EMPLOYMENT TAXES VOICE

Issue 7 – March 2022

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Chair,
Employment
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Welcome from the Chair

Welcome to this 2022 edition of Employment Taxes Voices. I hope that you and your family are keeping well after what has been another difficult year with all the challenges we have had to face with the pandemic. Let's hope there is now light at the end of the tunnel and that we can return to normality – even if normality is not quite what it was pre-pandemic.

Something that has changed a great deal is the way technology has allowed for home-working to an extent few would have imagined a couple of years ago. And indeed the government responded to the need to work from home by exempting (on a time limited basis) the reimbursement of the cost of home-office equipment by employers, and confirming that a deduction of £6 pw is available for employees for the cost of home-working (or more if appropriately evidenced). The exemption for home-office equipment was legislated by regulation, though Finance Act 2021 subsequently included other pandemic-related employment tax easements (concerning EMI schemes, cycle-to-work and coronavirus testing) which had to be dealt with via primary legislation, which is more cumbersome. Finance Act 2022 includes a measure to address this by permitting employment tax changes in situations of national disaster or emergency to be legislated (on a time-limited basis) by regulation. This is sensible, though one would like to think it won't be called upon for many years to come! In any event **Lee Knight** takes a closer look at how things stand on the tax reliefs available to employees who work wholly or partly from home on pages 5-11.

The National Audit Office recently published a report (Investigation into the implementation of IR35 tax reforms - National Audit Office (NAO) Report) on how effectively the OPW rules were introduced in the public sector and the extent to which lessons were learned in the subsequent rollout to the private sector. The House of Lords Finance Bill sub-Committee also held an enquiry into the private sector rollout (at which I gave evidence on behalf of the CIOT) and recently published its findings as well (Off-payroll working rules have resulted in an increased use of umbrella companies - Committees - UK Parliament). The fact that the accounts of a number of larger public sector bodies include significant financial provision for settlement of PAYE/NIC arising from OPW suggests that the rollout of OPW to the public sector left a fair bit to be desired. This said, the private sector rollout appears to have gone more smoothly, albeit after a year's delay due to the pandemic and not without significant cost for many businesses. And whilst HMRC's guidance and the *Check Employment Status for Tax* (CEST) tool is much improved, the reality is that defining 'employment' for tax purposes is not an exact science and can often involve a fair degree of subjectivity. Particularly given the increasingly fragmented nature of work these days, whereby people can be doing multiple jobs concurrently and with no set hours. This is borne out by the recent statistics for the CEST tool which record that it gives a 'cannot determine' result in some 21% of cases (Check Employment Status for Tax (CEST) usage data - GOV.UK (www.gov.uk)). In this light I think we should seriously consider codifying what we mean by 'employment' for tax purposes, whether or not this fully aligns with any definition that might (or might not) be introduced for employment law purposes. Indeed in its response to the *Taylor Review of Modern Working Practices* the last government committed to exploring this possibility, though with Brexit and the pandemic to contend with progressing this has inevitably been delayed (Government response to the Taylor review of modern working practices - GOV.UK (www.gov.uk) and Good work plan - GOV.UK (www.gov.uk)). **Nicola Pitcher** reviews the position on OPW in the public sector and the meaning of managed (contracted-out) services on pages 12-15. And **Sarah Hewson** considers OPW more generally and as regards the need for due diligence in the labour supply chain on pages 16-17.

As a result of the introduction of the OPW rules we have seen a marked increase in the number of workers being employed by 'umbrella companies'. Whilst the large majority of umbrellas are compliant with labour law and the PAYE/NIC rules, unfortunately some are not. HMRC issued a call for evidence on the umbrella company market in November 2021 which asked some thirty-eight questions on how and why businesses are increasingly engaging labour via umbrellas, as well as examining the position from the worker's perspective. Tighter regulation of umbrellas and protection of workers seems the likely way ahead and **Rob Woodward** examines the position more closely on pages 18-21.

Climate change is a pressing issue and government policy is increasingly and rightly focused on promoting the green agenda. From an employment taxes perspective this manifests itself most clearly in relation to the taxation of employer-provided electric company cars. Not only is there a very low BIK charge, and no equivalent of the fuel scale charge where an employer provides electric charging facilities on site or via a local authority charge card, but the OPRA anti-avoidance rules on salary sacrifice are specifically disapplied. **Peter Moroz** explains where we are on electric cars on pages 22-25, and **David Chandler** updates us more generally on company cars on pages 26-29.

Overseas Workdays Relief (OWR) has been around for many years, though many would argue the time is ripe for streamlining and simplifying it. For example, if we want to encourage people to spend money on UK goods and services, why deny relief when pay for work done abroad is paid or remitted here? In any event **Steve Wade** takes a closer look at OWR on pages 30-33.

To round things off **Susan Ball**, **Carolyn Brown** and **Paul Marcroft** discuss compliance activity surrounding the Coronavirus Job Retention Scheme (CJRS) on pages 34-40. Although HMRC deserve credit for the speedy implementation of the CJRS, they nevertheless acknowledge that c8.7% of employer claims were overpaid due to error or fraud. HMRC is now chasing up and it's key that employers carefully review their claims to ensure that all is in order.

I thank all those who have contributed to this edition of Employment Taxes Voice and I hope very much that you will find it a worthwhile read. The Employment Taxes Committee has been very busy throughout the last year, both with HMRC consultations and in making proactive representations on a range of issues. If you would like to get involved in shaping the agenda on employment taxes in the months and years ahead please let me know.

Colin Ben-Nathan

Chair, Employment Taxes Committee

Homeworking and hybrid working – the employment tax considerations

Lee Knight considers the key UK employment tax issues associated with employees working from home.

The coronavirus pandemic has significantly changed the way we work. Homeworking has become the norm for employees who previously spent all or almost all of their time in offices. Millions of us are now working from home for 2 or 3 days each week and spending the rest of the working week in the office. Homeworking and hybrid working appears to be here to stay.

Employers who adopt hybrid and homeworking should establish and communicate to employees a clear homeworking and hybrid working policy.

What employment tax issues should be considered?

When determining that policy, it is important that employers consider the employment tax and NIC implications of the homeworking expenses and benefits they agree to meet the cost of, and whether the employee is working from a home overseas. Whilst we had some relaxations due to the coronavirus pandemic these are due to end on 5 April 2022.

From an employment tax and NIC perspective, there are arguably four key areas that come up regularly:

1. The provision of home office equipment;
2. The payment of additional household expenses;
3. The payment of travel costs when employees based at home travel into the office; and
4. The implications of homeworking from overseas.

Can home office equipment be provided tax and NIC free?

Potentially yes.

Clearly, employees may need additional equipment (such as an office chair, desk, printer, scanner, keyboard and monitor) over and above their laptop to work from home effectively and safely.

Under Section 316 ITEPA 2003 if an employer purchases (that is, the employer owns) and makes such home office equipment available to employees working from home then no taxable benefit arises provided that:

- The equipment is provided for the sole purpose of enabling the employee to perform their duties of employment; and
- The employee uses the equipment to perform their duties of employment, and the private use of the equipment by the employee is insignificant.

In those circumstances no Class 1A NIC will arise on the benefit also.

Additional important points to note on this include:

1. If the employer has a mixed motive in providing the equipment (that is, the motive is partly to enable the employee to perform their employment duties and partly so the employee can use the equipment privately) the exemption will not apply.
2. Insignificant private use is not defined in legislation. However HMRC's guidance makes it clear HMRC will accept that the insignificant private use test is met where:
    a. an employer's policy about private use is clearly stated to employees;
    b. the policy clearly sets out the limited circumstances in which private use may be made of the equipment; and
    c. Any decision by the employer not to recover the costs of private use is a commercial one (for example, the decision is based on the impractical nature of doing so, rather than to reward the employee).
3. The exemption will not apply if the arrangements are part of a salary sacrifice or optional remuneration arrangement.
4. The exemption is conditional on the employer retaining ownership of the equipment. A tax and NIC liability may arise if and when ownership of the equipment passes to the employee, so care needs to be taken when old equipment is updated or replaced, or the employee returns to work at the office full time and no longer needs it to work from home.

What about where the employee purchases home office equipment and the employer reimburses the cost?

Section 316 ITEPA 2003 cannot normally apply where an employee buys home office equipment personally and the employer reimburses the cost to the employee.

However, as part of coronavirus support measures that applied from 16 March 2020 the government announced a temporary tax and NIC easement which was subsequently extended until 5 April 2022. This easement ensured relief of the tax and NIC liability where an employer reimburses employees for home office equipment the employee purchased and:

- Reimbursement is made for the sole purpose of enabling the employee to work from home as a result of the coronavirus outbreak;
- The equipment would have been exempt if it was provided by the employer;
- Private use is insignificant; and
- The employer's offer of reimbursement is available to all its employees on similar terms.

If the employee returns to work and retains the equipment, HMRC have confirmed that no benefit in kind will arise as there is no transfer of ownership from employer to employee.

What about employees' other household expenses?

Employers should decide whether it is appropriate to contribute towards the additional household costs employees may incur when they are working from home. These types of costs can include additional heating and lighting costs, increased water charges, and additional telephone costs.

Under Section 316A ITEPA 2003 and paragraph 9 of Part 8 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (SI 2001 No 1004) where an employee works from home regularly under a homeworking arrangement with their employer, the employer can pay any one of the following free of tax and NIC:

- The actual reasonable additional household expenses the employee incurs as a result of performing their employment duties at home; or
- The HMRC tax and NIC-free allowance of up to £26 per month (for monthly paid employees) or £6 per week (for weekly paid employees); or
- A higher scale rate payment, agreed with HMRC in advance, which is calculated to do no more than reimburse the average additional costs that employees meet while working at home.

