

Welcome

Our Spring issue of the Employment Tax for Business newsletter focuses on some recent and topical developments for employers and employees.

Employer Compliance checks

To coincide with the general revamp of HMRC powers, and harmonising of the historically separate Revenue and Customs departments, HMRC has issued a number of fact sheets outlining its policies on compliance checks.

The new policies apply to reviews from 1 April 2009. Computations of unpaid duties will, in most cases, now cover the last 4 rather than 6 years, subject to any transitional provisions.

One notable addition is that HMRC Officers are now permitted to visit employers' premises unannounced. However we are assured that such visits will not be used other than in the most serious of cases, and usually there will be a minimum of 7 days notice! It is also worth noting that these powers, on their own, do not permit the right to visit private premises, or to search or force entry into business premises. However, if a tribunal has approved the visit then refusing entry may result in a penalty.

In addition HMRC may now issue a formal 'information notice' e.g. if requested documents or information is not forthcoming. Failure to comply may again result in penalties. In the past HMRC would have had to raise an estimated assessment or determination, and use any subsequent appeal hearing to enforce provision of such documentation.

Employer reporting updates

Recent months have seen confirmation of a number of additional requirements for employers. As expected, those with 50 or more staff must now file 'in year' forms etc on line from April 2009. Less surprising is that HMRC has already reported some delivery failures and error messages, so it may therefore be worthwhile phoning the Revenue to confirm satisfactory receipt.

At the same time, forms P46 for pensioners and expatriates have been revamped and form P45 now comes in A4 rather than A5 size (perhaps this makes it harder to sell blank copies down your local pub, if the common Revenue mythology is to be believed).

A new 'quality standard' for form P11D reporting has also been announced, which is essentially an attempt to ensure that all informal reporting is quickly phased out. Amongst other things, any list returns should show all P11D information required for each employee, on a single page and using a reasonably large font size. Whilst electronic filing of forms P11D, and associated forms P11D(b) and P46(Car), is not yet obligatory, it is reasonable to assume this is in HMRC's mind for the near future.

Employee advisory scale rate subsistence expenses

HMRC has published new advisory scale rate subsistence allowances which employers may now use as an alternative to reimbursement of actual subsistence costs. These include two £5 rates for breakfast and single meals, a £10 rate to cover two meals and a £15 late evening meal rate.

Where employers already pay similar allowances, any existing dispensations are unlikely to be withdrawn. However, for employers thinking of introducing such payments for the first time, the announcement will be a welcome alternative to the onerous sampling exercises which HMRC used to expect.

Several words of caution are still required. In particular:

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- The employee will have to confirm that expenditure has been incurred on a meal and that they have worked away from their normal workplace for certain periods (including a 5 hour minimum). It may therefore be necessary for expenses claim forms and guidance to be updated.
- The rates are intended to cover part-day rather than overnight allowances.
- The breakfast and late meal allowances are not intended for use by staff with regular early or late work patterns. Intriguingly this does potentially permit use of the single and two-meal allowances in these situations. For staff who regularly travel and who do not currently receive payments towards or reimbursement of lunch etc expenses, this could present a remuneration planning opportunity.
- HMRC does expect employers to request an updated dispensation if paying the allowances. The employer must confirm that all the qualifying conditions published by HMRC will be met.

Friends and Family Allowances

Just like *The Two Ronnies*, unfortunately HMRC couldn't resist some bad news to go with the good news on scale rate subsistence. HMRC now takes the view that overnight allowances (typically £25) where staff stay with friends or family whilst on business, can no longer be paid tax-free. This is on the possibly mistaken premise that no allowable expense will actually be incurred? HMRC has stated that existing agreements will gradually be updated via its normal dispensation review cycle, to take account of this change of opinion. We would suggest you consider this matter carefully as, in our experience; allowable costs are often actually incurred where such claims are made,

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And finally.... for the DIY enthusiast

Anybody who believes they have incurred expenses which their employer has not reimbursed can now download a 2008/09 form P87, in order to claim the appropriate deduction themselves. This might apply for instance if the employer restricts business mileage claims to take account of savings on the normal home to work journey, when the employee visits a temporary workplace. Employers who believe that significant numbers of staff may be in this position should seek to establish some ground rules with HMRC i.e. to avoid unnecessary case by case queries. Remember that all costs have to be necessarily incurred on business, and non-travel costs must also pass the notoriously rigid 'wholly and exclusively' test.

About us

Employment Tax for Business is an independent tax consultancy. Based in the North West of England, we provide services to clients throughout the UK. Our business partners have previously led the employment tax departments of major international accountancy practices. Our role is to provide clients with the very highest level of technical expertise, commercial awareness, and personalised service, tailored to individual client needs.

Contacts

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