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Newsletter

Issue 2 2022

Inside this issue

EXPLAINING THE HEALTH AND SOCIAL CARE LEVY AND NATIONAL INSURANCE CHANGE

Change to the National Insurance (NI) regime makes major demands on employers. It amounts to much more than making sure payroll systems are crunching the right numbers.

With NI contributions in an unusual state of flux, explaining all the ups and downs is likely to mean significant employee communication is needed, as well.

The first change is a one-year, 1.25 percentage points increase to Class 1 employer and employee NI contributions from 6 April 2022. This means that where an employee paid contributions at 12% in the year to 5 April 2022, payment is now at 13.25%.

A further change takes place from 6 April 2023. The NI charge drops back to earlier levels, and is replaced by the Health and Social Care Levy (HSCL). This is a standalone 1.25% levy, applying to earnings chargeable to Class 1 employer and employee contributions. It will be reported as a new item through payroll, and itemised separately on payslips.

> The Levy has wider impact than the NI increase: the NI increase doesn't apply to employees over state pension age, whereas the HSCL does. The HSCL will be administered and collected by HMRC.

You may have been contacted by HMRC, which is asking payroll software providers and employers to use specific payslip messaging between 6 April 2022 and 5 April 2023, to explain the initial NI increase. Neither messaging, nor wording is mandatory, and given the complexity and pace of change, you might want to consider your own communications strategy, rather than simply adopting HMRC's. This may be particularly relevant if you are in one of the devolved nations, where health care funding operates differently.

The Spring Statement creates change to NI rules from 6 July 2022. This impacts the Class 1 Primary Threshold (the point at which employees start paying Class 1 NI contributions), and aligns it with the income tax personal allowance. As the adjustment comes part-way through the tax year, the full uplift for employees won't be felt until April 2023, but the government estimates that a typical employee will still save over £330 in the year from July. The new threshold is equivalent to £12,570 pa, rather than the current £9,880 pa.

Company directors and the self-employed are also impacted by change to NI rates and thresholds, and the introduction of the HSCL. The position here is covered in our Guide to the Spring Statement.

Do please contact us with any queries on the recent and forthcoming changes, or payroll procedure generally.

IR35 and off-payroll: 2022 matters

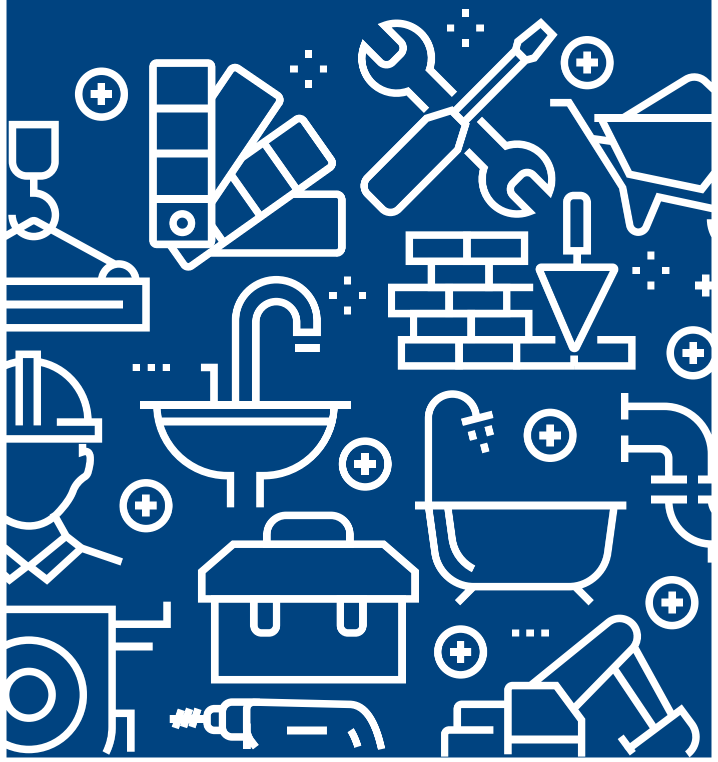
It's now a year since major change to the off-payroll working (OPW) rules. The OPW regime requires a decision on employment status to be made for tax purposes, broadly analogous to the decision required by the IR35 regime for those working through an intermediary, typically a personal service company.

