HMRC Employment Tax Fora meetings

Employment Tax

30 July 2020

This is a round-up of six recent HMRC employment tax related consultative forum meetings: the Employment and Payroll Group, the Expat Tax Forum, the IR35 Forum, the Pensions Industry Stakeholder Forum, the Student Loans Consultation Group and the Statutory Payments Consultation Group.

In this article, we summarise virtual meetings of six of HMRC's employment taxes related forums, which are attended by CIOT volunteers, from the quarter to June 2020. HMRC publishes the minutes of the meetings on GOV.UK in due course.

Employment and Payroll Group (EPG)

The group is the main HMRC forum for employment tax related matters and met on 3 June. There was a discussion of the second phase of the Coronavirus Job Retention Scheme (CJRS), where it was clarified that if grant claims had been made for 20, 30 and 40 employees the maximum claim for any period under phase 2 would be 40 employees, not 90. HMRC were encouraged to publish clarification on this and a number of other points.

The withdrawal of the residential occupiers' job-related living accommodation benefit-in-kind exemption was discussed and HMRC said that so far as they were aware the exemption was little used. We reminded HMRC that we had referred to the residential occupiers' exemption in its response to the call for evidence on living accommodation (December 2015) and that we had flagged potential issues; for example, regarding landed estates, boarding schools, etc. We also raised a related concern with retired employees continuing to live in residential occupiers' exempted accommodation. We are continuing our discussions with HMRC on the withdrawal of this exemption.
HMRC also explained that they were embarking on a sizeable project to ascertain

what was not working as effectively as it should for PAYE/RTI purposes; for example, their ‘trace and match’ for payments, adjustment of tax codes, effective data cleansing, etc. HMRC said that the expectation is that key issues would be prioritised for resolution. HMRC’s Liabilities & Payments viewer is being upgraded to show a seven year rather than only three year view for PAYE payments, which should help in resolving any disputed PAYE charges. We commented that more work still needed to be done on agent access.

Expatriate Tax Forum (ETF)

The forum met on 11 June and agreed to appoint a non-HMRC co-chair for the forum – congratulations to Steve Wade of Ernst & Young. There was discussion of outstanding queries on NICs and the two main issues HMRC are looking to get an insight into are:

- examples of how ITEPA 2003 s 62 payments for internationally mobile employees are handled in practice; for example, apportionment or an all or nothing approach; and
- the overarching practical operation of NICs on s 62 payments and employment-related securities chargeable events, with regards to double charges and the interaction with overseas jurisdictions.

The statutory resident test was also discussed in the context of COVID-19 related issues. It was felt that many employees may have difficulties with the tests because of travel restrictions or self-isolating requirements, etc. and this is being raised further.

IR35 Forum

The forum met on 22 May and there was an update from HMRC on the off-payroll working rules following the deferral of the start date for medium/large businesses from April 2020 to April 2021. HMRC will be ramping up communications on off-payroll working later on in the year and the CIOT will be engaging with HMRC in this respect.

Pensions Industry Stakeholder Forum (PISF)

This forum usually meets twice a year and the last meeting was on 22 April. There was a discussion of the temporary changes to pension processes as a result of

COVID-19 (these changes can be found in HMRC's monthly Pension Schemes Newsletters). The changes to the tapered annual allowance and increase in the lifetime allowance, as announced in the Budget, were also discussed.

There will also be a call for evidence on how to address the different outcomes for lower earners, depending on whether their employer's pension scheme uses the net pay or relief at source method of tax relief on their pension contributions.

Collection of Student Loans Consultation Group (CSL)

The group met on 2 June. There was discussion on the collection of postgraduate loans where HMRC advised that some employers were making deductions when HMRC's records indicate that the employee does not have a postgraduate loan. HMRC will be contacting those employers. HMRC also noted that some borrowers (employees) are selecting 'no' to having a student loan when completing the New Starter Checklist when they do have a student loan, apparently because their earnings will be under the repayment threshold. HMRC will improve guidance in this respect!

The Student Loan Company is reminding borrowers that have direct payment arrangements in place that if their income has reduced, for example as a result of COVID-19, they should contact them to agree a new schedule of payments.

Statutory Payments Consultation Group (SPCG)

The group met on 25 June and there was discussion on the new statutory sick pay reclaim scheme for those employers with fewer than 250 employees. Due to the need to bring this scheme in quickly, it was built as a standalone system rather than linking in with the existing RTI system. Feedback was that the system was working well, albeit that some employers were not appreciating that it is a reclaim of amounts which should already have been paid to employees and not an advance funding of amounts due to be paid.

The new statutory parental bereavement leave and pay scheme was introduced on 6 April and initial views were that the scheme was operating as intended.

HMRC also confirmed that off-payroll workers are entitled to statutory payments if their own company is making salary payments to the worker out of deemed earnings, assuming the relevant conditions are met. There is, however, no entitlement to statutory payments arising directly from the deemed employer

deducting NICs from deemed employment payments. Guidance on grossing up net payments from deemed employment payments received by the worker’s company and calculating entitlements will be published by HMRC. Where, for example, there is entitlement to statutory maternity pay, this means that the worker’s own company can usually reclaim 92% or 103% from HMRC.