

Employment Taxes and CIS Blog – October 2012

Welcome everybody to my October 2012 Employment Taxes and CIS Blog. I thought about the 'Big Issue' this month, which is undoubtedly Real Time Information, perhaps run a close second by 'Auto Enrolment,' where you will need a Pensions Advisor, not me, but first let me congratulate the 'Big Issue' street newspaper on reaching 21 years last month.

Forgive me now for repeating myself, but I must start with my final reminder from last month's Blog about the 2011/12 PAYE Settlement Agreement payment deadline of Friday 19 October 2012 (or Monday 22 October 2012 when paying by an acceptable electronic method of payment). I have submitted all my Client's 2011/12 PSA computations, but at the time of writing I have not received HMRC agreement to all of those computations and some of my Clients have yet to receive a PSA payslip from the Accounts Office at Cumbernauld or Shipley. I telephoned two of the Specialist Employer Compliance offices to find out what was happening and was told by one that they had a backlog and were about to open post for 21 August 2012. I was asked to call back on 5 October 2012 if a payslip has not been received.

As I said last month, "HMRC guidance is quite specific in saying that "you **should not** use your normal PAYE Accounts Office reference number as payment will be credited to the wrong account and this will cause delays in crediting your PSA account."

HMRC would like us to make all of our in-year and annual PAYE, NICs and PSA payments electronically, because it is safe and secure and provides more certainty; which is what I like about it. We must remember that electronic payment is mandatory for employers with 250 or more employees. Electronic payment includes direct debit, debit or credit card using BillPay, Bacs direct credit, internet or telephone banking, CHAPS, GBS Transfer (formerly Paymaster), Bank Giro and payment at the Post Office.

If you or your Client intend to pay by post you need to ensure that you post the cheque early enough to reach HMRC by the Friday 19th October 2012 deadline. Further guidance from HMRC includes:

- make your cheque payable to 'HM Revenue & Customs only' followed by your PSA reference number
- detach your PSA payslip, and not a payslip from your payment booklet, and send it with your cheque to the HMRC Accounts Office in Shipley using the pre-addressed envelope HMRC sent you, or post it to the address below
- do not fold the payslip or cheque and do not fasten them with paper clips or staples or in any other manner

To allow for possible postal delays (for which HMRC is not responsible) please allow at least three working days for the payment to reach them. If you are sending a payment to HMRC and do not have a pre-addressed HMRC envelope please send your payment to:

HM Revenue & Customs
Bradford
BD98 1YY

Whilst on the subject of making payments to HMRC, let's remember that the quarterly payment deadline for PAYE/NICs/Student loan and CIS deductions is fast approaching on 19th October 2012, extended to Monday 22nd October 2012 for electronic payments. I make quarterly payments myself, but find that whilst Clients cope with the normal monthly payments of PAYE etc. without too much trouble, some do overlook the quarterly payment deadlines from time to time. Employers and Contractors are allowed to pay quarterly if their average monthly payments of PAYE/NICs/SLDs and CIS deductions do not exceed £1,500 per month.

Some of our Clients will not have to pay anything over to HMRC, but that is not the end of the story. Contractors in the Construction Industry having a registered PAYE scheme to enable them to submit their CIS300 monthly returns online will often not pay wages or directors fees and therefore have no PAYE/NICs or Student loan deductions to pay over; and perhaps no CIS deductions made from payments to subcontractors; therefore have nothing to pay over to HMRC. Employers or Contractors with nothing to pay must notify HMRC that no payments are due (avoiding reminders being issued) and this can be done online (<http://www.hmrc.gov.uk/tools/payinghmrc/no-quarter-payment.htm>) through the HMRC website. Select the payment period of Quarter 2 (6 July 2012 to 5 October 2012) from the drop down box and enter the Employer 13 digit Accounts Office reference in the box provided, then click the submit button.

OK, moving on. HMRC published the latest version of its Employer Bulletin, issue 42, on the website on 24 September 2012 and when you have time, it is well worth reading. The big issue on this edition is Real Time Information (RTI) and the first 23 pages of a total of 28 pages are about RTI; which is a big concern for employers and their advisors. Most employers will move to reporting PAYE information in real time from April 2013 and this month HMRC will be writing to employers to tell them what is needed to get ready, then again in February 2013 HMRC will tell employers their start date for RTI reporting. Some AAT members have told me that they will stop doing payrolls when RTI comes in, but many others are getting ready for the start of RTI. We need to consult our software providers and we must review and clean up our payroll data. I look forward to giving more advice to AAT members when I speak at Branch meetings, starting in Norwich later this month, but also at a number of Branch meetings in the spring. Many people think that 2012/13 will be the last "Payroll Year End," but whilst we will see the end of most PAYE end of year returns, there will still be some payroll year end tasks and we will be retaining P60s and of course P11Ds and P9Ds. There are interesting times ahead!

