

RECENT PAYROLL RELATED CHANGES

June 2024

Over the last few months a number of payroll related changes have been announced, some of which have come into effect and others will be implemented in the future. The main ones can be summarised as follows:

Changes to the National Living Wage Rates

The table below shows the new rates which came into effect from 1 April 2024. It should be noted that the highest rate will be effective for workers aged 21 and over rather than the current age of 23 and over.

Age	2024	2023
	£	£
23 and over	11.44	10.42
21 to 22	11.44	10.18
18 to 20	8.60	7.49
Under 18	6.40	5.28
Apprentice	6.40	5.28

Apprentices are entitled to the apprentice rate if they are either:

- Aged under 19
- Aged 19 or over and in their first year of apprenticeship

IR35 set off of taxes paid

In a move that is welcomed, with effect from 6 April 2024, where tax has already been paid by a contractor via an IR35 structure and HMRC successfully challenge that the individual concerned should have been treated as an employee, a mechanism has been introduced to permit the taxes already paid by a contractor (corporation tax, income tax and National Insurance Contributions [NICs]) to be offset against the deemed employer's PAYE and NICs liability.

When calculating the deemed employer's liability to PAYE/NIC arrears, HMRC will be able to

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offset the following amounts, which have been paid in relation to the contract in question:

- The corporation tax paid by the contractor's personal service company ("PSC") on its fees
- The income tax paid by the contractor on their employment earnings or dividend income from the PSC
- The employee's NIC paid by the contractor in their employment earnings from the PSC.

The amount of the offset will be the best estimate that HMRC can reasonably make by reference to the relevant tax returns.

There is no offset of employer's NIC (or if relevant apprenticeship levy) paid by the PSC under these new rules, although there is an existing process to claim a refund for such amounts.

This offset of any double tax paid can be claimed retrospectively from the date the "new" IR35 legislation came into effect (6 April 2017 for public sector organisations and 6 April 2021 for large and medium employers).

Flexible Working Requests

As anticipated, the Government has confirmed that, from 6 April 2024, employees will be able to apply for flexible working from their first day in a new job. The steps that need to be taken are as follows:

- The employee writes to the employer, detailing how they want to work flexibly, when they want the change to start and whether or not a request has previously been made. There is no longer the need to identify the effects of the proposed change for the employer and suggest how the employer might deal with them
- The employer considers the request and makes a decision within two months (currently three months) – this timeframe can be longer if agreed with the employee
- If agreed by the employer, the terms and conditions within the employee's contract must be changed
- The employer must consult with the employee before rejecting any request, although currently there are no details as to what format the consultation will entail. Assuming the request is rejected, the employer must write to the employee explaining the business reasons for the refusal. The employee may be able to complain to an employment tribunal

An employee will be able to make two applications (currently one) for flexible working in any twelve month period.

National Insurance on Car Allowances – potential refund opportunity

Towards the end of 2023, the Upper Tribunal court made a couple of decisions which provide an opportunity to claim back NICs, paid by both employees and employers, in a specific set of circumstances. These are as follows:

- A car allowance is paid to employees, via the payroll, in respect of them using their own cars for business purposes and this amount is subject to both PAYE and NIC
- These employees are reimbursed for their business mileage, but at a rate lower than the maximum permitted of 45p per mile.

In these circumstances, and on the assumption that the employer has the backing records to support the claim, plus the mileage reimbursed does not include any home to work mileage, a claim can be made by the employer for both the employer's and employees' NIC paid on the difference between 45p and the rate paid.

By way of an example, if an employee did 8,000 business miles in any given tax year and received 30p per mile, a claim could be made for the 15p (45p less 30p) x 8,000 miles, equalling £1,200 @ the rate of employer's NIC in that tax year, say 13.8%, therefore totalling £165.60. Whilst in itself, this is not a huge amount, if an employer has a large workforce, paid a mileage allowance and a lower than 45p mileage rate, the claim could mount up and can go back six years. In addition, employee's NIC can be claimed at the same time, although guidance on whether the employee can make the claim themselves is limited at present. All claims, wherever possible, should be made via the employer's relevant RTI submission.

If this scenario seems relevant to you, it is suggested that you seek further advice, as there are some further detailed criteria to be met.

Pension Auto Enrolment changes

There are a couple of changes, introduced in the Pensions (Extension of Automatic Enrolment) Act 2023, which indicate the direction that pension auto enrolment is likely to take. No date has yet been set for when the legislation will come into effect and further details will need to be provided.

Broadly, the changes are:

1. To reduce the age threshold for an individual to be classified as an eligible jobholder (currently 22 and likely to become 18)
2. To either reduce or remove the lower limit that applies to qualifying earnings

There are a number of implications when these changes, as currently drafted, are implemented:

- The cost to the employer is likely to increase, with the initial £6,240 earnings' exemption removed (or as a minimum, reduced) and younger employees automatically enrolled into the employer's pension scheme, unless subsequently opting out;
- There is a question as to whether employees will be more likely to opt out and then not become part of a pension scheme until later than under the current rules; this will then exasperate rather than alleviate the problem of insufficient pension savings in the long term;
- Given the current economic situation, it is likely that more employees will opt out, thereby making it potentially more onerous on the employer to monitor the opt outs and ensure employees are re-enrolled at the correct time. The employer will need to make sure they have robust systems in place to monitor re-enrolment dates.

Once further details are announced, a more accurate assessment of the implications can be made.

Payrolling of Benefits

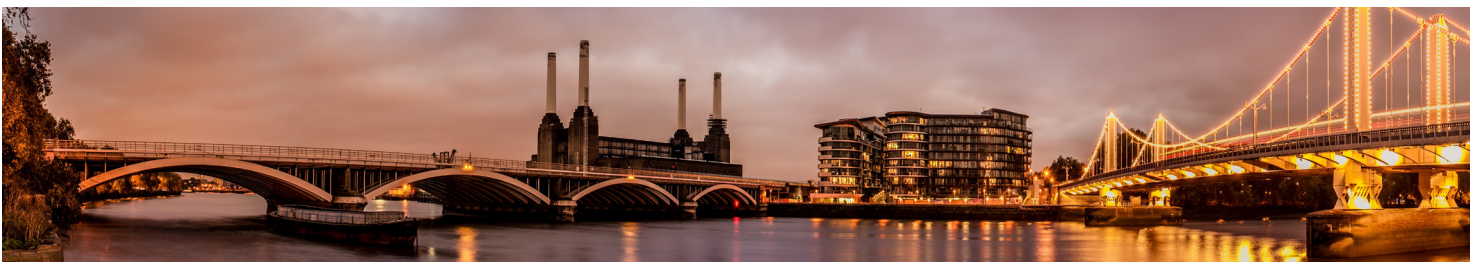
With effect from April 2026, the Government has announced that all benefits, bar loans and employer provided living accommodation, will be taxed in real time via the payroll. This will remove the requirement for the year end P11Ds to be prepared and new legislation will be introduced in order that the associated Class 1A NICs will be paid at the same time as the other payroll taxes, rather than in the July following the end of the tax year. It is estimated that this will save in the region of four million P11Ds being prepared.

Further announcements will be made, including how the excluded benefit in kind items will be reported, to provide additional guidance.

The challenge for employers will be to identify the cost of benefits being provided on a real time basis, in order that they can be processed through the payroll in each pay period.

Conclusions

As shown above, there are several changes which have come into effect. In addition, there are various other changes anticipated later in the year and, with an election shortly, if there is a change of Government, further employment related changes are likely to be announced.



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