PAYROLL BRIEFING

NEW TAX YEAR, UPCOMING CHANGES AND POINTS TO CONSIDER

March 2023

Introduction

In line with every new tax year, there are some payroll and related matters that are coming into effect in April. Some of these will be informational only but some may need to be actioned, either before or after the year end.

National Minimum Wage changes

As announced in November 2022, with effect from 1 April 2023, the hourly rates increase as follows:

Wage Band	Current Rate	Rate from 1 April 2023
Age 23 and over (National Living Wage)	£9.50	£10.42
Age 21 to 22	£9.18	£10.18
Age 18 to 20	£6.83	£7.49
Under 18	£4.81	£5.28
Apprentice	£4.81	£5.28

As a result of the above rate increases, the National Living Wage and National Minimum Wage will be the same.

Employers will need to check that they are compliant with these new rates, not only for hourly paid employees, but also salaried employees, as the rises are fairly significant, ranging from 9.7% to 10.9%.

Hybrid National Insurance (NI) Rate

Due to the additional National Insurance rate during the first seven months of the tax year of

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1.25%, all benefits and directors' pay will be subject to a hybrid rate of National Insurance, which will be as follows:

Benefits – employer's Class 1A/1B National Insurance of 14.53%

Directors – employee's NI of 12.73% below the Upper Earnings Limit (UEL)(£50,270) and 2.7% above the UEL and for employer's Class 1 NI of 14.53%. This will be the rate used when the final pay in the 22/23 tax year is calculated, as part of the usual annual earnings method for directors.

Payrolling Benefits

Any employer wishing to payroll benefits from 6 April 2023 can now register with HMRC, with the result that they will no longer need to prepare individual P11ds, only complete the P11D(b) to account for employer's National Insurance. If you have an informal agreement in place, it is also recommended that a formal arrangement is requested from HMRC.

Additional Bank Holiday

As most employees will be aware, it has been announced that there is an additional bank holiday this year to celebrate the King's Coronation. In line with last year's Queen's Platinum Jubilee and Queen's funeral, whether or not an employee is legally entitled to this additional day off will depend on the wording of their employment contract, plus their usual work pattern. If an employment contract states an employee is entitled to, say 20 days plus bank holidays, they are entitled to the additional day. However, if it states they are entitled to 28 days of annual leave inclusive of bank holidays, it is the employer's choice as to whether or not the extra day is granted. Similarly, if the contract refers to the usual bank holidays, it is not considered an entitlement, as this extra day is not considered usual. Where employees normally work bank holidays, they should not expect the day off and employers will need to consider whether the employee should be paid a more generous amount, in line with other bank holidays, as employees are more than likely to expect this to be the case for the extra day. Part time workers will also need to be considered and their entitlement will be in line with their contract, using the same principles as above. Similarly, employees on maternity leave (or other parental leave) will need to refer to their employment contract to determine their entitlement.

In general, the principle should now have been established given the scenario arose twice in 2022 - any change taken to the previous provision, unless favourable to the employee, should be very carefully considered and as with most employee related matters, communication is key, especially with regards to morale if the additional day is not given.

Tax Bandings

In November 2022, the Government announced that with effect from 6 April 2023 the additional rate threshold (relating to the starting point when income tax becomes payable at 45%) will be reduced from £150,000 to £125,140, the current level where the personal allowance is fully withdrawn,. This gives a planning opportunity if an employee is able to decide when an additional taxable payment is to be made, say in either March or April, as they may wish to accelerate the payment to limit their tax exposure to 40% of earnings up to £150,000.

Retained EU Law (Reform and Revocation) Bill

At present the Government's position regarding this bill is largely unknown but the impact on certain aspects of employment law could be far reaching. The bill, which is designed to remove various features of EU law that remain in the UK legal system, will see large parts of retained EU law automatically repealed on 31 December 2023, unless ministers decide to preserve or replace these features beforehand. The main areas of employment related EU law which could fall away relate to Transfer of Undertakings (Protected of Employment (TUPE), Working Time Regulations, Agency Worker Regulations, Fixed Term Employee Regulations and Part Time Worker Regulations. Whilst the removal of certain pieces of legislation are complex in themselves, there are further complications where the UK law has enhanced the EU law - the UK law would remain, whilst the underlying EU law would fall away. The hope is that the law becomes less ambiguous and easier to implement, but as it currently stands the position is very unclear.

Other areas which may be changed relate to the 48 hour working week time limit and the accrual of holiday during sick leave. Certain aspects of holiday pay are also likely to be considered, but this will be in conjunction with the current consultation taking place following last year's Supreme Court ruling.

There is much concern that this Bill, together with some new legislation, will be rushed with the almost inevitable result that it will not be well thought through and could lead to additional complications. As it stands, this is an area of watch and see, but towards the end of the calendar year could throw up various changes that do not have long to be implemented.

Holiday Entitlement and Pay

Did you see the recent Briefing about holiday entitlement and pay and does it affect any of your employees? There are some fundamental changes that employers should be aware of and possibly need to action. *Click here*

Conclusions

There are currently limited planning opportunities, the main one relating to accelerating taxable pay to March if this enables the recipient to pay 40% rather than 45% tax. However, further opportunities may arise in the Budget, which is on 15 March 2023, for which a further Briefing will be published.

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