M R Salvage Limited

CHARTERED ACCOUNTANTS AND BUSINESS ADVISERS

7/8 Eghams Court, Boston Drive, Bourne End,
Buckinghamshire SL8 5YS
Tel: 01628 522773
Fax: 01628 810406
Email: info@mrsalvage.co.uk
www.mrsalvage.co.uk

Essential Employer Update 2016

We consider recent changes and developments in payroll practice and employment law.

Real Time Information and the end of the 'relaxation' for micro employers

Under RTI employers, or their agents, are required to make regular payroll submissions for each pay period during the year detailing payments and deductions made from employees each time they are paid. The Full Payment Submission (FPS) must be sent to HMRC on or before the date employees are paid. A relaxation currently applies to micro employers, those with fewer than 10 employees, who pay employees weekly, or more frequently, but only process their payroll monthly and who made use of this relaxation in 2013/14.

The relaxation has allowed micro employers to send information to HMRC by the date of their regular payroll run but no later than the end of the tax month. The relaxation comes to an end on 5 April 2016 and will align the treatment for existing micro-employers with all other employers.

HMRC have the right to penalise employers who fail to meet their RTI obligations with monthly penalties ranging from £100 to £400 depending on the number of employees.

It is therefore important to ensure that your RTI returns and payments are on time, every time.

Workplace pensions

Under pensions auto enrolment employers have to enrol eligible jobholders in a qualifying pension scheme and make pension contributions on their behalf. Workers are eligible jobholders if they are between 22 and the State pension age and earn the equivalent of £10,000 per annum.

Although the employer must enrol eligible jobholders, and has obligations for other employees, individual employees may opt out of auto enrolment if they wish.

Employers have to comply with their obligation from their staging date, which is determined by the Pensions Regulator (TPR).

Postponement

Employers frequently opt to push back their initial staging date by using postponement. Postponement can be used to:

- delay the staging date of all or some employees by up to three months, delaying most but not all of the implementation of auto enrolment
- give employers more time to deal with new starters
- deal with employees who become eligible during a later pay period (due to them meeting the pay or age criteria)
- deal with the issue of temporary staff
- mitigate the issues of part period contributions which can be difficult for some pension providers and payroll software to cope with.

Caution

During postponement individual employees have the right to opt in to auto enrolment so employers need to be ready to deal with this.

Employers have to let TPR know that they have complied with their obligations by completing the declaration of compliance within five months of the original staging date.

National Insurance and apprentices

From 6 April 2016 employer NICs are abolished for apprentices under 25 who earn less than the upper secondary threshold (UST) which is £827 per week (£43,000 per annum). This exemption will not apply to earnings above the UST and employers are liable to 13.8% NIC on pay above this limit. Employee NICs are payable as normal.

An apprentice needs to:

- be working towards a government recognised apprenticeship in the UK which follows a government approved framework/standard
- have a written agreement, giving the government recognised apprentice framework or standard, with a start and expected completion date.

Employers need to identify relevant apprentices and generally assign them NIC category letter H to ensure the correct NICs are collected.

Right tax code and tax deduction

It is an employee's responsibility to check their tax code which determines how much tax is deducted from their wages.

The tax code is made up of the individual's personal allowance (if appropriate) and includes adjustments for benefits and expenses and possibly a restriction to collect unpaid tax or other debts for an earlier year.

From 6 April 2016 the personal allowance will increase to £11,000 and therefore the standard code will increase from the current 1060L to 1100L.

Scottish employees

For those who have employees who are Scottish residents watch out for the new Scottish tax codes which start with a prefix 'S'. Make sure your software can cope with the codes which will be used by HMRC to identify the proportion of the income tax due to the Scottish government.

Coding out

In 2015/16 HMRC increased the maximum amount that can be recovered or 'coded out' through an employee's PAYE tax code each year. A maximum of £3,000 applies for those with a main source of PAYE income of up to £30,000 (increasing on a sliding scale to £17,000 for those earning over £90,000).