Additional important points to note on this include:

1. The advantage of paying the HMRC £26 per month/£6 per week tax and NIC free rate is that there is no need for the employer to justify the expenditure, and no need for the employee to provide evidence of their actual additional costs.
2. It is recommended that where the employer does pay the tax and NIC-free allowance, a process is put in place to periodically assess whether the employees receiving it are still regularly working from home.
3. Where the employer reimburses the actual additional household expenses the employer must be able to justify the expenditure and so the employee must provide records. Furthermore the exemption for actual costs does not extend to:
    a. Fixed costs unrelated to whether the employee is working from home (for example, mortgage interest, rent, and council tax), and
    b. costs that merely put the employee in a position to work from home (for example, building alterations).
4. Where the employer reimburses the actual additional household expenses broadband costs can only be reimbursed where they are additional. This means when the employee does not have an internet connection but then needs a broadband connection to work from home or the additional cost of an upgraded broadband connection where they need to upgrade their broadband to work from home.
5. In all cases there must be a formal homeworking arrangement in place under which the employee works from home regularly. HMRC guidance states that they will accept an employee is working from home regularly where it is frequent and follows a pattern, and the employee agrees to and actually works at least two days each week at home. HMRC will still consider it to be regular even if the employee varies the two days which they work at home each week.
6. While the HMRC guidance states that homeworking arrangements need not be in writing it is best practice to document the arrangement for tax and NIC purposes as informal working at home which is not by arrangement does not count as homeworking for these purposes.
7. During the coronavirus pandemic and when government guidance was in place, HMRC accepted that where employees were working from home because their employer's offices had closed or because the employee was following advice to self-isolate, this met the homeworking arrangement requirements.
8. HMRC also confirms that no apportionment of the £6pw/£26 per month is required if the employee works from home for only part of the week. Per point 5 above, HMRC guidance states that the employee must agree to and actually work at least two days each week at home.

What happens when an employer does not meet the cost of an employee's additional household expenses?

Where an employer decides not to meet the cost of their employees' additional household expenses, the employees cannot automatically claim tax relief personally on those household expenses. This is because, under normal rules, the employee can only claim tax relief if the costs are incurred wholly, exclusively, and necessarily in the performance of their employment duties and that usually requires the employee to show that their home is a workplace for tax purposes (which is difficult).

However, because of the coronavirus pandemic and for the 2020/21 and 2021/22 tax years only, HMRC temporarily allowed employees in that situation to make direct claims for tax relief for those tax years where, at any point in each of those tax years, they were working from home because their employer required them to and they incurred additional household costs as a result.

Employees are able to make claims for tax relief for the full tax year even if they were only required to work from home for part of the year as lockdown restrictions eased or if they only worked from home on a part time basis. Under this temporary measure employees could claim either:

- The actual reasonable additional household expenses they incur as a result of performing their employment duties at home, but they must be able to justify the amount claimed; or
- An amount of up to £26 per month (for monthly paid employees) or £6 per week (for weekly paid employees), without having to justify the amounts claimed.

Given that claims for tax relief on household expenses can be made up to 4 years after the end of the tax year they relate to, there is still time to make claims for earlier years if they have not been made already.

For further information see:

- Claiming tax back on home working expenses | Low Incomes Tax Reform Group (litrg.org.uk); and
- Claim tax relief for your job expenses: Working from home - GOV.UK (www.gov.uk)

What about travel expenses when our homeworkers and hybrid workers travel into the office?

A key consideration when moving to a homeworking arrangement is whether the employee should meet the cost of the employee's travel between their home and the office when they do travel into the office. This is of particular relevance to hybrid working arrangements.

The tax and NIC treatment of employees' travel expenses can be complex and is particularly difficult to apply practically to modern working practices such as hybrid working.

Section 337 ITEPA 2003 first needs to be considered. Section 337 ITEPA 2003 allows tax relief for travel expenses necessarily incurred in the performance of the duties of employment, including when the travel is between an employee's home and work (for example, an office) and their home is a workplace (for tax purposes) because the place where the employee lives is dictated by the requirements of their employment.

The problem with applying Section 337 ITEPA 2003 to hybrid working is that in many cases home working is a personal choice and the location of the home isn't dictated by the requirements of the job, meaning that HMRC will not regard the home as a workplace. Section 337 ITEPA 2003 is therefore unlikely to apply to the majority of homeworking and hybrid working arrangements.

Section 338 ITEPA 2003 then needs to be considered. Section 338 ITEPA 2003 allows tax relief for travel expenses for the necessary attendance at any place in the performance of the duties of employment. To determine whether tax relief is due under Section 338 ITEPA 2003 we need to consider whether the employee is travelling to a permanent or temporary workplace.

Broadly speaking, a permanent workplace is a place that an employee attends regularly to perform their duties, where their attendance is frequent and follows a pattern. A journey between an employee's home and a permanent workplace is regarded as ordinary commuting and tax relief is not due on travel expenses attributable to such journeys.

A temporary workplace is a workplace an employee attends only to perform a task of limited duration, or for a temporary purpose. Where the purpose of each trip is for a self-contained particular purpose (rather than a series of visits to the same workplace for the continuation of a particular task) it is likely that the workplace is being visited for a temporary purpose.

However there is then a special rule that treats a workplace that would otherwise be a temporary workplace as a permanent workplace where an employee spends or is likely to spend more than 40% of their working time at that workplace over a period that lasts or is likely to last more than 24 months. These rules, prior to the pandemic, were often considered by HMRC as part of compliance reviews and we had seen many more challenges by them on the application.

A necessary journey between an employee's home and a temporary workplace is regarded as business travel and tax relief is available on travel expenses attributable to such journeys.

If the employee still has to be in an office for part of the week, then the office is likely to remain as their permanent workplace. This might be because each visit is part of a series of visits to the same workplace for the continuation of a particular task, or because the 40% working time threshold is exceeded. In this situation, unless their home is also a workplace for tax purposes (which is unlikely – see above), their travel into the office each week is regarded as ordinary commuting. Where an employer reimburses such home-to-office ordinary commuting expenses, the expenses will be taxable and liable to NIC.

This is, however, a complex area and the circumstances may differ for different employees or groups of employees. Each case therefore needs to be considered based on its own circumstances. For example, HMRC's guidance in paragraph 3.38 of Booklet 490 suggests that where an employee works at home as an objective requirement of their employment on a certain day each week, that tax relief can be given if they unexpectedly travel between their home and their permanent workplace on that day because it is regarded as travel between two workplaces.

Whatever the circumstances, it is important that employers reassess the position as a result of a move to hybrid working, update their expense policy and (where necessary) employment contracts with employees.

What about where an employee's home is outside of the UK?

When coronavirus lockdowns first took effect, many employers had employees who were in overseas jurisdictions and couldn't get back to the UK, and many of those employees have still not returned to the UK.

In addition, as homeworking increasingly becomes the norm, many more employees are now asking their employers if they can work from a home overseas. This could range from a request to extend a holiday overseas so that the employee can work from that location for a short period of time, to a request to work permanently from a home overseas.

Furthermore, with a high demand for, and a short supply of, skilled workers for certain roles in the UK, many UK employers are having to recruit employees from outside the UK to fill vacancies

These factors have all led to an increase in global remote working.

Global remote working can result in several complex tax and social security considerations in the overseas country the employee is working in. For example, where an employee works overseas for a UK employer this potentially causes:

- Personal tax obligations for the employee overseas;
- Wage withholding obligations for the UK employer overseas;
- Social security obligations for the UK employer overseas; and
- Corporate permanent establishment implications overseas.

This is not to mention employment law, immigration, and other cyber security/data protection issues overseas

There could also be UK tax and NIC implications where the employee either remains resident in the UK for tax purposes and/or performs some of their employment duties in the UK and some overseas. In those circumstances the UK employer may (for example) need to consider:

- Whether they need to obtain a direction under Section 690 ITEPA 2003, allowing them to operate PAYE on a non-resident employee's earnings for estimated work in the UK;
- Whether UK NIC is due on their earnings, and whether they need any documentation to evidence this (for example, a certificate of coverage or an A1 certificate); and
- The tax and NIC treatment of any travel, subsistence, and accommodation expenses they might meet when the employee travels to the UK to perform their duties of employment.

It is vital that UK employers understand the full tax and Social Security/NIC implications of such arrangements in the UK and overseas before agreeing to these arrangements.

Summary

In summary, homeworking and hybrid working appears to be here to stay for many employers and employees. This change will inevitably result in changes that could have an impact from an employment tax and NIC perspective (for example in relation to home office equipment costs, employees' additional household expenses, travel expenses, and global remote working) and it is important that employers properly consider the employment tax implications.

Lee Knight

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Off-payroll working rules – what do we mean by a 'managed service'

Nicola Pitcher looks at the off-payroll working rules and considers what is meant by a managed (contracted-out) service.

The reforms to the off-payroll working rules (IR35) were initially rolled out to the public sector in 2017 with the intention of allowing allow government bodies time to put their own house in order and for HMRC to learn lessons before extending change to the private sector. In April 2021, after some further amendments to the rules and a one-year deferral due to the Covid-19 pandemic, the government eventually extended the new off-payroll regime to medium and large organisations in the private sector.

NAO report and non-compliance in the public sector

In February 2022 the National Audit Office ("NAO") reported on its investigation of the implementation of the 2017 reform in the public sector. The report identifies that public bodies had little time to prepare for the new rules. The government did not announce its decision to proceed with the changes until November 2016. HMRC guidance was not published until February 2017 and the full version of CEST was not available until March 2017. Both HMRC's guidance and the CEST tool proved to be particularly problematic and public sector bodies struggled to comply. It is therefore not surprising that implementation errors by public sector departments are now coming to light. The NAO report reveals that the 2020-21 financial statements of government departments and agencies include a total of £263 million paid, owed or expected to be owed to HMRC in additional tax and NIC as a result of non-compliance with the new regime.