In a summary of 'other news' Employer Bulletin 42 mentions fixed costs in County Court Proceedings (CCP), the National Minimum Wage rates from 1 October 2012 (previously reported in my Blog); a reminder about outstanding 2011/12 P11Ds and P11D (b)s, where HMRC have issued early reminders to Employers and their Agents. Action required is to send in the late returns, or tell HMRC that none are due before the penalty notices are issued.

The next issue commented on in Employer Bulletin 42 relates to International Employments and changes to the Employment Procedures, EP Appendix 6, 7A and 7B agreements to reflect the introduction of RTI; which I commented on last month. There are comments on 'week 53' payments, changes to the child maintenance scheme, a reminder about the December electronic payment deadline falling on a Saturday and some advice that I have already given about telling HMRC when no payment is due. The

Employer Bulletins are always worth reviewing and personally I have printed a copy off to carry around and study in more detail as I travel around the Country.

HMRC has announced that it is making a significant change to the way inbound mail is handled to speed up the time it takes the department to receive mail and (hopefully) making HMRC's response times to customer queries faster and more efficient. From this month, a series of new PO Box addresses will be introduced with the intention of making it easier for us to send post to the relevant HMRC offices and teams. HMRC says that this is in direct response to the changing nature of its business and the geographical locations of its offices. It follows on from the success of a pilot exercise in 2011 for Self Assessment and PAYE customers and HMRC is now extending the pilot to cover other business areas including:

- Specialist Personal Tax
- VAT
- Criminal Investigations
- Specialist Investigations
- Debt Management and Banking
- Local Compliance

We should start to see the new PO Box addresses on HMRC correspondence from this month on, so think about this before you use an old address that you have on the system.

P11D dispensations are usually high on my agenda and are too often ignored by many employers, but last month HMRC issued another statement about what it perceives as abuse of P11D dispensations. The HMRC statement focused on the use of P11D Dispensations for *"Pay Day by Pay Day Tax Relief Models and other arrangements where expenses are not reimbursed but tax "relief" is claimed to be administered each pay day by the employer to reflect expenses incurred by the employee."*

P11D dispensations are intended to remove the requirement for employers to report certain payments of expenses and benefits at the end of the tax year on forms P11D or P9D and remove the need to pay any additional tax which would otherwise be due on payments or benefits covered by a Dispensation. HMRC's statement makes clear that the removal of the reporting requirements only applies to the payments and benefits included in the Dispensation; that Employers must continue to report any expenses or benefits not included in a Dispensation and must pay any additional tax due. HMRC is insisting that ***"expenses that are not made to or provided for any employees by the employer cannot be included in, or afforded the protection of, a Dispensation."***

This area of concern will not affect most Employers and should not put an Employer applying for a dispensation to reduce the reporting burden. The statement is aimed at umbrella companies, employment businesses, labour providers and employers engaging and paying temporary workers and demands a review of the use and validity of any P11D dispensations being relied upon.

AAT members may be interested in the news that the Court of Appeal has clarified the law regarding holidays and sickness. Under current law employees may take their annual leave while they are off sick but they can also choose not to and must be allowed to carry over their leave so as not to lose their entitlement. However, following conflicting

Employment Tribunal decisions employers have been unsure as to whether they only had to permit 'carry over' where a worker had requested the 'carry over' of the leave during the leave year. The appeal in the case of Lerner was heard by the Court of Appeal in March and the decision has just been reported. The Court of Appeal dismissed the appeal and held that the employee did not need to have requested leave during the leave year in order for it to be automatically carried over to the next year. This could mean that the untaken leave would be payable on termination of the employment. The Working Time Regulations could be interpreted in line with this so that all employers should comply with this rule, which means that employees off sick for long periods will accrue holiday which will either be available to be taken if they return to work or will need to be paid should their employment be terminated. Employers need to manage cases of sickness absence as proactively as possible and may wish to review the position and perhaps set time limits on the utilisation of carried over holiday as part of the contract. Unused leave would only remain available for a limited time of perhaps one year.

The only 'WhatNews' item on the CIS front this month appeared on 12 September and related to some changes to the CIS technical pack. The comments I made earlier regarding quarterly payments and paying on time are very relevant to Contractors and to subcontractors who enjoy 'gross payment status,' which would be at risk if making late payments to HMRC.

Well that's it for now!

Cheers

Mike