To safeguard employees from excessive deductions from their pay, HMRC extended the 50% overriding limit to include all tax codes (previously this cap had only applied to negative K codes). This limits any income tax deduction to a maximum of 50% of an employee's relevant pay.

Tribunals do not look favourably on employers who fail to deduct the correct amount of PAYE and in some instances under deductions may result in the liability being passed onto the employer.

Voluntary payrolling of benefits

From April 2016 employers will be able to include taxable benefits in pay and thus account for PAYE on the benefits. In order to payroll benefits, employers will have to register with HMRC for the service via the Government Gateway before the start of the new tax year. Unfortunately agents are currently not able to complete this registration on the employer's behalf. Once registered employers will no longer be required to include the payrolled benefits on forms P11D but will still have to complete a form P11D(b) and pay the employer Class 1A NICs due.

Regulations provide detail on how to calculate the amount of a benefit to be payrolled each pay period. These regulations also set out what employers need to do if they discover they have been payrolling the wrong amount or the amount of the benefit changes during the tax year. They also provide for other situations such as where an employee's income drops so that the tax cannot be collected for one or more months and how payrolling interacts with the 50% of pay maximum income tax deduction permitted.

We would be happy to advise if the payrolling of benefits would be appropriate for you.

Dispensations revoked

From 6 April 2016 there will be no tax liability on an employee for certain reimbursed expenses. This will replace the current system where employers have to apply for a dispensation to avoid having to report non-taxable expenses, on forms P11D. Also employees will automatically get the tax relief they are due on qualifying expenses payments.

Certain expenses such as meal allowances can be paid up to a set rate detailed in regulations. Should employers wish to pay a set rate to employees for other expenses, rather than reimbursing the actual costs incurred, they will need to apply to HMRC for approval.

Zero hours contracts - best practice

'Zero hours contracts' have been in the news with employers being criticised for using these contracts inappropriately and in some cases using exclusivity clauses.

Under a zero hours contract the employer does not guarantee the individual any hours of work. The employee is entitled to the same employment rights as any other employee. The employer offers the individual work when it arises, and the individual can either accept the work offered, or decide not to take up the offer of work on that occasion.

The Small Business, Enterprise and Employment Act now prohibits employers from including exclusivity clauses or terms in any zero hours contract. This means an employer cannot stop an individual from looking for work or accepting work from another employer.

The government has provided detailed guidance on zero hour contracts as to when such contracts are appropriate or inappropriate. Some situations where zero hours contracts might be appropriate are as follows:

New businesses - might need to build up a customer base and have fluctuating and unpredictable demands.

Seasonal work - additional staff are needed to manage increased demand at certain times of the year.

Unexpected sickness - suitably qualified staff need to be available to cover periods of unexpected staff sickness, examples given include a pharmacist in a chemist or a lifeguard at a leisure centre.

Special events - A venue, restaurant or a bar may need to be able to call on trained and experienced staff when functions are booked.

Testing a service - A business may be testing a new service they are thinking about providing, and hire staff on an ad hoc basis to test its viability.

Government guidance can be viewed at gov.uk/government/publications/zero-hours-contracts-guidance-for-employers

Other changes from April 2016

Significant increases in car and fuel benefits and the 3% diesel supplement being retained.

An increase in the Employment Allowance from £2,000 to £3,000. However, where a director is the sole employee, companies will no longer be able to claim the Employment Allowance.

A new National Living Wage (NLW) is being introduced for workers aged 25 and above. The NLW will be set at £7.20 an hour. This rate is 50p higher than the current NMW rate for those aged 21 and over.

A statutory exemption of £50 per benefit is introduced for trivial benefits. An annual cap of £300 applies to directors and other office holders of close companies.

And changes ahead

Tax free childcare (which will result in the phasing out of employer supported childcare (childcare voucher scheme) - expected to be launched early 2017.

Extension of Shared Parental Pay and leave to grandparents - expected 2018.

Disclaimer - for information of users: This Briefing is published for the information of clients. It provides only an overview of the regulations in force at the date of publication and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this Briefing can be accepted by the authors or the firm.