This focus on non-compliance in the public sector has centred around incorrect status assessments with substitution and financial risk being the main problematic factors. On substitution, HMRC have found that in completing the CEST tool, hiring managers were not aware that government contractual frameworks gave them a right to reject a substitute. It is understood that public bodies have or are now taking steps to address non-compliance. As a result, many contractors engaged in the public sector previously assessed as "outside IR35" have been re-assessed as "inside IR35" and moved onto PAYE contracting arrangements. This shift of contractors is now causing some public bodies to question whether there is additional IR35 risk around "managed service" arrangements. This could be because contractors group together to supply their services as a "managed service provider" or they may seek to be re-engaged via a managed service contract that the public body has with another supplier. The challenge for the public body is to determine whether the managed or "contracted-out" service contracts that they have are genuinely outsourcing arrangements or whether there is a supply of resources which might present them with IR35 obligations and potential liabilities.

HMRC guidance

HMRC's guidance on contracted-out services at ESM10010 is relatively brief. The guidance explains that the responsibility for assessing a worker's status under the IR35 legislation (except in the case of small private sector organisations) sits with the end client of the worker's services. Where a service is fully contracted-out to a supplier, the worker will supply their services to that supplier who will be their end client for IR35 purposes.

HMRC's guidance goes on to say that "*whether a contract is for a fully contracted-out service is a question of fact, based upon the commercial reality of the arrangements. Care should be taken to ensure that a labour supply contract has not simply been re-labelled as a managed service.*"

Relevant factors to consider, according to HMRC, include the following:

1. The nature of the businesses

   In HMRC's view, "*where the type of service provided by the worker aligns closely with the nature of a business (or a department within a business), this will be an indicator that the business is the client.*" They give an example of a cook working for a catering firm. In practice, it is probably more useful to understand what is being supplied, and the nature and structure of the supplier's business to assess whether it is capable of being a contracted-out service. For example, is there a management structure in place which allows the supplier to take full ownership of its deliverables and to manage and direct its personnel?

2. The nature of the service provider's contract

   According to HMRC, "*where a service has been fully contracted-out, the service provider will usually have responsibility for agreeing the specification of the service and ensuring the quality of the service.*" The wording here is a little unclear, but I take it to refer to the specification and quality of the service being provided by the worker via their intermediary to the service provider. Where a business, or public body outsources a supply they would typically provide the specification and would also quality control the service being provided by the service provider via KPIs etc.

   "*A fully contracted-out service will often involve the provision of goods and materials, as well as labour.*" This may be true in some sectors, but is less relevant in service industries and often may not be practical in IT environments where for security reasons the end user's systems and equipment need to be used.

   "*A service provider will usually have an opportunity for profit, beyond taking a percentage of the worker's fee, where a service is fully contracted out.*" Yes, it is important to distinguish a service provider from an agency where the agency takes a percentage based on the worker's pay rate. However, in service industries it can be quite usual for the provider's fee to be calculated using an hourly or daily rate for its personnel. There is obviously greater risk to the supplier where their fee is fixed rather than being charged on a time basis and hence the arrangement is more capable of being outsourcing.

3. The relationship between the worker, the service provider and their customer

   This is critical in identifying who the worker is personally providing their services to as that entity will most likely be the end client from the worker's perspective and for IR35 purposes.

   HMRC go on to say, "*the extent to which the service provider or their customer control the worker, benefit from the provision of their services, bear risk, and integrate the worker into their business will all be relevant.*" Whilst I agree with this statement, how useful is this guidance to the business or public body examining a contract and trying to assess whether, or not, it is a fully contracted-out service? In my view, this guidance does not go into sufficient detail. Yes, HMRC do provide some case studies, but they are relatively black and white.

HMRC conclude by saying that, "*when having regard to the factors, the actual working practices must be taken into account as well as contractual terms. Contractual terms alone will not decide the matter, they must also be followed in practice to have weight in making a decision.*"

Further examination of working practices

As HMRC recognise, the relationships between the parties and the actual working practices must be taken into account in assessing whether or not a contract is for the supply of contracted-out services. In practice this assessment may not be as easy as HMRC's case studies suggest. Some public bodies have complex programmes, particularly in the digital arena, involving multiple suppliers, complex systems and varying levels of civil servant involvement.

Where a contracted-out service is being provided, the supplier will have sole responsibility for and ownership of the delivery and will provide all instructions and direction to their workers on a day to day basis. This may include prioritising tasks, methodologies to be adopted or instructions on how to perform the work and when and where the work should be delivered. The public body will sign off that the quality of deliverables are as expected; that milestones and KPIs are met etc., but will have no day to day operational involvement and will not have any control, directly or indirectly, over the workers' activities.

However, in practice, it is not so straightforward. For example, public bodies are required to use an agile approach to project management when building and running digital services. Agile methods encourage teams to build quickly, test what they have built and iterate their work based on regular feedback, typically involving two weekly sprint cycles and daily stand up meetings to manage progress. The agile approach means the supplier and the public body will often work in a collaborative fashion which increases the risk that the public body may be tempted to exercise a degree control and direction over the supplier. Agile teams may also include a blend of different supplier staff and civil servants working on different aspects of the project and with different areas of expertise. A careful examination of the operational interaction between the parties and the project dependencies is needed to assess whether a supplier has full ownership and responsibility for their deliverables such that their contract is capable of being outsourcing, or alternatively whether the public body has simply put together a team of experts that they are managing.

Some suppliers have been working with public bodies over many years and have in-depth experience of their systems, possible having been involved in building and/or be-spoking them. This brings greater risk of dependency on the supplier and of their personnel becoming an integral part of a public body's teams. Further, if and when the public body decides to bring the service in-house there is likely to be collaborative working to facilitate knowledge and skills transfer. There may also be operational teams comprising a blend of civil servants and supplier staff.

These are just a few examples of situations where it may be difficult to determine who the end client of a worker's services is. The public body will need to understand at quite a detailed level where control and direction is being exercised and by who; what the supplier is responsible for delivering; and whether the arrangement is capable of being outsourcing.

This is a complex area that public sector and no doubt private sector organisations too are addressing. It is hoped that HMRC guidance will be stepped up to give greater comfort that organisations are reaching conclusions with which HMRC will agree.

Nicola Pitcher

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Chain, Chain, Chain (of Supply): Due Diligence of Labour Supply Chains

Sarah Hewson examines end client due diligence on labour supply chains

The extension of the IR35 rules to the private sector with effect from 6 April 2021 has highlighted the need to undertake due diligence on labour supply chains. This has been emphasised by HMRC's increased focus on umbrella company arrangements (broadly, the legal employer of a worker providing their services to a client of the umbrella company), in particular arrangements which it believes have been used to facilitate fraud and tax evasion. Whilst the vast majority of organisations availing themselves of the services of workers (referred to as end users) are not willing participators in fraudulent arrangements, the risk of being so involved is increased where sufficient and robust processes are not in place.

Outside of the IR35 rules, the interaction between labour supply chains and tax legislation is getting increasingly complex with, for example, the introduction and amendment of rules around agency/ temporary workers, the evolution of gig workers and an increase in cross-border working.

Understanding and auditing supply chains as a whole has been growing in importance, as demonstrated by the introduction of the corporate criminal offences (CCO) of failing to prevent the criminal facilitation of UK and foreign tax evasion (Sections 44 and 45 of the Criminal Finances Act 2017) effective from 30 September 2017, which requires businesses to assess the CCO risk in supply chain relationships.

While there are many good reasons why businesses should have policies and processes in place to understand and document labour supply chains, given the reputational, contractor relationship and financial risks associated with non-compliance to end users (and potentially other parties in the supply chain), this is particularly crucial when considering potential obligations under the IR35 rules.

As a first step organisations should take steps to understand and document every party in the supply chain between the end user and the individual worker, the type or nature of each entity (for example, a company, partnership, individual) and where that entity is based/resident (in particular whether this is inside or outside the UK).

HMRC has published guidance on supply chain due diligence in respect of labour supply chains (see https://www.gov.uk/government/publications/use-of-labour-providers), which includes an overview of the basic supply chain due diligence principles (check, act and review), with some pointers on how these might be applied in a labour supply context. A key part of HMRC's guidance is verifying the legitimacy of entities in the supply chain by considering, for example, the commerciality and credibility of the supply, payment arrangements and other surrounding circumstances.

Though HMRC's suggestions are helpful, some information is easier to gather than others. This problem is exacerbated where one or more entities are not resident in the UK where the same level of information as that for UK companies (for example, via Companies House) is not always as freely available. This is further complicated when it comes to undertaking checks in relation to individual workers. For example, whilst reviewing payslips may have some merit, leaving aside whether the end user has any ability to request sight of such a confidential document in the first place and any potential GDPR issues, any payslip presented does not necessarily reflect what tax or National Insurance has actually been withheld from the worker and/or remitted to HMRC. Even if it does, this is merely a snapshot of that particular pay period and does not necessarily demonstrate the ongoing position. HMRC's suggestion that the PAYE reference quoted is reconciled back to the employing entity is not entirely helpful given that such references are not published/publicly available, such that it is difficult to independently verify this.

Despite the difficulties with putting HMRC's guidelines into practice, end users do need to take steps to understand any risk within the labour supply chain. Which checks are relevant and how often they should be undertaken will depend on a number of factors, including what is reasonable and proportionate for the business given the number and value of payments made to off payroll workers that are not directly engaged by the business.

