

Newsletter – September 2012

Introduction

There is still considerable fallout from the introduction of the National PAYE computer system in 2009, in terms of underpayments of tax for employees and pensioners; but yet another large change in PAYE is due – Real Time Information. It is difficult to assess the impact of this radical overhaul in the way PAYE information is sent to HMRC, but there must be concerns for those on low income and part-time workers with multiple employments. Compliance among employers in these categories is probably lower than in any other group.

In this newsletter we will consider some of the forthcoming changes for low income workers. We will also look at some opportunities for dealing with late filing penalties and HMRC disputes.

Contents:

- 1) [New on-line tax training videos](#)
- 2) [PAYE underpayments - ESC A19 to change](#)
- 3) [Real Time Information - How PAYE is changing](#)
- 4) [Student tax form P38\(s\) to be withdrawn](#)
- 5) [Tax Credits - HMRC take a closer look at the self-employed](#)
- 6) [Tax return late filing penalties](#)
- 7) [Alternative Dispute Resolution pilot continues](#)
- 8) [Closure of HMRC tax and benefits confidential helpline](#)

1) New on-line learning videos

New TaxAid on-line tax videos are available. The E-learning is designed for front-line money, debt and employment advisers. There are ten modules guiding you through employment, migrant worker issues, PAYE underpayments, retirement, tax returns, tax debt and the self-employment. These are supported by on-line questions and answers and a 'how to handle' download sheet with additional information. The modules can be accessed independently.

The modules are:

- Paying the right amount of tax 1 & 2
- Employment scams, traps and abuses
- Tax troubles in retirement
- PAYE underpayments – the P800
- Employment problems
- Tax returns – when do you have to do one
- Tax debt part 1 – self assessment
- Tax debt part 2 – unexpected bills
- Tax debt Bankruptcy

They can be accessed from:

<http://taxaid.org.uk/guides/e-learning-live>

[Top](#)

2) PAYE underpayments – ESC A19 to change

HMRC is recommending a change in the longstanding ‘official error’ concession – Extra Statutory Concession A19. The proposal is to introduce new rules from April 2012.

Changes suggested include:

- restricting the relief to PAYE taxpayers only
- the need to make a claim before any underpayment of tax starts to be recovered through a change to a tax code
- the grounds of ‘repeated failure’ by HMRC to use information would be withdrawn
- Taxpayers would need to show that they have ‘met their responsibilities’ which would include notifying HMRC of changes in circumstances and checking all tax codes (so, for example, if HMRC issues an incorrect tax code and the taxpayer fails to notice, then the relief would not apply)

The result of these proposed changes would seem to be a shift in HMRC’s favour. It becomes even more important to stress to employees and pensioners the need for them to check and understand their tax code(s).

The details can be found on the HMRC website consultations page at [Consultation on ESC A19](#). Comments are invited by 24 September 2012.

[Top](#)

3) Real Time Information – How PAYE is changing

HMRC is already running a Real Time Information (RTI) pilot with some employers. Most employers will join from April 2013, and all are due to be involved by October 2013.

While PAYE is mainly about how employers submit payroll information to HMRC, there is likely to be an impact on employees – particularly as we approach the introduction of Universal Credit. This is because there will be changes to the way information is gathered from employees and how it is used; and because the RTI information is intended to form the basis for calculating Universal Credit payments.

RTI will mean that HMRC must be notified each time an employee is paid. So information will be submitted for each payday – rather than in summary form at the end of the tax year. This will mean some changes in the procedures for paying new employees and for leavers and joiners.

In particular, employers will need accurate details for each employee – including full names, dates of birth and National Insurance numbers.

Further information:

General information on RTI <http://www.hmrc.gov.uk/rti/index.htm>

Operation of the RTI pilot

<http://www.hmrc.gov.uk/payerti/getting-started/payee-basics/rti.htm>

[Top](#)

4) Student tax form P38(s) to be withdrawn

The student tax form P38(s) is due to be withdrawn from April 2013. The form was used by employers so that students who worked only in the vacations could be paid without deduction of income tax – so long as earnings in the tax year were expected to be less than the tax free personal allowance.

The result is that all student employees will now be taxed under PAYE under the same rules as other workers. This will mean that some student workers will need to pay tax at source and then apply for a refund. This can be done in year on form P50 – see [Form P 50 download sheet](#).

Students who worked during term-time should be unaffected as the P38(s) concession did not apply.

For more details see:

<http://www.hmrc.gov.uk/payee/employees/start-leave/special/students.htm>

[Top](#)

5) Tax credits – HMRC take a closer look at the self-employed

From the start of September, some low-income, self-employed tax credit claimants will receive a letter from HMRC asking about their working hours. The letters are part of HMRC's error and fraud strategy.

