

Employment Taxes and CIS Blog – May 2012

Hello to everyone reading this Blog, where my priority at the start of May and indeed since the end of the last tax year, has to be the completion and submission of the end of year PAYE returns. The statutory PAYE returns to be filed by 19th May 2012 are the P35 Employer's Annual Return, P14 End of Year Summary and the P38A Employer supplementary return.

The P38A Employer supplementary PAYE return is for "Workers for whom you have not completed a form P14 or form P38(S) for the year 6 April 2011 to 5 April 2012." The form states "You must complete this form if you answered 'No' to question 1 of the checklist on your Form P35 Employer's Annual Return." It is a form that gets overlooked by employers and it should be considered as part of our PAYE year end filing checks. We have to complete one of the two declarations covering workers for whom neither a P14 nor P38(S) return is being submitted. The declaration on the front of the form removes the need to complete a list of casual workers earning below the income tax threshold.

Employers are asked to "Look at your records for each worker and consider whether:

- 1 you hold a form P46 Employee without a form P45, that has been completed at either Statement A or Statement B by the worker
- 2 the worker was paid less than £102 every week, or £442 if paid monthly.

If the answer is yes to both questions there will be no need to complete the back of the form and the employer's signature and a date is all that is required to complete the declaration on the front of the form. The two sections A & B on the back of the P38A restrict the amount of reporting. Casual workers earning less than £102.00 in any week, or £442 if paid monthly and taken on for a week or less do not need to be reported at Section A or B.

Casual workers employed more than once in the tax year, but for separate engagements of up to a week, will have to be reported at section B of the P38A if they were paid more than £102 in total in the year to 5 April 2012. Harvest workers are also included in Section B and the Employers Guide to PAYE and NIC, CWG2, gives more advice on their special treatment. I will be asking my clients if any other payments have been made that should have gone through the payroll or might need to be included here.

There is one statutory PAYE return that does not have to be submitted to HMRC, but it must be completed and retained for at least three closed tax years and that is the P38(S) Student Employees return. My advice to you is to make sure that these forms have been completed and signed by both the student employee and the Employer; also checking that no student has been paid more than the personal allowance limit of £7,475 for 2011/12. If any student employee was paid more than £7,475, tax should have been deducted using Code 0T and if necessary, I would now add the student to the end of year return and prepare a P14.

For most of us, we must file the P35 and P14's online and we have a choice of filing the P38A online or in paper format, but each of these returns must be filed by the 19th May 2012 deadline. The exceptions to online filing are domestic employers using the simplified deductions scheme, care and support employers (that is people who employ someone to provide care for them or a member of their family at home), but not where the returns are submitted by an Agent like you or me and certain religious groups that are exempted. None of the exemptions apply if any of these employers previously claimed the incentive payments for online filing.

Now before we start thinking of preparing the PAYE returns, let's check that we have the online filing details? A year ago, but after the 2010/11 PAYE returns had been filed, I took over the payroll for a small

client and when I checked the file last month I couldn't find a password; which meant that I had to log on and click on lost password. I then had to provide the user ID, PAYE and Accounts Office reference numbers for the Employer and I am patiently waiting for the new password to arrive! I have checked all my other User ID's and Passwords and I am happy that I should have no problem filing all my other PAYE returns. Do you need to do this now or do you need to register for online filing for any Clients that haven't done this before? The message has to be to check this out now and not leave it too late! HMRC's diary in Employer Bulletin 41 states that 9 May 2012 is the "last date to register to use PAYE Online for Employers if you are required or intend to send your 2011-12 Employer Annual Return online."

There are other checks that need to be carried out and we must remember that HMRC has a 'quality standard' for completing PAYE returns, which may be rejected if they fail the standard. There is a lot of helpful information on the HMRC website, in the Employer section and through your MYAAT account you can access the Payroll Year End Podcasts where I offer you some guidance on completing the PAYE annual returns.

I have already filed some of my Client's PAYE returns and for each of these my first task was to do an 'annual earnings period' check for the directors. I spotted the need for this for the Managing Director of one Company because he received a regular monthly salary of £2,500 and when asked I was told that he had a bonus of £18,100 before he went on holiday. Here's my calculation:

Earnings	48,100		
Primary threshold	(7,228)		
	40,872		
Earnings to UEL	35,256 @ 12%	=	£4,230.72
Earnings above UEL	5,616 @ 2%	=	£112.32
Total Primary Class 1 NICs		=	£4,343.04

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Had I overlooked this check, the Director's Primary Class 1 NICs would have been underpaid by nearly £1,100. He wasn't very happy about this, but in future the annual earnings period basis will be used and he will pay the full amount of NICs on his bonuses. HMRC does have an online tool for checking the director's annual earnings period NICs, but unfortunately it is for the current year, 2012/13, which is not much good for checking last year's figures. It is useful for doing this check during the tax year; particularly when a director leaves and the NICs must be recalculated before the final payment of salary is made. It may be too late after the director has left to recover the unpaid Primary (employee) NICs. The Secondary (Employer) NICs will not be underpaid because there is no Upper Earnings Limit (UEL).

Another important reminder is that 31st May 2012 is the last date for giving a 2011/12 form P60 to each employee working for the employer on 5 April 2012.

Some news on the CIS front! HMRC has provided some guidance on setting of and claiming repayment of CIS deductions in Employer Bulletin 41 that was published last month. An extract from that guidance is provided below:

If you are a company that has an entry in box 28 of your P35 annual return and have identified an overpayment, you must send a written request to Customer Operations Employer Office, Room BP4009, Chillingham House, Benton Park View, Longbenton, NE98 1ZZ or FAX 0191 225 6677 to request a refund or set off. HMRC will not always set off overpayments as a matter of course but a written request from you may help us meet your requirements as best as possible. Your request should clearly state which liability you would like the CIS overpayment to be set off against and include all relevant tax reference numbers. Please keep a copy of your written request for reference.

HMRC has since published a leaflet setting out how subcontractors that are limited companies should reclaim any deductions they have had taken from their payments under the Construction Industry Scheme. You can get a copy of the leaflet by going to the HMRC website and clicking on CIS in the blue Employer box, then click on 'CIS what's new.' The leaflet sets out what is required before claiming a repayment of CIS deductions, including registering as a subcontractor, setting up a PAYE scheme and ensuring that the company has received and kept the payment and Deduction Statements from the Contractors. There is then a series of questions and answers and a reminder of the HMRC contact numbers.

On the subject of contacting the HMRC CIS helpline, I was at a client recently and was told that the Client had been having problems with the CIS Helpline, which surprised me because I have always found the staff there to be very helpful. It was a verification problem and involved an Eastern European worker where there was some doubt about the spelling of the Christian name. I called the CIS Helpline from my Client's office and very quickly obtained confirmation that standard rate deductions could be made and was provided with a verification number. My client wondered why it was so easy for me and really the only problem I had was understanding the broad Scottish accent; which as I said to the HMRC Officer, was quite funny when coming from someone with another 'Celtic accent.' But then those of you that know me will understand that I am a bit deaf! However, the point about this story is that before I made that call I made sure that I had all the information readily to hand; Contractor details for the security checks, subcontractor details (name, UTR and NINO). I also explained the problem of the uncertainty of the spelling of the Christian name; was it an I, J or L, so as my 'Brown Owl@ wife would say, be prepared! And, don't forget to record the name of the officer, date and time of the call.

Well folks, that's it for now. I am going to switch my attention to the P11D Podcasts that I will be presenting in the Studio next week and I am looking forward to a couple of days in Bath on the weekend to celebrate my 30 year old "baby's" birthday.

All the very best!

Mike