The government's aim is that those working 'like' employees, but through an intermediary, pay roughly the same income tax and National Insurance contributions as employees, and 2021 saw the responsibility for making the employment status decision pass from contractor to client in medium and large-sized organisations. Contractor engagements with small organisations remained unchanged.

> HMRC compliance has changed from 6 April 2022.

Initially, it operated a 'light touch' approach, meaning penalties were not charged for inaccuracies relating to the new rules, unless there was evidence of deliberate non-compliance. This grace period is now over.

Contractor or hirer, wherever you fit on the spectrum, we recommend taking stock of your position. Making a status determination is always a finely balanced decision, whoever it falls to. Do please contact us for an OPW/IR35 health check to reduce risk and increase business confidence.



Holiday pay on tap: what you need to know about the Pimlico Plumbers

Employment status and employment rights are knotty issues.

The employment status and associated rights of the workforce of Pimlico Plumbers Ltd have been battled out at the highest judicial levels for years. There is now another verdict. What is the takeaway message if you run a business with a labour force that doesn't fit the traditional mould?

Back in 2018, Pimlico Plumbers lost at the Supreme Court, when it was decided that plumbing and heating engineer, Mr Smith, was not an independent self-employed contractor, as Pimlico argued. Rather, as far as employment law was concerned, he was a 'worker'. This is a status that opens the door to particular employment rights, such as minimum wage, and the statutory minimum level of paid holiday.

The 2022 verdict addressed just this point: a worker's right to paid annual leave, and the fact that the burden lies on the employer to provide the opportunity to take it.

In Mr Smith's case, periods of leave had been taken, but always unpaid, and he didn't put in a claim for payment until his contract terminated. At this stage, he submitted a claim for accrued holiday pay for the whole period.

The Court held in his favour, highlighting employer responsibility in this area.

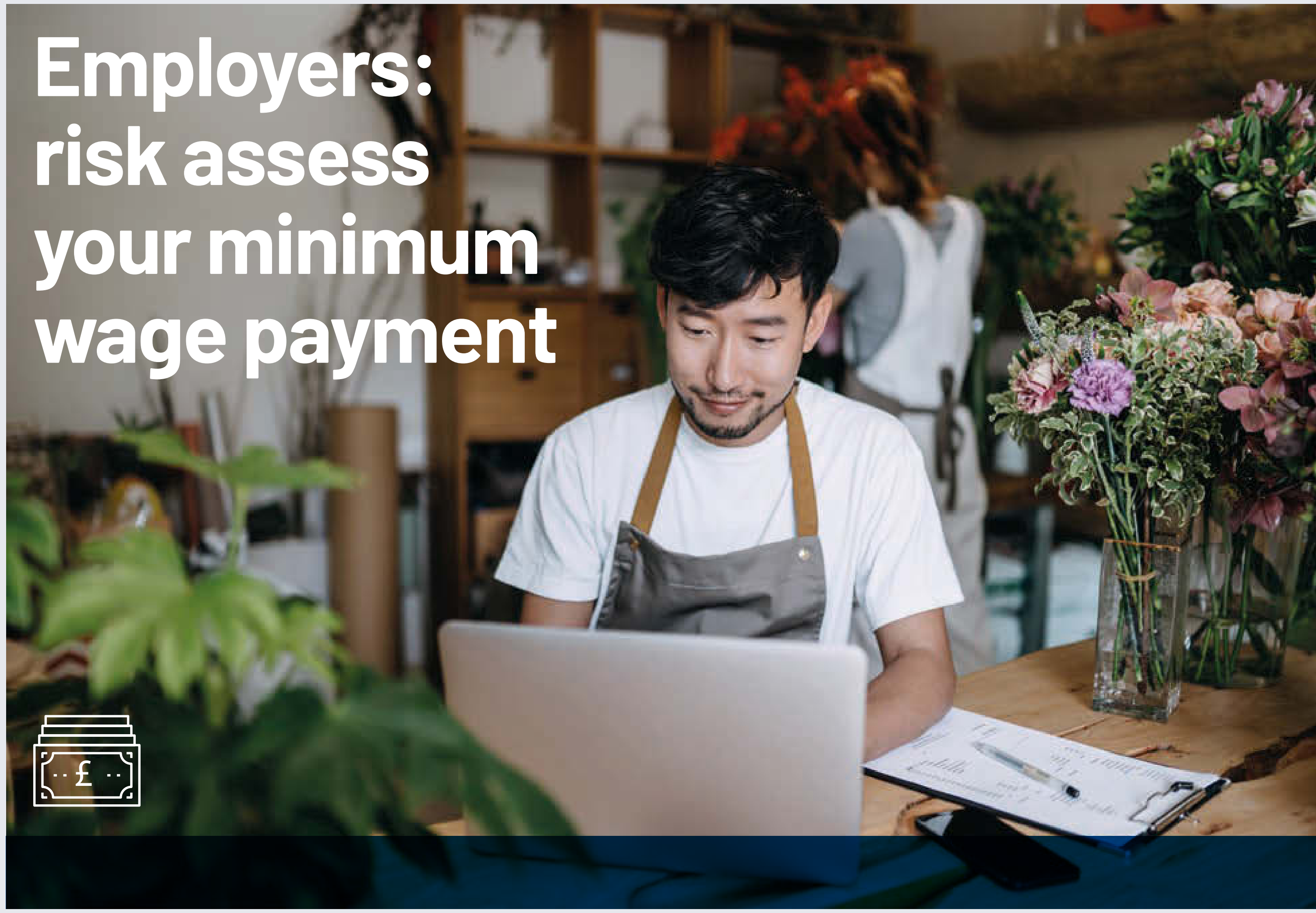
> Employers, it said, must 'specifically and transparently' provide workers with the opportunity to take paid annual leave.