Tax Credit claimants must work the correct number of 'qualifying remunerative hours' in order to support a claim to working tax credit – see <http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02411.htm>. HMRC will be seeking to establish that the appropriate number of hours are worked; and that there is a realistic expectation of payment.

HMRC is likely to ask for a diary, or other record of working hours, showing what activities have been undertaken. While this is not currently a requirement for claiming tax credits, it is becoming increasingly important, especially in marginal cases to have a record of working hours to support a claim. Non-commercial businesses (or 'hobby-trades') are particularly at risk. If remunerative hours are close to 16 hours per week, such claimants would be well advised to check if working tax credit is the appropriate benefit to claim or whether another benefit, such as Employment Support Allowance or Jobseeker's Allowance may be available.

Claimants who do not reply to the letter may have their claim suspended. Claimants who cannot satisfy HMRC may have their claims cancelled.

HMRC's introduction to the intervention states:

“HMRC Benefits & Credits are due to start a campaign focussing on self employed work & hours from September onwards. Customers will initially be contacted by letter and where possible will receive a follow up telephone call to discuss their claim to establish if their self employment satisfies the criteria of being in remunerative work or otherwise is genuine for the purposes of entitlement to tax credits. Customers may be asked for evidence such as a breakdown of hours worked each week, work undertaken and nature of the business, a summary of bookings and/or appointments that have been made, invoices, receipts etc.

If a decision cannot be made by telephone or the conversation has led to an unsatisfactory outcome the caseworker will ask the customer to respond to the letter within 30 days. Failure to respond within the given timescales may result in tax credits being suspended.”

[Top](#)

6) Tax return late filing penalties

Late filing penalties for 2010/11 return have now reached £1,300 for both paper and on-line returns. The late filing returns for paper returns for 2010/11 will increase by another £300 from 1 November 2012 as we pass the anniversary of the due date (31 October 2011)

How to deal with penalties on 2010/11 returns

Asking HMRC to withdraw a return

If all the taxpayer’s income was correctly taxed at source, or they had no tax liability in the year, for example because they were out of work, then HMRC may, on request, withdraw the return. The number to phone is 0845 900 0444. The taxpayer should explain why no tax return is needed for the year. If the return is withdrawn, then all the late filing penalties will be cancelled.

HMRC will not withdraw a return if:

- a) A tax return has been filed for the year (even if no tax is owing), or
- b) If there is any self-employment income for the year – even if only for a few months

HMRC is aiming to introduce more formal rules on withdrawing returns from next year.

Appealing against late filing penalties

HMRC will not consider an appeal until the return has been filed. Once the return has been filed, an appeal against the penalty can be submitted. As this is the first year of the new penalty regime, HMRC is taking a slightly more lenient view of ‘reasonable excuse’ for missing the deadline.

Information about how to appeal can be found at <http://www.hmrc.gov.uk/sa/appeals-decisions.htm> and the appeal form can be downloaded at http://search2.hmrc.gov.uk/kb5/hmrc/forms/view.page?record=3ScvEs7_4vk&formId=6706

[Top](#)

7) Alternative Dispute Resolution pilot to continue

Tax enquiries must count amongst the most stressful forms of contact with HMRC. The unrepresented low-income tax payer can feel overwhelmed. It is therefore good news that HMRC is extending its Alternative Dispute Resolution (ADR) trial.

This provides an opportunity for individual taxpayers and small businesses with an alternative way to try and resolve disputes when HMRC starts asking questions.

It is necessary to ask to be included in the trial, and not all cases are considered suitable for inclusion by HMRC. The trial now covers both scenarios when there is a decision which can be subject to formal appeal, and those which have not yet reached that stage.

The process involves a specially-trained HMRC officer acting as a facilitator. The facilitator, who has no prior involvement with the specific case, aims to broker a resolution. The process does not affect the usual rights of appeal.

Applications can be considered from anywhere in the UK, and around 70% of applications to use the trial have been accepted by HMRC. The process may help isolate the important issues, even when a final resolution by arbitration is elusive.

Application can now be considered until 30 November 2012 and further information can be found at <http://www.hmrc.gov.uk/adr/index.htm>

[Top](#)

8) Closure of HMRC confidential tax and benefits helpline

The HMRC confidential tax and benefits helpline has been closed. This helpline provided a route for individuals who had undeclared taxable income to discuss the situation anonymously with HMRC, prior to making disclosure. Those on low income were able to come within the system, with low level arrears being written off.

For the future, disclosures will generally be made to the local tax office and treated like a tax enquiry. It is important that professional help is made before contacting HMRC in such circumstances.

There is more guidance on how to do this, and on HMRC's disclosure opportunities through 'campaigns' on the TaxAid website at <http://taxaid.org.uk/guides/undeclared-income>

[Top](#)