Some checks will be relevant for all arrangements (such as those outlined above) but given the time-consuming nature of many of the checks suggested by HMRC, businesses could consider implementing a multiple layered process with certain checks being undertaken for all entities, with further checks being undertaken for more complex/higher risk supply chains (for example those where one or more entity in the chain is outside the UK).

Whatever approach businesses take, it is crucial that an approach is devised and implemented to best enable businesses to understand the supply chain, identify any potential obligations for the business and ensure those obligations are met. Given the ever increasing complexity and evolution in this area, any process devised should be regularly reviewed and refreshed where appropriate.

Useful Links

Check how to reduce your risk of using an umbrella company who operates a tax avoidance scheme - GOV.UK (www.gov.uk)

Supply chain due diligence principles - GOV.UK (www.gov.uk)

Call for Evidence: umbrella company market - GOV.UK (www.gov.uk)

Working through an umbrella company - GOV.UK (www.gov.uk)

Sarah Hewson

Having previously practised as a tax lawyer at an international law firm, Sarah moved away from law to specialise in employment taxes. As well as feeding into technical tax consultations and policies, Sarah utilises her broad range of skills to advise clients on key employment tax related issues. Sarah has an active role in the CIOT/ATT, sitting on CIOT Council and various committees, including the Employment Taxes Committee, as well as being Chair of Membership & Branches.

Umbrella companies – why labour supply chain due diligence is essential

Robert Woodward looks at umbrella companies and the risks for end clients of their non-compliance.

Background

With the rise of flexible working, partly in response to changes in tax and employment law legislation, there have been changes in how organisations are resourcing their people. Consequentially, there has been a growth in more non-traditional worker models for organisations to contract with workers. This has meant the usual, well-established PAYE/NIC obligations for an organisation employing its employees have become more complicated.

Over recent years there has been a marked growth in alternative models and platforms as the gig economy has developed. This growth has been driven by business need for a flexible, immediate workforce to meet resourcing needs, but also by the workers themselves – often due to lifestyle choices. As a result of these developments, the lines sometimes appear blurred between what are the PAYE/NIC obligations of a traditional employer and those of an engager choosing alternative resourcing solutions to fill vacancies.

In particular, there has been an increase in the use of umbrella companies. While they have been a labour supply option since turn of the century, originating as they did from a response to the original intermediaries' legislation (IR35), it is apparent that they have become increasingly prevalent in light of the IR35 reforms in first the public sector (2017) and more recently in 2021 for organisations that are not considered "small".

Operation of an umbrella company

The term 'umbrella company' is something of a catch-all as there is no statutory definition of umbrella company and umbrella companies operate in different guises. Ultimately, businesses operating as umbrella companies will fall into three categories.

The first, and most common, category is that the umbrella company is an employer of a worker providing services to a third party under the terms of an agreement between that employer and either the third party or another organisation in the labour supply chain, such as an agency.

The second category is where the umbrella company is not the legal employer of the worker but acts as a payroll intermediary and processes payments for payroll purposes, operating PAYE and National Insurance as appropriate.

The third category is where the umbrella company is a payment facilitator, simply acting as a conduit for payment from the end client to the worker, without treating the worker as an employee for either tax or legal purposes (for example, engaging self-employed workers under the construction industry scheme).

Other models, such as Professional Employer Organisations (PEOs) and co-employment are becoming more popular and carry many of the same potential risks as placing workers with umbrellas even though they aren't materially different and are often marketed as being fully compliant.

Typically, under an umbrella company structure, the client business will contract with an agency for a worker's services. The agency will not pay the worker directly, instead contracting with an umbrella company. The agency will invoice the client to cover both its own fee for placing the worker with the client business and the costs of paying the worker – the latter portion will then be paid to the umbrella company. The umbrella company will meet its costs out of the amount it has received from the agency. On the basis the umbrella company is treating the worker as an employee, these costs will include:

- payment of wages to the worker;
- administration costs (sometimes charged separately to the worker by the umbrella company);
- employer NICs (these cannot be deducted from the worker's earnings because of statutory prohibitions);
- employer workplace pension contributions;
- holiday pay that the umbrella company is liable to pay to the worker;
- apprenticeship levy contributions; and
- (from 6 April 2023) employer contributions towards the new health and social care levy (with increased NICs for 2022/23).

The amount paid to the worker will often be referred to as the 'contract rate' or 'pay rate' and should be set out in the employment contract. This amount will be the gross amount. As the umbrella company is the worker's employer, the umbrella company will be required to deduct any income tax or NICs that are due from the worker's earnings under the PAYE system. Other deductions may also be made, for example, in respect of worker pension contributions.

Care needs to be taken to ensure that it is clear that any contract rate contains various employment costs that will be deducted before the worker receives their gross pay.

Are umbrella companies compliant?

The short answer is potentially yes – but it requires due diligence to understand what potential risks need to be considered and to what extent those risks are likely to manifest themselves in your circumstances.

Firstly, umbrella companies are often considered a "solution" to the challenges of IR35 but actually may just be moving the PAYE/NIC obligation along the labour supply chain. If a worker is engaged by an end client through what is understood to be an umbrella company, but the contractual arrangements are such that the engagement between the worker and the umbrella company is through a Personal Service Company (PSC), IR35 will still be relevant.

Organisations sourcing workers through an umbrella company must, therefore, exercise caution whenever PSCs are part of the labour supply chain even if a tax compliant umbrella company is another intermediary in the chain. This is because, while it is likely the umbrella company will be the 'fee-payer' for IR35 off-payroll purposes (as it will be the entity which makes payment to the PSC), the organisation will still be under an obligation to undertake an employment status assessment.

Furthermore, the organisation will also want to ensure it has the ability to communicate the conclusions of that assessment that to the worker (and the umbrella company if the end client contracts directly with it) via a status determination statement (SDS). If the organisation has concluded that the arrangement falls within the IR35 off-payroll provisions, the umbrella company becomes required to operate PAYE and account for NICs on payments made to the PSC (see ITEPA 2003 section 61N(3)–(5), (8A)) but only when the SDS has been made and passed to the worker and umbrella company. Until that happens the organisation remains liable for any PAYE and NICs due and, potentially, remains liable if the umbrella company fails to operate PAYE and NICs correctly even if the SDS has been made and communicated.

Where IR35 is not in issue, other legislation that could still impact on the engagement with umbrella companies, for example because of:

- the managed service company legislation (ITEPA 2003 Part 2 Chapter 8);
- the changes to the employment intermediary regulations (ITEPA 2003 section 44);
- charges for travel and subsistence expenses for employment intermediary workers who are subject to supervision, direction or control (ITEPA 2003 section 339A);
- offshore intermediaries (ITEPA 2003 section 688);
- disguised remuneration (ITEPA 2003 Part 7A) through the use of contractor loan schemes.

All of these areas can result in significant liabilities if not handled correctly.

Due diligence is also important to gain comfort around ensuring fraudulent practices are not being undertaken in the supply chain: for example, the well-publicised cases of mini-umbrella companies set up to artificially claim the Employers' Allowance.

There is also a personal liability risk, most clearly demonstrated in the recent case of *Umbrella Care* v *Nisa* ([2022] EWHC 86 (Ch) where an umbrella company collapsed owing £36m to HMRC, in particular PAYE/NIC deducted from wages paid to workers (some of whom were actually being treated as self-employed) but not remitted to HMRC. The liquidators of the company were successful in reclaiming some of the unpaid debts from the directors who had extracted the funds for their personal benefit.

Whichever category the umbrella company falls into (and therefore the extent to which a PAYE/NIC risk exists), other considerations will apply regardless. Organisations engaging with umbrella companies need to understand who is being paid, and what structures are involved in order to gain comfort that there is no tax evasion involved in the processes undertaken in engaging with the worker. If they don't, there is a risk of failing to meet their obligations under the Criminal Finances Act 2017 and may fall within the strict liability corporate criminal offence of the failure to prevent the facilitation of tax evasion.

For larger businesses, that lack of due process and controls also brings into scope compliance failures under the Senior Accounting Officer legislation. However, businesses of all sizes need to be aware of the reputational, financial and even criminal risks at stake.

Future developments

The coming years are likely to see greater scrutiny and regulation of umbrella companies.

In 2021 the department for Business, Energy & Industrial Strategy brought the Gangmasters and Labour Abuse Authority, the Employment Agency Standards Inspectorate and HMRC's National Minimum Wage together under a single enforcement body. Under the stewardship of Margaret Beels (the director of Labour Market Enforcement) the new body will review labour supply models. Labour supply chain due diligence will, therefore, be undertaken by a regulatory body and also feature as part of expected business strategy.

In addition, HMRC recently issued a call for evidence on umbrella companies, principally from businesses engaging with umbrella companies, asking questions around what labour supply chain due diligence is carried out by businesses. While we wait to see what changes come out of this consultation, it is clear that HMRC is paying attention and will continue to pay attention as they recognise that alternative labour supply models, from agencies to umbrella companies and platforms in the gig economy, have proliferated in recent years (especially since the IR35 reforms) increasing the risk of compliance failures.

Whether this leads to full regulation or a more formal basis for labour supply chain due diligence remains to be seen, but what is clear is the direction of travel towards greater scrutiny.

Rob Woodward

Rob is an Associate Director in BDO LLP's Global Employer Services. He has twenty years' experience of advising employers on matters such as employment status, off-payroll working, furlough grants, termination payments, internationally mobile employees, HMRC enquiries and employee expenses and benefits. Rob's clients include organisations in the private, public and not for profit sectors, but with a particular focus on those operating in the recruitment sector. Rob is an ATT fellow and a CIOT member and can be contacted on robert.x.woodward@bdo.co.uk.

