

Cross-government Working Group on Employment Status Minutes

13th September 2016 14:00-16:00

1 Horse Guards Road, London, SW1 2BQ

Attendees:

- HM Revenue and Customs (HMRC)
- Department for Business, Energy, and Industrial Strategy (BEIS)
- HM Treasury (HMT)
- Office of Tax Simplification (OTS)

Apologies:

- Department of Work and Pensions (DWP)

Welcome

1. HMRC welcomed attendees to the Group

Employment Status in the UK

2. The group agreed that in most contexts “contract of service” and “contract of employment” can be used synonymously. However, there are specific circumstances that mean that although all contracts of employment are contracts of service, the converse is not true. The specific circumstances identified are office-holders, apprentices, employee shareholders, directors, partners, North Sea divers, examiners, and au pairs.
3. For example, in the Employment Rights Act 1996 the “contract of employment” is not limited to a “contract of service”, because it also includes a contract of apprenticeship.
4. The group agreed that whilst “contract of service” and “contract of employment” were largely synonymous the additional status of “worker”, presented a significant challenge to aligning the two statuses, particularly as the definition of worker varies across different employment rights.
5. There is no worker category for tax and those individuals who fall within this category can be taxed either as employees or as self-employed. Therefore, to align the statuses a new category would need to be introduced for tax and NICs, or this category would have to be removed in the employment rights system. The group agreed to consider whether these changes would be possible, but initial thoughts were that the wider consequences would be too significant.
6. HMRC, BEIS, and DWP have explored ways to quantify numbers of individuals who fall within the worker category for employment rights, using existing data. It has not been possible to establish these numbers to date. But, the group agreed to assess whether there are other ways to achieve this that have not yet been explored and that do not require additional cost and to look at whether it would be possible to establish numbers of workers who are paying tax as self-employed and PAYE.

AOB

7. HMRC asked about the result of an up-coming tribunal judgement concerning employment status. BEIS said the judgement had not yet been published.
8. The next meeting will be held on 19th October 2016.