HM Revenue & Customs

Employer Bulletin

Your route to the latest in payroll news

December 2019 Issue 81

Welcome

Hello and welcome to December's edition of the Employer Bulletin

This edition has some important information around the December electronic payment deadline, new changes to Advisory Fuel Rates for company car users and how to correctly record Student/Postgraduate Loans on your Full Payment Submission.

There's also another timely reminder on reporting PAYE information in real time when payments are made early at Christmas, which I would strongly encourage you to read.

As always we'll continue to use the Employer Bulletin to tell you about new products and changes which may affect you and to give you access to further information if you need it. With that in mind I'd also like to encourage you to sign up to receive an email alert from us each time a new edition of the Employer Bulletin is published. The email alert system is no longer tied to a PAYE reference number meaning that it's no longer just employers who can sign up and there are no restrictions on the number of individuals per company who can receive the alert.

So make sure you don't miss any future updates by signing up to receive one of our new email alerts. You can also follow us on twitter @HMRC.gov.uk

Another useful source of information is the Agent Update, the next edition of Agent Update will be available soon and provides guidance for tax agents and advisors.

And finally, our aim is to be able to deliver clear, consistent and timely information which is appropriate for employers and helps you to meet your payroll obligations to HMRC. So, if you have any comments or suggestions about any of the content of the Employer Bulletin or would like to see a specific topic covered, please drop me a line at scott.milne@hmrc.gov.uk Your feedback as always is most welcome.

Scott

Scott Milne
Editor

Content

Guidance for employers on reporting PAYE information in real time when payments are made early at Christmas

In December 2018, we wrote to employers to advise a temporary easement on reporting PAYE information in real time, as we know some employers pay their employees earlier than usual over the Christmas period. This can be for a number of reasons, for example during the Christmas period the business may close, meaning workers need to be paid earlier than normal.

Following feedback from employers and the Department for Work and Pensions (DWP) we have received approval to make this easement permanent. HMRC's employer guidance will be updated shortly.

If you do pay early over the Christmas period, please report your normal (or contractual) payday as the payment date on your Full Payment Submission (FPS) and ensure that the FPS is submitted on or before this date.

For example: if you pay on Friday 20 December 2019 but the normal/contractual payment date is Tuesday 31 December 2019, please report the payment date on the FPS as 31 December and ensure the submission is sent on or before 31 December.

Doing this will help to protect your employees' eligibility for Universal Credit, as reporting the payday as the payment date may affect current and future entitlements.

The overriding PAYE reporting obligation for employers is unaffected by this announcement and remains that you must report payments on or before the date the employee is paid, i.e. payday.

Electronic payment deadline falls on a weekend

In December the electronic payment deadline of the 22nd falls on a Sunday. To make sure your payment for that month reaches us on time, you need to have cleared funds in HMRC's account by the 20th unless you are able to arrange a Faster Payment.

Remember that it's your responsibility to make sure your payments are made on time and if your payment is late you may be charged a penalty.

So that you know what date to initiate your payment and make sure we have it on time, you need to speak to your bank/building society well in advance of making your payment to check single transaction, daily value limits and cut off times.

Find out more about paying us electronically here.

Advisory Fuel Rates from 1 December 2019

If you are a company car user then please note there have been some changes to the Advisory Fuel Rates from 1 December 2019. There has been no change to the Advisory Electricity Rate for fully electric cars. All rates will be kept under review and can be found here.

Ultra Low Emission Vehicle

In Employer Bulletin 80 we told you about the proposed changes that will impact Ultra Low Emission Vehicles from 6 April 2020. Please revisit this information.

How this affects you:

Reporting a new company car or one made available to an individual for the first time in the 2020/2021 tax year.

From 6 April 2020 a new zero emission mileage field will be shown on the form P46 (car). If a car has a CO_2 emission figure of 1-50g/km you will now need to provide the car's zero emission mileage. This is the maximum distance in miles that the car can be driven in electric mode without recharging the battery.

Payrolling the company car and car fuel benefit

From 6 April 2020 if a car has a CO_2 emission figure of 1-50g/km you will now need to provide the cars zero emission mileage figure in the new field available.

More information on the proposed changes and where to obtain this information will be available in the near future.

High Income Child Benefit Charge deadline 31 January

Do any of your employees have a total income of over £50,000? They may have to pay a tax charge, known as the High Income Child Benefit Charge if they or their partner get Child Benefit.

If your employees are liable for the charge then they may need to file a tax return before the 31 January deadline.

Telling your employees about the High Income Child Benefit Charge may help them to understand their obligations and avoid facing a penalty.

