at the end of the tax year. If you mark each P11D 'Payrolled'. This stops HMRC collecting tax that has already been deducted from your employees.

### **CIS Update**

If you are a limited company and have not been able to offset your company's CIS deductions against other PAYE liabilities during the year then you may need to claim a repayment at the end of the tax year.

HMRC has recently introduced a new **Repayment iForm** which will make the CIS claim process more efficient. In order to access the form a limited company subcontractor will need to log onto the Government Gateway and submit the claim using the Repayment iForm.

Any claims for repayment to an agent or another nominee still need to be submitted in writing. HMRC advise that the claims process can take up to 40 days.

If you have any feedback, or would like more information on one of the topics covered, please e-mail [payroll@whitingandpartners.co.uk](mailto:payroll@whitingandpartners.co.uk), quoting “payroll update letter” in the subject line, or call 01353 662595 and ask to speak to a member of the payroll team.

For those of you for whom we already undertake payroll services, we will be addressing a number of the issues raised in this newsletter on your behalf.

Please also contact us if you would like to be removed from our mailing list.