Electric Cars – reimbursement of employee expenses

Peter Moroz looks at the tax complexities that arise when recharging an Electric Vehicle used for business travel

The Advisory Electric Rate increased on 1 December 2021 from 4ppm for 5ppm for the reimbursement of business mileage. But reimbursement for business mileage is the tip of the iceberg when it comes to tax questions.

Electric cars are becoming ever more popular. They are a key part of the Government's Net Zero Carbon initiative. So, one would expect it easy to find clear guidance on all of the tax issues relating to the charging of electric cars.

However, this is not the case. The HMRC guidance on the income tax is complex and also regrettably does not always seem to match what the law says.

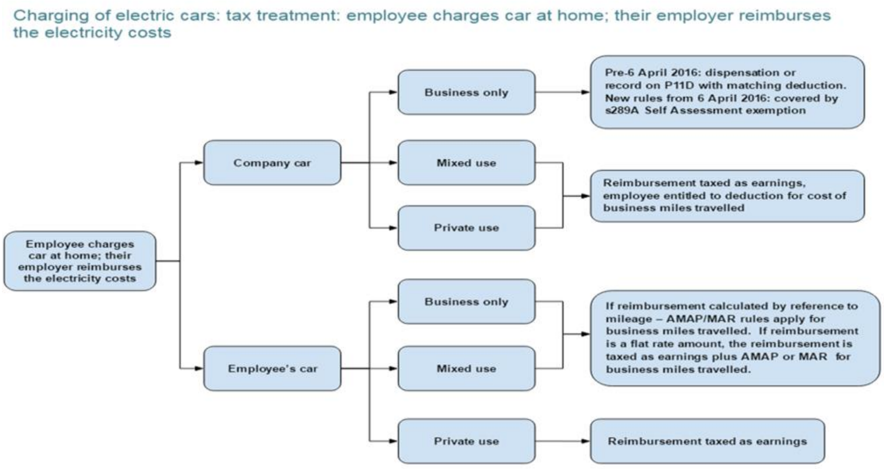
HMRC guidance

The HMRC manuals try to give comprehensive guidance. When I look hard enough, I find a large table coupled with 3 further flowcharts. I already get the feeling this is going to get complicated!

The guidance is set out like this because there are so many different combinations and fact patterns just on the question of the electricity provided (not including the provision of a home charging point):

- Company car or employee-owned car
- Electric car or hybrid
- Business use only, private used only, or a mixture
- Workplace charging or home charging or motorway charging
- Provision of electricity or reimbursement of electricity costs

The chart below is one example of what HMRC provide and relates to the reimbursement of electricity expenses. There are separate charts for workplace charging and for the provision of electricity by an employer where charging takes place at home.



The chart seems comprehensive on the face of it but there are some oddities when you look at it closely.

For example, suppose an employer pays an employee (who has their own electric car) for their home charging electricity cost of £1,000 including VAT during the tax year. The employee happens to have driven 8,000 business miles. The chart says that:

- If the employer paid the electricity bill without calculating it by reference to mileage (or do they mean business mileage?), then the whole amount is taxable and subject to NIC (although the employee can claim Mileage Allowance Relief for tax but not NIC).
- If the employer says, I think I will pay for business mileage at 12.5ppm x 8,000 = £1,000, then the whole amount is tax free and NIC free.

There is no guidance given by HMRC for an employer who says:

- "I will pay the electricity, and I will make sure that the total amount reimbursed is below 45ppm per business mile."
- "I will pay the electricity in full, and the employee will pay me back for all private mileage at, say, 5ppm."

These are both realistic examples of a practical arrangement. Why after all would an employer pay for all electricity if it were not clear how much business/private mileage was being driven?

I do of course have some sympathy with HMRC for trying to make sense of a plethora of rules brought in at different times to cover so many different scenarios; with much of the law written without electric cars in mind. However, given that this is such an emerging area, I think they should urgently revisit the guidelines.

As well as the absence of guidance on some fairly typical scenarios, there is a further example of how the guidance above just does not seem to match the law when it comes to Company Electric cars:

Company Car Electric Car (used for business and private mileage) – Reimbursement of Electricity costs

The table says that the reimbursement is taxed as earnings with the employee entitled to a deduction for business miles travelled (although it is unclear whether we are to use 5ppm figure or the actual cost of electricity).

Either way, HMRC are saying that the reimbursement is earnings and subject in full to NIC (with no relief for business mileage).

This is not however what the law says.

The relevant legislation is at Section 239 ITEPA 2003:

S239(1): "*No liability to income tax arises in respect of the discharge of any liability of an employee in connection with a taxable car or van…*"

S239(2): "*No liability to income tax arises in respect of a payment to an employee in respect of expenses incurred by the employee in connection with a taxable car or van…*"

S239(3): "*Subsections 1 and 2 do not apply to any liability arising by virtue of section 149 or 149A…*"

[It is important to note that Section 239(3) is not in point as Section 149(4) obviates any liability under Section 149:

S149(4): "*References in this section to fuel do not include any facility or means of supplying electrical energy…*"]

S239(4): "*No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to* *charge) in respect of a benefit connected with a taxable car or van or an exempt heavy goods vehicle.*"

With the current Smart meters around, the exact electricity cost associated with charging an electric car can be readily identified and distinguished from any other domestic electricity usage.

In view of the above, it appears that neither the reimbursement for a home charge point, nor the reimbursement of the cost of electricity for the electric car should be taxable. Furthermore there should be no NIC due nor any P11D reporting requirements. This is regardless of whether there is any reimbursement by the employee of private mileage.

VAT issues and the charging of Electric Cars

The question of VAT is also closely entwined with charging electric cars. HMRC issued a short Revenue and Customs Brief (7 – 2021) on the topic last year, but there are also some oddities contained in it and some other strange omissions. For instance, there is no guidance at all on the use of public charge points.

On the subject of VAT recovery for ***employees charging an electric vehicle (which is used for business) at home*****,** there is the stark message from HMRC:

"*You cannot recover the VAT. This is because the supply is made to the employee and not the business.*"

However, this is at odds with HMRC internal manual VIT13400 which specifies when input VAT can be reclaimed by the business on supplies generally to employees. Specifically, it gives "*examples of supplies which are to be regarded as made to the employer (provided the employer meets the full cost) even when it may look as if the employee has received the supply:*

This includes road fuel and other motoring expenses…. "

The guidance goes on:

"*You should decide whether the supply is legitimately paid for by the employer for the purposes of the business. If it clearly is then input tax should be recovered. This is in keeping with the intent of the legislation.*"

The second oddity in Brief 7-2021 relates to the situation where:

"***Employees charge an employer's electric vehicle (for both business and private use) at the employer's premises.***

Your employee needs to keep a record of their business and private mileage so that you can work out the amounts of business use and private use for the vehicle.

You can recover the full amount of VAT for the supply of electricity used to charge the electric vehicle. This includes electricity for private use. However, you will be liable for an output tax charge on the amount of private use. This is because a "deemed supply" has been made…"

I have a few issues that concern me with this guidance:

1. Why are employer vehicles singled out – does the guidance not apply to privately owned cars?
2. What if most of the charging is done at home and only a little at work? HMRC state they deny any input VAT recovery for home charging, but now seem to seek additional output VAT because there has been some charging at work.
3. What if the driver pays the employer for the private mileage? This is clearly a supply and output VAT will be due. But what if the charging took place mostly at home, so that input VAT recovery was denied? This will result in a double charging of VAT.

I appreciate that drivers will have to maintain mileage records for VAT and general commercial reasons (if not necessarily for income tax) and that seems wholly appropriate. In practical terms, (with the spiraling cost of electricity), I can also appreciate that more employers will want employees to pay for their own electricity costs insofar as it relates to private mileage, and employees will not always be content with a reimbursement for business mileage at only 5ppm if their own costs are higher.

As I observed at the outset, electric cars are a key part of the government's Net Zero carbon initiative, and their use is escalating significantly. Given this, there is an urgent need for comprehensive guidance on the tax implications of typical scenarios arising from their use, guidance reflecting not only the letter of the law but also the spirit of the legislation.

Addendum – Stop press: Since I made these points to HMRC, I am pleased to report than in January 2022, HMRC have announced that they are indeed reviewing the VAT position where an employee is reimbursed by the employer for the actual cost of electricity used to charge a car. They are considering what evidence can be provided to allow the employer to reclaim the related VAT and also considering other simplification measures. They have also given guidance on VAT recovery and public charge points.

Peter Moroz

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Electric Vehicles – the tax conundrum

David Chandler discusses the Electric Vehicle revolution and how taxes on vehicles may have to change

You could be forgiven for thinking everybody is already driving an Electric Vehicle (EV) in 2022. Everywhere you look there are adverts for EVs, all the new models being released seem to be EVs, charging stations are opening up all over the country (the newest electric forecourt is due to open in April 2022 in Norwich East!) and if you're like me, you're noticing more cars without exhausts!

However, as at today, EVs are nowhere near being mainstream in the UK. Whilst we are making good progress – we are currently 4th on the global list of EV sales behind China, Germany and the USA – 'only' 412 thousand cars on the road are EVs. Given there are circa 31.7million cars in the UK alone, we have still got a long way to go. Each year approximately 2.3million new cars are sold in the UK (with a large dent in the last few years due to external forces such as Covid, chip shortages, sinking transport vessels and the like – last year it was only 1.6mn). However, we are expecting car sales to return to pre Covid levels at some point. Clearly we still have a long way to go before replacing all new sales of petrol/ diesel vehicles with some form of EV-based vehicle. The table below shows the car sales for EVs and petrol-hybrid electric vehicles (PHEVs) for the last 3 years (red is small increase, green large increase year on year).