People earning over £50,000 should:

- check their annual income either on their P60 or their personal tax account
- include any taxable benefits, for example medical insurance, company car or accommodation in their income
- use the child benefit tax calculator
- to avoid a penalty, notify HMRC and register for Self Assessment and submit a 2018 to 2019 return before 31 January 2020 and pay what is due.

Child Benefit remains a universal benefit. It is important for parents to fill in the Child Benefit claim form so they do not miss out on National Insurance credits, which help to protect their State Pension.

They can opt out of claiming Child Benefit payments so they won't have to pay the charge for future tax years but will still receive the National Insurance credits. More information on Child Benefit can be found here.

Tax-Free Childcare payments

We've told you how Tax-Free Childcare can help your employees with the cost of childcare, but did you know we've also made it quicker for parents to pay for the childcare they use?

As an example, if a parent makes a deposit into their Tax-Free Childcare account by bank transfer or standing order:

- it should take only **2 hours** for the payment to reach their childcare account
- we'll add any government '**top up**' automatically
- they can use the money to pay their childcare provider as soon as it shows as '**available funds**'.

If they pay their childcare provider:

- before **2.30pm**, it'll reach their provider's account the same day
- after **2.30pm**, or at the weekend or on a bank holiday, it'll arrive in their account the next working day.

We know some parents are still missing out on Tax-Free Childcare. We'd welcome your help in changing that, so please tell your employees about Tax-Free Childcare today.

Update on Termination payments: Post Employment Notice Pay for employees paid by equal monthly instalments

The alternative calculation of Post-Employment Notice Pay and the circumstances in which it may be used were published in the October 2019 Employer Bulletin. The circumstances in which the alternative calculation may be used are where:

- the last pay period of the employee relevant to the PENP calculation is a month; and
- the employee's salary is paid by 12 equal monthly instalments, but
- the employee's notice is expressed to be a whole number of days or weeks.

It was intended that the alternative calculation would be available to be used in any case where the employee is paid by equal monthly instalments and the conditions of s402D(6) ITEPA 2003 are not met. The original wording of this concession was too restrictive and did not reflect HMRC's intention. Updated guidance is now available at EIM13886.

Trivial Benefits in Kind Exemption - Getting it right

Following on from our articles regarding Trivial Benefits in the previous two Employer Bulletins, here are some further tips on how to apply the rules correctly.

Remember, the rules are:

- Cost of the benefit must not be over £50;
- The benefit must not be in the form of cash or a voucher redeemable for cash;
- The benefit must not be provided as part of salary sacrifice arrangements or any other contractual obligation; and
- The benefit must not be provided in recognition of particular services.

Tip 1 – Other contractual obligation

Contractual obligations can take a variety of forms, so the phrase should be read widely to include anything the courts would deem as a contractual agreement, for example:

- A side letter to the main contract document
- A staff handbook
- A letter of appointment
- A redundancy agreement
- An employer union agreement
- Any legitimate expectation.

A 'legitimate expectation' might apply even where there is not a strict contractual obligation. For example, your employees may be provided with a cream cake every Friday. Although there is no contractual obligation, there would be a legitimate expectation – your employees expect to be provided with a cream cake every Friday.

There is further guidance regarding contractual obligations in EIM12976 Although this relates specifically to "termination payments", HMRC accept that this also applies to the trivial benefits exemption.

Tip 2 – Digital platforms

If you pay for an 'app' which enables your employees to access discounted products or services which the employee then pays for, the benefit provided by you is not the actual product or service supplied by the digital platform, for example, the provision of medical advice or the hailing of a taxi. The benefit is **the access to the 'app' itself.**

For the exemption to apply the total cost of providing the 'app' must be no more than £50, as well as meeting all the rules detailed above.

If, however, you pay for the products or services obtained by your employees, the total cost should be considered for the purposes of 'the benefit'. For example, if medical advice obtained through an app is charged to you at £49 per session, once an employee obtains more than one session of medical advice in the year the benefit for that employee is no longer 'trivial' for the purposes of applying this exemption. This is because the cost of the benefit will exceed £50. There is further guidance at EIM21865.

The same applies to a taxi hailing 'app'. If you provide an employee with access to the service and pay for all trips, once deductible business trips are removed, the cost of the remaining trips should be added together, including any cost associated with the provision of the 'app' and the total treated as '**the benefit**'. Remember, it is the **cost of 'the benefit' over the year** that should be used to decide whether the exemption applies. This is the point made in Examples D, E and F of the HMRC guidance referred to above.

Tip 3 – Particular service

If a benefit has been provided to an employee as a reward for services, or because it is in recognition of something they have had to do as part of their employment duties, then the benefit will not qualify as a trivial benefit.

As an example, an employer may require some of its employees to work through their lunch hour and provide them with lunch. The meal has been provided because of the work they are undertaking. The benefit does not satisfy the trivial benefits condition, so the exemption will not apply. Further guidance and examples be found in EIM21868.

