

Amendment 25: Clause 90: Connected companies

Summary

1. This amendment to clause 90 allows for companies which are connected for the purposes of the apprenticeship levy to share their annual levy allowance (£15,000) between them, instead of only one company being entitled to the allowance.

Details of the amendment

2. The amendment removes subsections (1) to (3) of clause 90 and replaces it with new subsections (1) to (3M).
3. Subsection (1) sets out the definition of a 'company unit' as being two or more companies which are not charities which are connected to each other at the beginning of each tax year.
4. Subsections (2) to (3B) set out how the levy allowance may be split between connected companies. The connected companies must themselves determine the split. An individual company in the unit may be entitled to no allowance (but not a negative amount), but in total the company unit are not entitled to more than £15,000 levy allowance for a tax year. The decision relating to the split cannot be altered until the next tax year, unless a correction is necessary because the total amount of levy allowance for the company unit exceeds £15,000.
5. Subsections (3C) to (3G) set out that if a company unit has split their allowance in a way that means they receive more than £15,000 levy allowance, and does not remedy that by altering the split of their levy allowance after being notified in writing by HMRC, HMRC must decide what amount of allowance each company is entitled to, for that tax year. HMRC will determine the allocation of the £15,000 levy allowance between companies in the unit by using the approach in subsection (3D), which is to scale down the levy allowance in the proportion agreed by the companies in the unit so that it equals £15,000. For example where two companies used a levy allowance of £10,000 each, this would be scaled down to £7,500 each ($(£10,000 \times £15,000) / £20,000$).
6. Subsection (3H) to (3K) sets out how the apprenticeship levy allowance is to be determined by HMRC where the total amount of apprenticeship levy paid is less than the amount due and the companies have not made apprenticeship levy returns or these returns do not contain sufficient information for HMRC to determine the allocated levy allowance split. In these circumstances HMRC will notify the companies in the unit in writing that they are considering taking action under subsection (3H). If the remedial action specified in the notice is not taken, HMRC must determine the allocation of the £15,000 levy allowance between companies in the unit by using the approach in subsection (3I), which is to split the levy allowance by the number of companies in the unit.
7. Subsection (3L) sets out that the Commissioners of HMRC can provide through regulations for companies in a unit to alter their allowance split, despite subsection (3B).

8. Subsection (3M) sets out that "apprenticeship levy return" refers to a return under regulations under section 94(4).

Background

9. The Apprenticeship Levy was announced at Summer Budget 2015. It will be a Levy on employers to fund new apprenticeships. The Levy will support the Government's commitment to improving productivity by increasing the quantity and quality of apprenticeships. The Levy will be charged at a rate of 0.5% of an employer's total pay bill. Each employer will receive an allowance of £15,000 to offset against their Levy payment, which will mean the Levy will be payable on pay bills in excess of £3 million a year. The Levy will be introduced from 6 April 2017.
10. Amendments are being made to clauses 90 and 91 to allow connected companies and connected charities to share the levy allowance in the group as they choose. There is also a consequential amendment to clause 88.
11. The amendments to clauses 90 and 91 are in response to representations received.