#	Country	2019, k	2020, k	2021, k	2021 % share of total	2020 change	2021 change
1	China	1,196	1,337	3,396	50.3%	12%	154%
2	Germany	111	398	690	10.2%	259%	73%
3	USA	318	328	668	9.9%	3%	104%
4	UK	78	181	326	4.8%	132%	80%
5	France	69	194	315	4.7%	181%	62%
6	Norway	81	108	158	2.3%	33%	46%
7	Italy	17	61	141	2.1%	259%	131%
8	Sweden	41	96	138	2.0%	134%	44%
9	South Korea	34	52	115	1.7%	53%	121%
10	Netherlands	68	90	98	1.5%	32%	9%
	Others	254	393	706	10.5%	55%	80%
	Totals	**2,267**	**3,238**	**6,751**		**43%**	**108%**

Regardless of the numbers, clearly the vast majority of us will be driving EVs at some point in the next 10 years. With all this fundamental change about to happen, what does this mean for the exchequer?

To answer that we probably need to take a look at what happens now.

Currently, the exchequer 'tax-take' in respect of cars is somewhere in the region of £40billion of tax receipts (depending on which tax years you look at), this is broken down as follows:

Tax receipt	Amount, £ billions
Fuel Duty	26
VAT on fuel	5.2
VED	7.1
Company car BIK tax	2.5

As more people move to an EV, all the above taxes are going to be impacted. This is an issue that other countries have gone through, or are going through, for example Norway. They are held up as a shining example of how to use Tax Policy to drive behaviour through using discounts and grants to encourage take up. Very recently however, Norway have started to reduce their EV incentives after providing them for 15 years, and we, the UK, have only just started our EV journey.

In terms of the specific tax receipts, fuel duty is an interesting one because that is the tax that every Budget for the last 12 years has been frozen (rather than increasing with inflation), so that is already being slowly eroded.

If less petrol/diesel is purchased then that is great for the environment, however purely from a taxation point of view, that fuel duty will then plummet. Within the £26bn, a significant proportion is from heavy goods vehicles (HGVs) (someone once estimated that it is roughly 50%, but that's a difficult number to actually prove with any accuracy). Electric or hydrogen fuel cells may take longer to impact HGVs, especially those undertaking longer journeys.

The VAT on the fuel is clearly driven from the sale of fuel itself but reported separately to fuel duty. The Vehicle Excise Duty (VED) currently is very advantageous towards EVs and company car benefit-in-kind (BIK) tax for an EV is only 2% of list price, the vast majority of the £2.5billion comes from the diesel and petrol company cars. Therefore, the quicker we move to EVs, the quicker circa £25billion (half the fuel duty, VAT, VED and car tax) could simply be lost income for HMRC. That's a big number, and one that probably can't simply be met by tweaking other taxes. Obviously there will be other exchequer revenue as a consequence of the move to EVs, but any increase in VAT isn't likely to be substantial because the cost of EVs is expected to be similar to that of petrol/diesel counterparts in the next few years. Also, the VAT on electricity isn't likely to plug the gap because VAT on domestic fuel is currently 5% (and in today's energy climate personally I can't see the VAT on energy being increased any time soon).

So, what might HMRC do about it?

There are a number of different options, some of which have political connotations to them so need to be weighed up as to whether the Government can afford to bring them in. However, the main aspects that have and are being considered are as follows:

1. Road pricing
2. Increase in company BIK car tax rates

3. A more holistic view of taxation

Road pricing

The talk of the introduction of road pricing is to encourage drivers to take alternative routes or to drive during off-peak times, helping lower the congestion in certain areas. There have been recent talks of introducing a new scheme which can help fill in the potential gap in the budget through two suggested road pricing arrangements.

The first is the 'pay-as-drive' scheme where drivers are taxed based on their distance travelled. The rate applied per mile can vary depending on when the person is driving, that is peak times will have a higher charge, the area they are driving in and the type of vehicle.

Another proposed scheme is the 'road-miles' scheme where drivers are not taxed on a set number of miles, for example first 4,000 miles are free per annum, but anything above this is taxed at a cost per mile.

Obviously these are just 2 options being discussed and the Government are still in the analysis phase to see if it is something they can do, want to do and practically how they would implement such a fundamental change to the car taxation system.

According to a survey completed by Fleet News, the reception on these schemes has been split for drivers with 45% of respondents being in favour, whilst 36% being against this, and the rest presumably are the few who get public transport so they don't care.

The technology is partially in place for road charging and so this doesn't appear to be a major hurdle. Road pricing seems to be more an issue from a political side of the debate, and whether the Government can bring it in. The general consensus in the market seems like there is little alternative so it seems that it will be a question of WHEN it comes in (and how) rather than IF.

Increase in company car BIK tax rates

For many years, company cars have been subject to tax somewhere between 15% and 37% of list price. The Government has brought in the lowest rates in a generation in order to encourage take up through companies; from 6 April 2022 taxation on an EV is based on 2% of list price.

Whilst the Government have announced that this 2% rate will remain until 2025 (which is great news to have certainty for 3 years), there is an expectation within the industry that this low rate of tax will not last. What rate the tax on an EV will be increased to, or how quickly it will increase is unknown, but history shows us increases can be quick and high (from 2017/18 to 2019/20 an EV went from 9% to 13% to 16% in 2 years before the Government decided EVs were the future and they reduced this to 0% in 2020/21).

In addition to the benefit in kind staying low, through the use of legislation the Government have encouraged the use of salary sacrifice for EVs, meaning non-entitled company car drivers can benefit from huge financial incentives to sacrifice gross salary and in return receive a company car subject to tax at 2%.

Every car is different, and the impact varies across tax rates, but from modelling HRUX has undertaken, the financial incentive from salary sacrifice into an EV starts to become marginal when the benefit rate approaches 20% (this does depend on tax rate, if a company share the NIC, do they have early termination insurance?) so the tax rate has got to increase substantially before this benefit becomes expensive. From a HMRC perspective, if everybody switched to an EV overnight, that £2.5bn exchequer revenue drops to a £0.4bn receipt. For the tax/NIC receipts to get back up to the £2.5bn level, either a lot more company cars need to be provided, or (and?!) the tax rate needs to increase substantially from the 2% level.

A more holistic view of taxation

The Government look at the tax receipts into the exchequer as a whole – somewhere between £700bn and £800bn comes in from tax revenues (2021/22 forecast is approximately £732bn). This £25bn, whilst a huge number on its own, suddenly doesn't look so huge when compared to the income when looking at total tax take, or total PAYE income from all employment (£350bn from tax and NIC).

The Government may choose to take a more high-level view – the taxes from increased jobs created through new industry, new cars, improved technology, and charging stations. Whilst the Institute for Fiscal Studies (IFS) may struggle to correlate tax increases in one area due to decisions in others, it's the challenge that the Government have as they look to create and update their tax policy.

Summary

We can see that the EV incentives introduced so far have helped improve the EV take-up in the UK dramatically. However, as this increases, so does the need for consideration on the taxation of cars generally. Currently, nothing is off the table, but the Government are obviously thinking hard about what to do. The reality may be that they do a little bit of everything – congestion zones are being created in major cities already, maybe small road charging projects will be created at first?

Alongside this, increases in company car taxes post 2025 (hopefully small, or at least slow and announced with due consideration!) and VED increases (that is removing the current incentives for EV take up) might go some way to bridging the tax gap being created.

Although, with governments that have already introduced 21 new taxes since 2000, there might be another yet undiscovered tax to come…. No one knows for certain what will happen, all we know is that something will need to be done as we move to an EV future.

David Chandler

David has over 20 years of Employment Tax experience covering practice, industry and dealing with HMRC – helping clients to manage their compliance, planning and tax risks. He focuses on using technology to help deliver tools and services to clients in the Employment Tax and HR arena, especially around company cars, benefits and communication to employees.

Is it time to replace Overseas Workday Relief?

Steve Wade discusses Overseas Workdays Relief, the issues and problems the relief presents, and suggests a better relief

What is overseas workday relief?

Overseas workday relief (OWR) is the common parlance used to describe the situation whereby:

- a UK resident but non-UK domiciled employee who claims the remittance basis
- is taxed on earnings for UK duties wherever that remuneration is paid or received
- but is only taxed on the remuneration for non-UK duties if that remuneration is remitted to the UK when certain conditions are met.

Those conditions are found in section 26A ITEPA 2003 which states that:

"(1) An employee meets the requirement of this section for a tax year if the employee was—

(a) non-UK resident for the previous 3 tax years, or

(b) UK resident for the previous tax year but non-UK resident for the 3 tax years before that, or

(c) UK resident for the previous 2 tax years but non-UK resident for the 3 tax years before that, or

(d) non-UK resident for the previous tax year, UK resident for the tax year before that and non-UK resident for the 3 tax years before that.

(2) The residence status of the employee before the 3 years of non-UK residence is not relevant for these purposes."

OWR therefore, commonly applies when an employee is assigned to the UK for the tax year of arrival and the next two tax years if the employee becomes domestically resident in the tax year of arrival. If the employee arrived in the UK late in the tax year and consequently did not become UK resident, then the relief would be due for the next three years. The period of relief can therefore be up to 3 full tax years.

The amount of the relief is the amount of the earnings that are not remitted and not, therefore, subject to UK taxation. Although it is called a relief it isn't specifically claimed. The relief simply follows from the claim for remittance basis in respect of all foreign income or gains.

Issues with Overseas Workday Relief

There are a number of policy issues with the relief including:

- Whether it makes sense to have a relief that encourages employees to keep earnings offshore and not use those earnings for the benefit of the UK economy, particularly when we are trying to recover from the coronavirus pandemic
- Given that to benefit from the relief you need to have overseas workdays, should we be encouraging overseas travel when we are trying to reach net zero carbon emissions

- If the relief is to encourage businesses to employ individuals from overseas in the UK why no relief is available to those individuals who only work in the UK, for example, employees who work for the health service.