This would include encouraging the worker to do so, and informing them that the right would be lost at the end of the leave year. Where that is not done, as in this case, there are consequences. The right doesn't lapse, but carries over and accumulates until termination of the contract, when the worker becomes entitled to a payment in respect of the untaken leave - as happened with Mr Smith.

The case is a clear reminder that while using gig workers, self-employed contractors and other a-typical staffing models can have distinct advantages, it also carries business risk.

> We are always on hand to advise on holiday pay and other areas of employer responsibility, if they are of relevance to you.

Employers: risk assess your minimum wage payment



New minimum wage rates took effect from 1 April 2022. There is, however, much more to minimum wage compliance than simply taking an annual increase on board.

Minimum wage compliance falls to HMRC, which takes its responsibilities very seriously, and penalties can be charged for even inadvertent errors.

HMRC checks

HMRC carries out checks on employers as part of its compliance procedure, visiting business premises to inspect records, and also to engage directly with workers to make sure they're receiving what is legally due to them.

> Employers are selected for checks either because of HMRC research, which might alert it to potential issues within a particular sector or local area, or because it's had a complaint that employees are being underpaid.

It does not have to tell employers why their records are being checked, nor give details of information it has received.

From an employer perspective, checks are bound to create additional work, quite apart from the damage to employee relations likely to follow. There is also liability to arrears of pay or penalties if things have gone wrong, and it's worth noting that arrears are due at the wage rate in force at the time they are discovered, rather than the rate when the error was made. This may represent a significant increase. Sanctions can include possible criminal prosecution if it's found that an employer has deliberately broken the law, although this is rare. There is also the now well-established practice of public 'naming' by the Department for Business, Energy and Industrial Strategy.

Risk zone

Minimum wage legislation used to be something that tended mainly to impact lower paid employees. The net has since widened considerably. With the minimum wage rate for those aged 23 and over now at £9.50 per hour, the number of employees with pay at about this level will be significantly increased. We recommend monitoring the position even for employees with pay above the minimum, to ensure there's nothing that would tip their pay below the required threshold.

Deductions from wages are a particular danger area. It is permissible to make a deduction for accommodation taking pay below the minimum wage, but the maximum is determined by what is called the accommodation offset. Other deductions, even if agreed with workers and of benefit to them, are illegal if they reduce pay below the minimum wage. Salary sacrifice arrangements, for instance, need care: it's the figure after the sacrifice that has to be checked against the minimum wage. Key in HMRC compliance activity for some years to come, will be the interaction of the Covid-19 furlough scheme, flexible furlough in particular.

