

## **Employer round-up (Lecture B1398 – 20.45 minutes)**

### *Autumn Statement 2023*

it has been announced that the Chancellor, Jeremy Hunt, will make this announcement on 22 November 2023

### *Employers April 2023 Bulletin*

This bulletin has a section on “Avoiding duplicate employments”. The recommendations when a new employee starts are:

- Avoid the need for any updates to employee’s name, date of birth or gender;
- Always provide consistent data e.g., William Brown remains that and does not change to Bill or W Brown;
- Only include start date and starter declaration on first FPS;
- Do not report changes to start date to HMRC.

Similarly, do not change the employee’s payroll ID. The employee with more than one job with the employer can have two IDs. Where an employee leaves and is re-employed use a new payroll ID. Also start their year to date payment information again as £0.00

For leavers once the FPS has been submitted do not submit another even if the leavers details have changed. You should submit another FPS to report a correction to pay and deductions or a payment made after leaving. The leave date should be included and remain the same.

### *February 2023 Employer Bulletin*

In this bulletin HMRC reminded employers how to deal with salary advances ahead of normal pay day. Under current rules these advance payments are treated as payments on account of earnings. This means employers must submit additional RTI reports, FPS, to record the advanced payment of salary. HMRC appreciate the extra burden this gives employers, and HMRC.

HMRC will amend secondary legislation so that salary advances can be reported on or before the employee’s contractual pay day. This means that each payment of salary need only be reported on an RTI report once. Employers who are currently reporting salary advances on or before pay day may continue to do so until legislation is in place. There will be further information in future additions of the Employer Bulletin.

### *Advice on tax relief on pension contributions*

There are two methods for employer to use to give tax relief on employees’ pension contributions:

1. Net pay arrangement
2. Relief at source

HMRC has found that employers are making errors, possibly due to those names being misunderstood.

### *Net pay arrangement*

Under this method the employer deducts the pension contribution from the employee's gross pay BEFORE deducting PAYE.

As a result, the employee receives full tax relief through the payroll with nothing further to claim under Self Assessment. If the pension contribution is £100 and gross pay is £1,200 the PAYE calculation is based on £1,200 less £100 - £1,100. The employee's gross pay remains £1,200 on the payslip and the £100 pension contribution is then deducted from net pay. NB: NIC is calculated on the £1,200 gross pay.

### *Relief at source*

Under this method the employer deducts an amount from net pay, after having deducted tax and NIC based on gross pay, which is equal to the pension contribution less basic tax relief only. In this case if the gross pay was £1,200 and the pension contribution is £100 an amount of £80 is deducted from net pay. PAYE and NIC are calculated on gross pay of £1,200. The pension provider claims the tax relief, £20 in this case, from HMRC. Where the employee is a higher rate taxpayer, they would have to claim any additional tax relief via Self Assessment.

An employee cannot decide which method they want used. The "relief at source" has been the default for new registered pension schemes since April 2000. However, an employer can elect at the start of a new pension scheme to operate "net pay" as long as the scheme meets certain conditions.

### *Closing PAYE scheme*

When a business stops trading and no longer has any employees it must close the PAYE scheme. This can be done by:

- Selecting the "final submission because scheme ceased" field;
- Completing the "date scheme ceased" filed on the final FPS, full payment submission or EPS, employer payment summary. The date entered MUST be the date scheme ceased and not a date in the future.

HMRC will then check the information and the scheme should be closed automatically. Any estimated monthly charges raised for a pay period after cessation date will be cancelled.

In addition, the employer must:

- Send in forms P11D, expenses and benefits;
- Enter leaving date on each employee's record;
- Give employee P45 on their last day.

Where the PAYE scheme includes "payments to subcontractors" the employer should contact the CIS to notify date they stopped using subcontractors. To cease a "contractor only" scheme the employer must contact the CIS helpline to notify date they stopped using contractors.

## *NMW Report - June 2023*

In June 2023 the government published the names of 202 employers who were found to have failed to pay some of their workers the national minimum wage. The HMRC investigations took place between 2017 and 2019. The workers, 63,000 of them, were underpaid by nearly £5 million. As a result, those employers faced penalties of almost £7 million. The employers ranged from well-known high street names, WH Smith, Lloyds Pharmacy, Argos, right down to small local businesses.

W. H. Smith, Swindon	owed £1,017,693 to 17607 workers
Lloyds Pharmacy, Coventry	owed £903,207 to 7916 workers
Marks & Spencer, London	owed £578,390 to 5363 workers

The results showed that:

- 39% of employers made deductions pay from workers' wages. Most deductions will reduce a worker's pay for minimum wage purposes. This can include deductions for meals, uniform, equipment as well as many other things;
- 39% of employers failed to pay workers correctly for their working time. For example, time spent waiting at or near the workplace, travelling or training is all working time for minimum wage purposes;
- 21% of employers paid the incorrect apprentice rate. To qualify for the apprentice rate, a worker must be employed under a statutory apprenticeship agreement or a contract of apprenticeship. The minimum wage apprentice rate will apply if the apprentice is under the age of 19 or they are aged 19 or over and in the first year of their apprenticeship.

To support employers, HMRC provide a lot of information and guidance:

- "A checklist for employers" - Common issues which lead to workers being underpaid;
- "calculating the minimum wage" – guidance on calculations;
- "Common issues that can bring workers below the minimum wage".