However, the fundamental issue with the rules in practice are that they complicated to understand and difficult for HMRC to administer efficiently.

Difficulties with administration

Complicated rules

The concept of OWR may appear deceptively straight forward but any readers who deal with HMRC enquires involving OWR know that the rules are complicated, and that pitfalls abound for the unwary. Even without a pandemic enquires can take years to resolve.

This article doesn't have space for an in-depth analysis of all the complications, but it is sufficient to highlight that due to the complexities of the remittance basis, it was decided that OWR needed a set of simplified rules incorporated in the legislation. Despite these Special Mixed Fund (SMF) rules, there is no agreement between HMRC and agents about how you apply OWR in cases when the employee is partly paid in the UK and partly overseas. Many expats are paid this way in order to facilitate the payment, for example, of continuing overseas social security liabilities. The interaction of OWR and split payrolls has been the subject of an outstanding question to HMRC's Expat forum for two years. This delay highlights the difficulties in applying the legislation in practice.

Determining whether sums remitted to the UK are taxable is difficult enough but there are also the constructive remittance rules to consider. When this is explained to career expats, they are surprised by how complicated the UK regime is compared to other countries.

Even if an employee is paid into one overseas bank account, in certain circumstances the employee is required to predict the future in order to take advantage of the relief. This is because the simplified SMF rules require you to nominate a bank account and then meet certain conditions. One condition is that the account cannot receive any "prohibited" sums and you may not know whether the account will qualify, or whether the sums are prohibited until after the end of the tax year.

Not fit for the modern world

HMRC have a digital vision for the UK tax administration. It will be difficult to include the complexity of OWR and the remittance basis within a wholly digital administration.

The section 809RC(6) ITA 2007 definition of prohibited sums stops an employee and the employee's spouse/partner from paying their own earnings into a joint account. This is not how many couples would wish to arrange their finances.

Problems are, however, not restricted to couples. Singles and couples may both hit problems with the prohibited fund rules, for example if a bonus is paid for a calendar year which overlaps the 3rd and 4th UK tax year following the year of arrival - part of the bonus is a prohibited sum. Unfortunately, many employers pay bonuses based on a calendar year.

Nominating bank accounts

A relevant bank account must be nominated on the SA tax return for the first UK resident tax year. The qualifying conditions have to be met in year and that sometimes requires a crystal ball. The SMF nomination of an account rules require a "qualifying date" and that sums paid into the account are earnings for a relevant tax year. Section 809RB(5) defines a relevant tax year as a tax year in which the employee has general earnings that are taxable under section 15(1) and section 26(1) ITEPA 2003. This requires that the employee has UK and overseas workdays in a tax year in order to have a qualifying date in that tax year. The qualifying date is the first date on which general earnings of more than £10 are paid into the account for such a relevant tax year - Section 809RB(3)(4).

If the individual nominates the account and does not have both UK and non-UK workdays in that tax year the nomination will not only be invalid but when the next tax year commences the account cannot be nominated for that year either if it still contains earnings from the prior tax year of more than £10. This is because section 809RB(10)(b) states that an account is not a qualifying account if immediately before the qualifying date the account has a credit balance of more than £10. This £10 rule also often precludes the use of an employee's existing bank account

Knowing when to nominate an account and ensuring that no prohibited sums are paid into the account can also be difficult because of the Statutory Residence Test and in particular the split year rules. The account has to be set up in year, but both the qualifying date of the account and the split year may not be known until after the end of tax year. If an employee gets the qualifying date incorrect then prohibited sums may be held in the account and the SMF rules will not apply. The even more difficult 'normal mixed fund rules' will have to be considered which can give different results.

Arriving expats can also have difficulty in opening accounts in time for the first salary payment particularly if they are occupying temporary accommodation.

S690 Determinations

In order to obtain OWR when PAYE is operated, a section 690 (S690) determination has to be obtained from the employer unless the employee can be included on an Appendix 6 payroll for tax equalised employees. Unfortunately, it seems that HMRC's systems cannot deal with S690 determinations efficiently at present. HMRC have been taking up to a year issue the determinations whilst most expatriate will be being paid monthly or more frequently.

HMRC recognises that their systems are not sufficient and are looking at improving how they deal with such applications. Hopefully after HMRC implement their new processes we will see improvements. This leaves open the question of whether the requirements in this area should be changed in any event but a discussion of that issue would need to be the subject of another article.

In future it is hoped that HMRC will allow for "real time" S690 determinations. This would allow an employer to adjust the percentage of the determination to reflect the workday proportions of the year to date. The current system is based on estimates.

Administrative summary

The complex nature of the rules that surround the claim for OWR take a lot of effort by agents, employers, and employees which is an extra cost to the business. The rules can also be very costly to the employee if not followed properly.

The complexity of the rules is not just a problem for taxpayers and their agents. It is also a problem for HMRC. HMRC enquiries and any analysis of remittances, particularly when the SMF rules do not apply take a long time to complete. This is not the most efficient way to ensure compliance.

In addition, encouraging employees to keep funds outside the UK also does not appear to be in the best interests of the economy.

Suggestions for a better relief

Merely abolishing the relief is not the answer. Many countries have reliefs to encourage employees to come and work there. The UK system is unusual in that it is so complicated and, somewhat oddly, specifically discourages the spending of funds in the UK. A better system is needed that is easier to administer and allows employees to spend their earnings in the UK.

One option would be to allow a flat rate percentage of earnings to be exempt from UK tax for a certain period such as when the current section 26A ITEPA 2003 conditions are met. A flat rate exemption would be easier to understand and for HMRC to administer. It would also give the Government more certainty about the amount of the relief and increased flexibility to alter the amount in response to economic pressures.

Another option would be to exempt the remuneration for overseas workdays, that is removing the requirement for the income to be kept offshore. This would however still encourage overseas work which would not align with the Government's green agenda. It would also still have the complication that a workday for the purposes of the SRT is not the same as a workday for the purposes of OWR.

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Coronavirus job retention scheme compliance

Susan Ball, Carolyn Brown and Paul Marcroft discuss compliance activity surrounding the coronavirus job retention scheme (CJRS) now it has closed including correcting mistakes, tax return, charges, and penalties.

This is further to the article at The coronavirus job retention scheme – mistakes and corrections – are underclaims just as important as overclaims? | Tax Adviser (taxadvisermagazine.com)

The CJRS provided grants to employers so they could retain and continue to pay staff during pandemic lockdowns and restrictions by furloughing employees at up to 80 per cent of their wages. 11.7 million employees were furloughed through the scheme, at a cost of £70bn.

HMRC chief Jim Harra recently stated that the Government now expects to recoup £2.3bn of CJRS grant money over the coming months, less than the initial 5-10 per cent estimated error rate, or the revised rate of 8.7 per cent in HMRC's accounts.

HMRC expenditure aimed at recouping money lost to CJRS fraud and error was increased in the March 2021 Budget, with its new Taxpayer Protection Taskforce (TPT). This brought with it an investment of £100m and 1,250 staff members, representing one of the largest responses to a fraud risk by HMRC. It expects to recover £1bn from its on-going compliance work. As of November 2021, HMRC had around £408m returned to it by claimants who, unprompted, found an error in their claim, and over £719m was returned by claimants who were entitled to the grant but decided, for a range of reasons, to repay it.

It is clear HMRC expects employers to review the claims to ensure they are correct, with any overclaimed CJRS grant returned, or reported as taxable on their tax return.

The latest version of the CT600 corporation tax return guidance, updated on 15 November 2021, requires companies to report CJRS furlough payments received and the amounts that the company was entitled to during the relevant accounting period in boxes 471 and 472. Where any overpayments have already been disclosed to HMRC, that amount should be reported in box 473. The total amount over-claimed should then be entered in box 526. This amount will be assessed for income tax. Similar requirements apply for employers other than companies.

HMRC also considers that CJRS falls within the Senior Accounting Officer (SAO) regime. Claims should therefore be considered when deciding whether SAO certification should be qualified or unqualified. Compliance failures can potentially lead to personal liabilities for the SAO.

What action is HMRC taking?

HMRC has been undertaking several compliance intervention activities, including investigating over 30,000 reports to its hotline, issuing 'one-to-many' nudge letters and commencing one-to-one compliance reviews.

As of 30 November 2021, HMRC had opened over 27,000 compliance interventions. The TPT, where proportionate and necessary, refers more complex cases and those involving organised criminal groups for specialist investigation by appropriate expert teams within HMRC, including the Fraud Investigation Service (FIS). As of 30 November 2021, FIS had 21 ongoing criminal investigations and seven live civil investigations into the most serious attempted frauds involving CJRS claims. It uses the Code of Practice 9 investigation and fraud procedure which allows taxpayers an opportunity to make a complete and accurate disclosure of all deliberate and non-deliberate conduct which has led to irregularities in tax affairs in order to avoid criminal prosecution. Some of these cases have recently hit the news, for example, in October 2021 HMRC obtained forfeiture orders of £26.5m obtained during a furlough fraud under the Criminal Finance Act 2017.

HMRC provided some examples of its analysis work resulting in CJRS funds being recovered in Our approach to error and fraud in the COVID-19 support schemes - GOV.UK (www.gov.uk).

Employers may have received a CJRS compliance letter from HMRC, which set out a time for them to take certain actions. Whilst most of these requests are based on an HMRC risk assessment, there are some random enquiries as well. They are largely desk based reviews with HMRC requesting information digitally.

The reviews include requests for details on every employee for whom furlough support was claimed, the makeup of reference pay and the calculations, along with copy payslips, usually for a specific claim period/reference number (and sometimes including all subsequent claims) with short timescales. Employers receiving these detailed requests need to engage with HMRC.