> We can help you review minimum wage compliance. Please don't hesitate to get in touch.

Your guide to the Spring Statement

'The Chancellor will not make significant tax or spending announcements at the Spring Statement, unless the economic circumstances require it.'

That was the idea when Spring Statements first appeared on the annual agenda, barely five years ago. Unsurprisingly, economic circumstances this year did indeed give rise to some significant announcements.

Business matters

Fuel duty: There is a temporary 12-month cut to duty on petrol and diesel of 5p per litre, which came into effect on 23 March 2022. This is good news for business motoring, although with sharply rising costs, it may be prudent to review business motoring strategy. Unincorporated businesses, for example, might want to revisit any decision to claim flat-rate expenses rather than a percentage of total running costs in their accounts. Employer arrangements with employees may also need consideration. We are happy to advise further here.

Employment Allowance: Employment Allowance is a relief allowing eligible businesses and charities (including community amateur sports clubs) to reduce their employer Class 1 NICs. It is available, broadly, where employer Class 1 liabilities are below £100,000. It increases from 6 April 2022, to £5,000 (previously £4,000). We are always happy to advise in this area.

Zero rate of VAT for energy saving materials (ESMs): At present, only some ESMs attract reduced rate VAT treatment. The Spring Statement introduces a time-limited zero-rate of VAT for the installation of certain types of ESMs in residential accommodation in Great Britain until 31 March 2027. It also permanently brings wind and water turbines back into scope of the relief in Great Britain. It applies from 1 April 2022, and runs for five years, when the current 5% reduced rate of VAT will apply. We should be pleased to advise further if this is of relevance to you.

Northern Ireland is different

This particular provision in the Spring Statement does not directly affect Northern Ireland, because of the unique post-Brexit VAT rules applying there. In Northern Ireland, therefore, the list of qualifying goods and rate of VAT due on installations will remain unchanged, with adjustment to funding made to the Northern Ireland Executive.

Capital allowances regime: April 2023 sees the end of a particularly generous phase of tax relief. Both the super-deduction regime, which provides temporary enhanced first year capital allowances for companies, and the £1 million limit for the Annual Investment Allowance, will then finish. The Spring Statement suggests a variety of potential directions for future policy, so with change in the air, we would be pleased to advise on how best to future proof your plans for capital expenditure.

Research and development (R&D): The definition of R&D for tax reliefs is expanded by clarifying that pure mathematics is a qualifying cost. Additionally, the government confirmed that all cloud computing costs associated with R&D, including storage, will qualify for relief, and gave some clarification on the position with regard to expenditure on overseas R&D activity. It is expected that these changes will take effect from April 2023. Considerable further detail is still forthcoming, however.

Personal tax matters

Income tax: The basic rate of income tax is set to fall to 19% from April 2024. It should be noted however, that with devolved powers, the position is different for Scottish taxpayers, and potentially also for Welsh taxpayers, depending on the next decisions of the Welsh Assembly.

There is a knock-on consequence for charitable gifts made under the Gift Aid scheme, reducing the amount that can be claimed back by recipient charities. The government therefore proposes a three-year transition period, during which income tax basic rate relief remains at 20% for charities. This will run until April 2027.

National Insurance: There is considerable change here. We cover the impact for employee and employer NICs on the front page. But there is also change for the self-employed, and company directors.

For the self-employed, there is an increase in what is called the Lower Profits Limit for Class 4 NICs. This will align it with the personal allowance for income tax, which is set at £12,570 pa. To put the headline figures from the Spring Statement in context, it will help to know that though NICs will change from 6 July 2022, Class 4 is calculated on an annual basis, so the full effect of the Chancellor's announcement won't be felt until the following tax year. For the year to 5 April 2023, the Lower Profits Limit is £11,908.

Self-employed Class 2 NICs will be reduced to nil on profits between the Small Profits Threshold and the Lower Profits Limit, though NI credits for state pension purposes will still accrue. This takes effect from 6 April 2022. Government figures suggest this is equivalent to a tax cut of up to £165 pa for around 500,000 individuals, though obviously this will only impact those with relatively low levels of self-employed income.

