From:
Sent: 22 May 2018 23:35
To: Increasing Transparency
Cc:

Subject: Consultation: Increasing Transparency
Attachments: HMRC Consultation - questions and clarifications.docx

Hello,

I am a product manager at a payroll software company that attends the BCS Payroll Group meetings. The March 19th meeting had a presentation on Holiday Pay and we were invited to give our feedback. I have pasted below our responses to the questionnaire that pertain only to Holiday Pay. I have also attached a document with additional questions and clarifications, just in case they are useful.

As a side note, we have been working with many customers to figure out their requirements and interpretations of the case law around holiday pay and would love to be involved in any further efforts you make to clarify the requirements.

Question 27: Do you agree that government should take action to change the length of the holiday pay reference period?

Yes/No/Don't know. YES
If no, explain your answer.
Question 28: If you answered yes to Q27, should government:

a) increase the reference period from the current 12 weeks to the 52 weeks recommended in the review?

Yes/No/Don't know.

b) Set a 52 week default position but allow employees and workers to agree a shorter reference period?

Yes/No/Don't know.

c) Set a different reference period

Yes/No/Don't know. If yes, please specify. 52 weeks is a challenge due to migrating customer data from legacy payroll systems, the performance impact on calculation times, plus the overall maintenance of worker queries.

Our suggestion: Have a 12 week look back period to find an appropriate number of pay periods, but allow an extended look back where not enough valid pay periods are found, but limit that extended look back to a max of 52 weeks. An example of an invalid pay period is perhaps one that has reduced pay or no pay due to absence. If enough valid pay periods are not found in the 52 weeks, then the holiday pay enhancement is based on what is available, if anything.

Question 29: What is your understanding of atypical workers' arrangements in relation to annual leave and holiday pay?

For example:
a) Are they receiving and taking annual leave?

Yes/No/Don't know.

b) Are they receiving holiday pay but not taking annual leave?

Yes/No/Don't know.

c) Do you know of any other arrangements that are used? Yes

Please explain your answer. Term time only staff where holiday periods are set for them, or companies that operate fixed shut down periods (e.g., over the summer or Christmas period).

Question 30: How might atypical workers be offered more choice in how they receive their holiday pay? Perhaps a pre-agreed rate of holiday pay at the start of the holiday year, based on the previous year's earnings (instead of an average calculation) or expected earnings. This would prevent workers on long-term absence (e.g., maternity) from losing out. We will continue to consider this and get back to you if we come up with something else.

Please provide examples including how worker's entitlement to annual leave could be safeguarded so they are not deterred from taking leave. We thought maybe a holiday pay premium rate could be used, however that may result in people not taking their leave and just cashing out on the premium pay when they leave. We will continue to consider this and get back to you if we come up with something else.

Ultimately, we have found that every customer has a different view on how this can be handled. This makes providing a solution extremely challenging. It would be great to understand what the HMRC is planning to do to clarify requirements and also – if possible – we are more than happy to facilitate any alignment of requirements.

Kind regards,

Product Manager, UK Payroll

Thank you for considering the environment.

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