### *National Living Wage*

£10.42            where aged 23 and over (was 25 and over)

### *National Minimum Wage*

£10.18            for workers aged 21 to 22 (was 24)

£7.49             for a young worker aged 18 to 20 inclusive

£5.28             for workers aged 16 to 17, and > compulsory school age but < 18

£5.28             for apprentices who are either under 19 or over 19 or in the 1st year of apprenticeship

### *Potential for Errors with NMW and NLW*

- Failing to implement annual increases brought in from 1 April each year;
- Missing an employee's birthday at 18, 21 or 25 years;
- Paying the apprentice rate but employee not an apprentice under an apprenticeship contract undergoing structured training or continuing to pay apprentice rate for too long;
- Making deductions from pay for items or expenses connected to job - uniforms, tools, safety clothing;
- Making deductions from pay deemed to be for employer's own use or benefit – Christmas savings club;
- Charging more than stated offset rate for accommodation;
- Including top ups that do not count for NMW or NLW – e.g., shift allowances, customer tips or bonuses;
- Treating workers as volunteers, interns or self employed incorrectly;
- Not paying all time worked – travel, sleeping, opening or shutting up shop or training.

### *Update on advisory fuel rate from 1 September 2023*

Where employee is provided with a company car and pays for fuel personally they can claim for business travel undertaken in that car. HMRC publish advisory fuel rates, each quarter, to be used by employers when they either:

- Reimburse employees for business travel in their company car
- Need employees to repay the cost of fuel used for private travel in company car

Where the correct advisory rate is used based on engine size and fuel type there is no taxable profit and no Class IA NIC due. But if an employer pays over and above these rates and is unable to prove that fuel costs are actually higher no "fuel benefit" results where the mileage payments are made only for business travel. Instead the excess will be treated as a taxable earnings for PAYE tax and Class 1 NIC to be processed through the payroll. There is no entry on the P11D form.

Employers can use lower rates if their vehicles are fuel efficient or, with HMRC approval, higher rates if they can justify the figure, e.g. an employee using a 4X4 to cover rough terrain. Where employers reimburse employees at a lower rate the employee is not entitled to use these rates to claim a deduction under self assessment.

Such a calculation should be based on the actual costs incurred.

*From 1 September 2023*

	Petrol	LPG	Diesel
Engine Size:			
1,400cc or less	13p	10p	
1,401 to 2,000	16p	12p	
Over 2,000	25p	19p	
1,600cc or less			12p
1,601 to 2,000			14p
Over 2,000			19p

*From 1 June 2023 – 31 August 2023*

1,400cc or less	13p	10p	
1,401 to 2,000	15p	12p	
Over 2,000	23p	18p	
1,600cc or less			12p
1,601 to 2,000			14p
Over 2,000			18p

Hybrid cars are treated as either petrol or diesel for advisory fuel rates.

*Electric cars*

From 1 September 2023 the advisory rate for a fully electric car is 10p per mile, previously 9p from 1 March 2023.

*Reminder of payment due for PAYE Settlement Agreement (PSA)*

A PSA is available to all employers, regardless of size. It is a flexible arrangement under which an employer can settle with one payment the income tax and NIC liability on three types of expenses and benefits in kind – minor, irregular or where it is impracticable to operate PAYE. They are not intended to be an alternative to operating PAYE in the usual way and cannot be applied to the cash payment of wages and salaries. Neither can a PSA cover major benefits such as cars and fuel provided to an individual employee, round sum allowances, loans, mileage payments or shares.

When a PSA has been agreed with HMRC:

- no entries are required on form P11D for the items covered by PSA
- no entry is required in the payroll where item dealt with by the PSA

Instead, the employer has to pay HMRC the tax due on the PSA benefits plus employer's Class 1B NIC on the grossed up value of the benefits in the PSA.

The completed PSA calculation must be filed with HMRC by 31 July following the end of the tax year. HMRC will agree and confirm the tax and NIC liability between 6th July and 19th October and payment is due no later than 19th October, or 22nd if paid electronically.

When calculating the tax due on the benefits under a PSA employers have to ascertain the value of the expense or benefit provided including VAT, the number of employees receiving the expense or benefit and the marginal rates of tax to be used. Where some employees are basic rate taxpayers and others pay 40% or 45% the benefit must be grossed up separately for each group of employees. Scottish tax rates should be used for Scottish taxpayers.

Class 1B employer's NIC - for 2022/23 tax year ONLY this is payable, at 14.53% (reverting to 13.8% from 6/4/23) on the value of the items including VAT, which would have given rise to a Class 1 payroll NIC or Class 1A NIC liability. The value is based on the gross cost – so actual cost grossed up for tax.

*Example*

An employer provides its 75 employees with a benefit value of £200 each, 10 employees pay tax at 20%, 45 at 40% and 20 at 45%.

The tax and Class 1B NIC payable under a PSA would be calculated as:

Value of benefits to employees:

Those paying 20% = 10 x £200	£2,000 (A)
Those paying 40% = 45 x £200	£9,000 (B)
Those paying 45% = 20 x £200	<u>£4,000 (C)</u>
Total of benefit provided	<u>£15,000 (D)</u>

Gross up and calculate the tax:

Tax on (A) £2,000 @ 20%	£500.00
Tax on (B) £9,000 @ 40%	£6,000.00
Tax on (C) £4,000 @ 45%	<u>£3,272.73</u>
Total tax payable	<u>£9,772.73 (E)</u>

Class 1B NIC payable (14.53% of £24,772.73(D + E)) £3,599.48

Total due to HMRC (9,772.73 + 3,599.73) **£13,372.21**

*Contributed by Alexandra Durrant*