

Notes of the Benefits & Expenses Sub-Group meeting held on Thursday, 13 June 2013, 1 Horse Guards Road

Attendees

Officials

Jackie McGeehan (HMRC) (Chair)
Anne Palmer (HMRC)
Mark Thompson (OTS)
Suzy Giele (OTS)
Melannie Merrifield (HMRC)
John Myers (HMT)
Mike Purvis (HMRC)
Neil Chattel (HMRC)
Jamal Ali (HMRC)
Su McLean-Tooke (HMRC)

Members

Mark Groom (CIoT)
Shawn Healy (CBI)
Jas Jhooty (BASDA)
Trevor Blackmur (ATT)
Simon Parsons (BCS Payroll Group)
Steve Wade (CIoT)
Samantha Mann (CIPP)
Norman Green (BCS)
Peter Bickley (ICAEW)
Norman Green (BCS)

Apologies

Colin Ben-Nathan (CIoT)
Matthew Brown (CIoT)
Simon Ross (CBI)
George Northall (CBI)
John Hampton (CBI)

1. Welcome and introductions

JM welcomed members to the meeting.

2. Minutes and Action Points from last meeting/future of the Group

The minutes and action points report from the last meeting had been circulated in advance with the agenda and no comments were received. JM invited comments on the future of the group. The consensus from members was that this was a useful forum and that issues on employee benefits and expenses were not dealt with effectively by other groups. It was suggested that dates should be put in diaries for six-monthly meetings of the group - if there were not enough substantial issues for discussion, a date could always be cancelled. JM agreed to take the group forward on this basis, with a clear focus on benefits and expenses.

Action Point 1 - SMT to circulate dates of meetings.

3. OTS review

MT of the Office of Tax Simplification (OTS) outlined how the process for the OTS review of employee benefits and expenses was planned. The OTS are planning to issue an interim report in early August. Following this, they will focus on specific areas which might include a review of travel and subsistence expenses - this review would run until the end of the year with a report of their findings and recommendations in January 2014. This would be considered by Ministers and any further work, including a 'sweep-up' second stage, might be announced at Budget 2014.

MT asked for general comments on areas within the existing rules on benefits and expenses which members found difficult, time consuming or administratively burdensome.

NG and SH gave the example of reporting post-cessation benefits where there was no clear guidance on process. This could be an example where a simple letter template produced by HM Revenue & Customs (HMRC) would resolve many issues.

Members felt that the work of the review needed to be closely linked to the future of payrolling. There were concerns that the P11D form was no longer fit for purpose and incorrect tax codes were being issued as a result. There was also a perception that the level of technical knowledge in HMRC for staff processing P11Ds had decreased. Voluntary payrolling of benefits should also be permitted generally.

SM commented that the £8,500 threshold was outdated and now caught lower earners. Members suggested that it should be increased, and perhaps linked to personal allowances or the level of the National minimum wage. SW also mentioned the £8,000 limit for relocation expenses which he thought should be increased.

Several members commented on the temporary workplace rules, particularly the 24 month limit. They cited examples of employees having to stand down before a project was completed, as no relief was available. They were also concerned about the timing for withdrawal of the relief, which was too subjective as it relied on the date when the employee knew that their contract would extend beyond 24 months, rather than the absolute time limit.

In addition members said the travel rules were too complicated and change was required in this area - more scale rates would be welcomed. The legislation (on travel) was difficult to follow, although SH said that booklet 490 which provided guidance on employee travel was useful. MG thought that subsistence could do with its own set of rules.

It was agreed that the rules on loans thresholds and living accommodation were complex and ripe for simplification. For the latter it was suggested that these could be based on property value or open market rental values, which were linked.

MT asked if there were any comments on PSAs and dispensations. Members had concern about lack of consistency on the part of HMRC. For example, some districts allow relief for one or more expense in a dispensation whereas other districts would not for the same expense. On the whole, HMRC needed to provide better guidance, including online interactive tools, to support employers.

On car benefits, members were positive about the advance announcement of changes, which had recently increased from two to three tax years. They also thought the system based on emissions appeared to work well. SH said that this was one example of how the tax system affects people's behaviour in a positive way, by encouraging them to drive more energy efficient and less polluting vehicles.

MT sought comments on termination payments. SH considered that £30,000 bears no relevance at present. Again there were concerns about perceived lack of training of HMRC staff dealing with enquiries on termination payment issues, for example, payments in lieu of notice (PILONs).

MT thanked the members for their input.

Action Point 2 - SMT to circulate link to the interim report when it is available.

4. NICS and further developments re 'Total People'

MM attended the meeting to explain the context of the reply to ICAEW's correspondence. In essence there were three points at issue:

- Concern about the original HMRC letter to employers following the Court of Appeal's judgement which contained little detail or HMRC's view of the decision
- Why HMRC was reluctant to take any further cases forward at the moment
- HMRC's view of the judgement

MM explained that in effect the Court of Appeal had declined to look at certain aspects of the case because they had not been considered by the First Tier or Upper Tier Tribunals. Therefore HMRC had nothing that could be applied across the board. Although HMRC had received a number of 'me too' cases, none had come with sufficient evidence to establish that they were on all fours with Total People, and repayment of NICs could not be made on that basis.

HMRC was very keen to identify a suitable case to take forward to litigation to establish a precedent for defining relevant motoring expenses. MM therefore asked for members' help to identify a case which had sufficient evidence and could be considered on the facts.

Action Point 3 - MM to circulate HMRC's reply to CIOt.

5. Tax-free Childcare Scheme

JM and MP talked to a presentation of the scheme which HMT and HMRC were working closely to develop. Members were interested in the fact that under the scheme there would no longer be an employer-provided benefit, and that employers could have no involvement if wished. This would be a major simplification.

SH commented that he thought existing schemes could be withdrawn almost immediately following announcement of the new scheme rules. Therefore there was some argument for introducing the new scheme before autumn 2015.

Some employers might still want to have some involvement in supporting employees. For example, they themselves might be or become voucher providers, or negotiate a better rate for their employees.

There were also some general comments on why a voucher system was considered the way forward. Why didn't the Government devise a scheme which provided the support directly to the childcare-provider, so cutting out the voucher 'middle-man'?

Action Point 4 - SMT to provide link to consultation document when available.

6. Any Other Business

Payrolling - NC provided an update on payrolling. The future of payrolling was in the hands of Ministers, so it was not possible to comment on the timing of future work at present. However, HMRC were working on an informal project with five large employers to understand their payrolling journey, suspend the requirement to submit forms P11D/P9D, and identify any impacts on the employer or individuals.

This would be tested via questionnaires and discussions with the participating employers. The results would be evaluated in October/November.

Members commented that if payrolling were to be introduced at some point, it would need to be on an optional basis.

Other items - due to the lack of time, further items would be addressed in a separate note to members.

Action Point 5 - SMT to reply re other items not discussed.