If HMR doesn't receive a response to an informal request, and there is no good reason for the delay, it may issue a formal information notice to obtain the information. This may increase the likelihood of CJRS penalties being charged where mistakes are discovered.

These checks are there to ensure employers have met the conditions of receiving the grants and have claimed the correct amounts.

Our experience has shown that HMRC has been supportive in extending the deadline if an employer engages with it proactively and, where hundreds or thousands of employees are involved, reducing the information that needs to be provided by agreement. We understand these reviews are currently taking an average of six months for HMRC to complete which, considering the complexity of the rules, is perhaps not surprising.

What mistakes are we aware of?

Many employers have made mistakes due to the speed at which the rules were introduced and the complexity of the calculations, rather than any deliberate claim for employees who were not on furlough. These may include for example:

- incorrect day counts;
- reference pay including discretionary payments;
- the use of 2019/20 average pay details only, and no calendar look back undertaken for variable paid employees;
- the incorrect use of pre-salary sacrifice remuneration figures;
- employees only furloughed for holiday periods;
- the use of fixed pay calculations for employees with significant overtime, even after the rule change announced on 7th August 2020;
- incorrect calculation of usual hours where furlough ends during a claim period;
- reductions in, or deductions from, reference salary, due to incorrect categorisation of pay components, or salary sacrifice arrangements not being factored in correctly;

- claims being made from 1 March 2020 in cases where the employee was not placed on furlough until after that date ; and
- claims being made in respect of furloughed directors who continued to undertake work beyond that necessary to fulfil their statutory duties under the Companies Act.

There are some useful examples and details on the implications in the CIOT guidance at 211126 CJRS PCRT combined - CIOT.pdf.

What penalties can HMRC charge?

In the event a CJRS claim is excessive, para 12 Schedule 16 Finance Act (FA) 2020 obliges the recipient to notify HMRC of its liability to income tax. In such circumstances, the notification must have been made by the latest of:

- 90 days from the date of receiving the excessive claim;
- 90 days from the date of a change of circumstances which led to that claim becoming excessive; or
- 20 October 2020.

Where no such notification has been made, an employer may be exposed to a failure to notify penalty under Schedule 41 FA 2008. In almost all instances where the notification has not been made within the required period, the offence would have already occurred, and the focus must turn to how to mitigate an exposure to penalties.

There are three key matters to consider:

1. **Does the employer have a reasonable excuse?**

Where an employer has a reasonable excuse for failing to notify HMRC of its exposure to income tax within the notification period, and that failure was addressed within a reasonable timeframe, no failure to notify penalty is due.

There may be a number of factors to consider in determining whether an employer has a reasonable excuse, including the numerous updates and changes to HMRC's guidance, the evidence of care taken by the employer during the period, and any relevant commercial factors which applied during the notification period and beyond. What constitutes a reasonable excuse for one taxpayer may not for another, so it is important to critically analyse the facts of each case.

As the offence of failing to notify will have already occurred prior to submitting the tax return covering the period for which the CJRS payment was claimed, it may be prudent to refer to any reasonable excuse within the supporting computation for companies, or in the white note space of the return for employers subject to income tax self-assessment.

2. **Potential lost revenue**

In the absence of a reasonable excuse, the employer will face the imposition of a tax geared penalty and the potential lost revenue (PLR) and the nature of taxpayer behaviour will provide the basis upon which the penalty is calculated. Assuming the failure is not due to what is deemed to be deliberate and concealed behaviour, details of which are explored below, the PLR is the income tax which remains unpaid 12 months after the end of the relevant accounting period for companies, or as at 31 January following the tax year for other employers.

Where an employer is able to calculate the adjustments accurately and reports the correct income tax liability on their return, or estimates an overclaim in the return pending an accurate calculation, so that the actual income tax payable overstates the liability, if income tax is settled in full within 12 months of the accounting period end date (companies) or by 31 January following the tax year (other employers), the PLR upon which any penalty is calculated will be nil. If the PLR is nil, the penalty is nil, irrespective of the penalty loading percentage that would apply according to the taxpayer's behaviour.

3. **Behaviour**

Where there is no reasonable excuse, and the employer has not paid the income tax liability in full within the required period, there will be a penalty exposure based on the PLR. The penalty percentage loading parameters that apply depending on the nature of taxpayer behaviour and can be found on factsheet CC-FS11a.

In the event a penalty falls to be due, there are three keyways to influence the level of penalty incurred.

- The behaviour is determined based on the employer's conduct during the notification period, as opposed to the behaviour demonstrated when filing the tax return. If the failure to notify offence occurred due to non-deliberate behaviour, the penalty threshold applicable will be 0-30 per cent, as opposed to 20-100 per cent in cases of deliberate, or deliberate and concealed behaviour.
- Where the disclosure has been made on an unprompted basis, whether within or outside a tax return, the starting point for penalties will be mitigated by 10-20 per cent across the behavioural spectrum.
- To determine where on the relevant penalty range a specific employer's offence will fall, HMRC will consider the quality and accuracy of the disclosure. Affording a reduction for telling, helping and giving, HMRC will determine the penalty loading based on the employer's conduct during the disclosure process.

The above sets out the failure to notify penalty for non-deliberate behaviour. There may, however, be a significant number of employers that are found to have or are deemed to have acted deliberately. If an employer knew that a claim was excessive or had become excessive due to a change in circumstances, but they failed to notify HMRC of the resulting liability to income tax within the notification period, para 13 Schedule 16 FA 2020 indicates that the behaviour in those instances should be treated as deliberate and concealed.

In those cases, employers not only face a higher penalty range as set out above, but the PLR is also calculated by reference to the total of the excessive claim that is not repaid at the end of the notification period and therefore cannot be reduced to nil by paying the income tax liability in full within 12 months of the accounting period end date. In most cases where the employer knew they had overclaimed, but failed to notify by the notification date, a penalty will therefore be due on the entirety of the overclaim.

Evidently, cases involving allegations of deliberate and concealed behaviour leave employers exposed to significant risk, not only to financial penalties but also criminal prosecution. In such cases HMRC expects to see clients registered within HMRC's Contractual Disclosure Facility and the disclosure provided in full via that regime.

Inaccuracy penalties

Some employers may be unable to determine the total of their excessive claims accurately by the tax return filing date and may therefore include estimates in their return. In those instances, it may be necessary to subsequently amend those returns to reflect the correct position in future. In the event those amendments increase the income tax liability, there is PLR and clients may be exposed to penalties under Schedule 24 FA 2007.

Where an estimate of the income tax liability is reported on the tax return, it is important to be able to demonstrate this is reasonable. It is the employer's behaviour during the tax return submission process that will dictate what inaccuracy penalties are due, reasonable care being the only defence against a penalty. If employers can demonstrate their estimate was calculated on a reasonable basis, this may also demonstrate reasonable care was taken.

In essence, an employer's exposure to the inaccuracy penalty regime is no different for CJRS grants than any other tax matter, but the need to estimate in some instances will lead to future amendments to tax returns, and therefore demonstrating the reasonable basis for those estimates will be important.

What if the employer discovers an issue with the amount of CJRS grant claimed?

Employers may discover they have an issue from an internal review or an external evaluation by auditors, investors, and potential purchasers.

Where such reviews are not part of an existing HMRC review, employers should consider the tax return filings and the new HMRC disclosure notification process published on 20 December 2021 at Pay Coronavirus Job Retention Scheme grants back - GOV.UK (www.gov.uk), notifying HMRC of the error as early as possible to minimise the scope for HMRC to charge penalties.

HMRC expects employers to resolve the position by doing their own recalculation, using the help provided, including the guidance on offsetting issued on 11 October 2021 and updated in December 2021, paying any overpayment or making any employee top up payments due.

HMRC will risk assess any returns filed and payments made. For example, it has 12 months from the filing date of a corporation tax return, or the following quarter day after the anniversary of making an amendment, to open a compliance check. Such checks may test the accuracy of the disclosures made or impose penalties for failure to notify under the inaccuracy regime.

Summary

Considering HMRC is already actively investigating claims, employers should, as a priority:

- review claims to ensure their CJRS claims are supportable, and that this can be demonstrated to HMRC and other stakeholders, such as auditors, investors, and potential purchasers;
- notify HMRC of any errors as soon as possible where claims cannot be supported, or relevant tax returns were not filed with the correct disclosure of CJRS overclaims;
- ensure any overclaims, such as any underpayments to furloughed employees, are made good within a reasonable period;
- take any compliance notification from HMRC seriously, make a note of the deadline, be proactive about locating the information needed and engage with HMRC;
- consider if external advice is needed; and
- make sure CJRS records are maintained for six years with a clear audit trail, we would recommend this includes ensuring key judgments are documented and supported by relevant HMRC guidance at the time, the data underlying submitted claims is maintained and robust, and that supporting calculations are accurate.

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Consultations and Submissions

CIOT Employment Taxes Committee – Public submissions – March 2021 to February 2022

Finance Bill 2021 - Construction industry scheme	22 April 2021
Finance Bill 2021 - Employment Taxes and Pensions	22 April 2021
Enterprise Management Incentives	27 May 2021
Off-payroll working rules from April 2020 - CIOT comments	28 May 2021
FB21-22 Draft legislation - Pensions	15 September 2021
Budget representation - Employment Taxes and Pensions Tax Regime	4 October 2021
Finance (No.2) Bill 2021 briefings	24 November 2021
Draft legislation: The Social Security Contributions (Freeports) Regulations 2022	17 February 2022
Umbrella Company Market	22 February 2022

Suggestions?

If you have any suggestions for further articles, please let us know: technical@ciot.org.uk

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Chartered Institute of Taxation.