# PAYE Settlement Agreement (PSA) process: CIOT, ATT and LITRG respond to consultation

**Employment Tax**

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HMRC published a short consultation in February 2018, looking at making changes to the PAYE Settlement Agreement (PSA) process to remove the requirement for employers to annually agree their PSA with HMRC and pave the way for a future online process. CIOT, ATT and LITRG responded to HMRC and while welcoming the introduction of ‘enduring agreements’ raised concerns around the removal of the reasoning for HMRC to cancel a PSA contained in the current legislation.

The PAYE Settlement Agreement (PSA) process allows employers to enter into an annual agreement with HMRC under which the employer makes a single payment in respect of the tax and national insurance due on qualifying small or irregular benefits-in-kind and taxable expenses received by their employees.

On 6 February 2018, HMRC published the draft Income Tax (Pay as You Earn) (Amendment) Regulations 2018 which would:

- Lift the current requirement on employers to renew their PSA annually by providing for an ‘enduring agreement’;
- Amend the regulations to allow for digitisation of the PSA process at a future stage; and
- Retain the current range of benefits-in-kind and taxable expenses which can be covered by a PSA.

## Enduring agreements

Presently, a PSA must be agreed annually with HMRC. Agreements can be made before, during or after the tax year but must be agreed before the following 6 July

for the tax year for which they apply.

The government has now introduced the concept of a PSA being an enduring agreement. The agreement, once entered into and agreed by the employer with HMRC, will continue to remain in place for subsequent tax years unless varied or withdrawn by the employer or cancelled by HMRC. This, therefore, removes the need for an annual agreement between the employer and HMRC.

The CIOT, ATT and LITRG have welcomed the introduction of an enduring agreement and consider this a sensible measure to reduce the administrative burden of the PSA process for employers, their agents and HMRC.

The CIOT added that at present the annual PSA specifies which benefits and/or expenses are included and for which employees. While many of the benefits and/or expenses included in a PSA will remain unchanged from one year to another, in many cases there will be ‘one-off’ benefits and/or expenses included in a particular year’s PSA. The CIOT, therefore, asked HMRC to clarify how an enduring agreement will deal with changes in the benefits and/or expenses, or changes in the make-up of the employees, from one year to another.

The ATT and LITRG added that, as employers may no longer be considering their PSA annually, clear guidance on the process for application, variation and cessation of enduring agreements will be essential for employers and their agents.

## Revised PSA process

At present, the circumstances in which a PSA can be cancelled by HMRC include a failure to produce records, pay tax on time, or file returns on time, etc. Under the revised PSA process either HMRC or the employer may cancel a PSA, and the reasons permitting HMRC to cancel a PSA contained in the current legislation are removed. While CIOT, ATT and LITRG agree that an employer should be able to cancel a PSA at any time, we think a cancellation of a PSA by HMRC is slightly different and should remain subject to ‘checks and balances’. Cancellation of a PSA without due cause could create disproportionate costs for employers and we, therefore, urged government to retain the circumstances as set out in the existing regulations.

## Range of benefits-in-kind

No changes are proposed to the nature and type of benefits in kind or expenses covered by a PSA, nor to existing deadlines. LITRG had raised concerns about a proposal to align the PSA payment date with the class 1A NIC payment date and the removal of the minor criterion, and, therefore, welcomed HMRC's response confirming no changes would be made. ATT added that HMRC should try to ensure that there is consistency between PSA teams within HMRC of what is eligible for inclusion in a PSA.

## Digitisation of the PSA process

CIOT and ATT were disappointed that there is no intention to digitalise the PSA system at present. The ATT added that there is an opportunity to improve the current paper application process by providing a central electronic mailbox to receive applications for enduring agreements and variation requests. LITRG added that, if and when an electronic process is introduced, to protect digitally excluded employers HMRC should only be able to use electronic communication to, for example, cancel an agreement where the employer has set up the PSA electronically.

The full text of the responses can be on the respective websites:

CIOT response

ATT response

LITRG's response