Company directors who have an annual pay period will have a Primary Class 1 Threshold of £11,908 for 2022/23 and £12,570 for 2023/24.

Value added

A regular review of your tax position can often prove beneficial, and we should be delighted to help you take stock of these or any other tax issues.

BASIS PERIOD REFORM: IT COULD IMPACT YOUR TAX BILL

Tax year 2023/24 brings important adjustments to the way tax liability is calculated for unincorporated businesses. The change is called basis period reform.

Do I need to know about this?

Yes, if you operate as a sole trader or in partnership, and your accounting year end is anything other than 31 March or 5 April (or any date between the two). Basis period reform will affect all unincorporated businesses using year ends different from these.

What's actually happening?

In a nutshell, there's a change from what is called the current year basis of assessment to the tax year basis.

With the tax year basis, you are taxed on the profits earned in the tax year, without any reference to your accounting year end. At present, your profit or loss is calculated with reference to your accounting year ending in the tax year: your 'basis' period.

Why is it changing?

The new system is being brought in because of another major change: Making Tax Digital for income tax self assessment (MTD ITSA). This is scheduled to begin for most sole traders and landlords from 6 April 2024. Partnerships don't enter MTD ITSA until later: but they are impacted by basis period reform.

When?

The tax year basis begins properly from 6 April 2024. Change, however, begins in the tax year before this - that's the year from 6 April 2023 to 5 April 2024: the transition year.

So?

Add basis period reform to MTD ITSA and you have two big changes landing together at the same time: the impact of this could be considerable, and we shall be pleased to help you review the best strategy going forwards. Unless, for example, there are particular business or other reasons to keep your current year end, there may be a case for looking at changing the accounting year end to 31 March or 5 April, in order to get the best outcome from basis period reform and MTD ITSA.

Then there's the impact on tax bills to consider. Calculating your tax bill in the transitional year will be different. It will use two sets of figures: the first using 12 months running from your last set of accounts: and the second using the profit for the period running from the end of your normal accounting period to 5 April 2024.

Introducing this second part to the mix means bringing additional profits into charge to tax. Depending on your year end, it could bring up to 11 months' more profit into charge. This is likely to result in higher tax bills in 2023/24.

There are other practical implications, as well, in terms of needing two sets of figures to work out transition figures.

What should I do about it?

Talk to us. We can advise on possible mitigation strategies and the tax reliefs available. There is a new relief, called spreading relief, allowing you to spread transition profits over a period of up to five years. You may also have access to overlap relief. The position here can be complex with partnerships, where each partner stands to have a different amount of overlap relief available. Things will also be more complex where there are losses.

Value added

Basis period reform and MTD ITSA, combined, bring significant change. Some strategies are time-sensitive: the timing of change to accounting year end, for example, could affect availability of spreading relief.

Do please get in touch to discuss outcomes for your business.

MONEY OFF YOUR SOFTWARE COSTS

The government's Help to Grow: Digital scheme offers a 50% discount, to a maximum of £5,000, on a range of approved software.

Open to applications since January 2022, the deal runs for three years, with the aim of increasing adoption of digital technologies. Discounts currently cover particular digital accounting and customer relations management (CRM) software, though other products, such as e-Commerce software, are anticipated in due course. Discounts apply to total product price, excluding VAT, and it's important to check the terms and conditions thoroughly.

Business structure matters: this is an offer for small and medium-sized companies, not sole traders or partnerships.

To be eligible, businesses must:

- have a registered office in the UK and be registered at the relevant Companies House
- have been actively trading for over 12 months prior to date of application, and have an incorporation date of at least 365 days prior to the application date
- have a total of between 5 and 249 employees
- be purchasing the approved software for the first time (though the scheme does cover certain clearly defined upgrades).

Application is made online on the Help to Grow website, which also lists eligible software products. Fraud and verification checks form part of the process, and businesses must keep relevant records for at least six years following any purchase. These have to be made available to the Department for Business, Energy and Industrial Strategy if required. The discount counts towards the total threshold for small amounts of financial assistance or de minimis state aid that a business can receive in a three-year period.

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