Follow all the rules of the exemption and get the tax right so that you benefit as well as your employees.

Business mergers and changes of ownership, what you need to do

Where a business joins with another or changes ownership, as an employer you will need to contact HMRC to confirm if you should treat the business change as a merger or a succession. HMRC will tell you which employer reference to use or may provide you with a new one.

HMRC has identified that, in a small number of cases, after an employee has moved to a new employer reference because of a business change, previous pay and tax details are incomplete on the new payroll record. As a result, new tax codes have been issued based on incorrect information which can cause financial difficulties for your employee as their record is corrected. If your business is merging or changing ownership you will need to follow the steps detailed below to ensure all of the employees' payroll details are transferred to the new business.

If HMRC provides you with a new employer reference or the employee is moving to a new payroll within your organisation with a different employer reference you should:

Send a Full Payment Submission (FPS) with leaving details, including the year to date pay and tax figures for the employer reference the employee is moving from. You do not need to give the employees affected a P45, but you will need to provide them with the pay and tax details up to the date they moved to the new employer reference.

Once you are satisfied that the leaver FPS has been successfully sent to HMRC you can send the first FPS for the new employer reference. Restart the employment for each employee affected by returning their year to date figures to zero and include the employee information. Record the start date for the new payroll, indicating on the starter declaration, C for BR codes or codes starting with a D prefix and B for any other code.

When operating the new payroll you must work out and deduct PAYE and NICs from any payments you make to the transferred employee from the date they moved payrolls. If using a cumulative tax code use the pay and tax details from the old employer reference.

The last FPS from the old employer reference must be submitted before the first FPS for the new employer reference. If you are unable to do this you will need to contact HMRC's Employer Helpline.

If the employee received or continues to receive company benefits following a change of payroll, you must submit forms P11D/P11D(b) under the new employer reference. Send a P11D for each employee in receipt of a company benefit and the P11D/P11D(b) must contain the total information from both the old and new employer references.

If the employee moves to a new payroll under the same employer reference you should;

Continue to operate PAYE and report your payroll information under the same employer reference.

Submit one P11D for each employee in receipt of company benefits under the same employer reference.

HMRC Guidance will be updated to reflect these changes.

Workplace pensions - remember to keep paying in

People are saving into workplace pensions more than ever before thanks to automatic enrolment (AE). Employers have put an astonishing 10 million members of staff into pension schemes since AE began – but their legal duties don't end there.

Employers are responsible for making sure that the right amount of pension contributions are paid promptly into a scheme.

It's not enough to enrol your employees in a scheme and stop there – you need to continue paying in every time you run payroll. Not only that, but the law sets a minimum amount of 3% of the employee's gross earnings for employers to pay in. You can pay more than this if you wish, but you're not allowed to pay any less.

As an employer you should make sure that members receive the contributions they're due. You need to identify late or inaccurate payments early – The Pensions Regulator will take action if you fail to comply with your ongoing legal duties, and you may need to backdate any missed payments. Visit our website for more information.

Toolkits - helping to reduce errors

Accurate record keeping will help to ensure that the correct data can be sent to HMRC by the due dates and reduce delays in payments.

You may wish to download the National Insurance Contributions & Statutory Payments toolkit. The toolkit contains comprehensive sections that address areas such as Class 1 NICs and statutory payments.

The expenses and benefits from employment toolkit provides further support for employers. The toolkit contains sections about vehicles, travel, subsistence and entertainment, personal bills and the use or transfer of assets. We also have a new section about optional remuneration arrangements.

The toolkits are designed to help agents and advisers, but we hope you'll find them useful too.

Student/Postgraduate Loans

In Employer Bulletin Issue 78 we told you about Student/Postgraduate Loans. It is important you operate the correct Student and/or Postgraduate Loan threshold and rate for your employee and record this correctly on your Full Payment Submission.

Operating the incorrect Loan or Plan Type could result in your employee having deductions taken which aren't due.

You can find out what Loan or Plan type your employee has by:

- asking your employee. If your employee does not know their Loan or Plan type they can check here
- checking the information completed by your employee on the starter checklist
- checking the:
  - Student Loan start notice SL1
  - Postgraduate Loan start notice PGL1.

HMRC may contact you to ask you to stop taking deductions under the wrong loan or plan type and correct the information on your next payroll submission.

PAYE Desktop Viewer

Unfortunately, the PAYE Desktop Viewer (PDV) was not updated as expected and as advertised in the October Employer Bulletin. HMRC apologises for any inconvenience this may have caused.

The next PDV release is not now expected until sometime in the New Year; in the meantime the current version of PDV will continue to function normally.

We will let you know, via the Employer Bulletin, when the next release is available.