

# HMRC Employment Forum

## Employment Tax

01 February 2018

A round up of recent HMRC employment taxes related consultative forum meetings, including the Employment and Payroll Group, Student Loan Consultation Group, and IR35 Forum.

### **Employment and Payroll Group (EPG)**

The EPG is HMRC's main employment taxes forum and generally focuses on high-level policy issues. It met in early December to discuss Making Tax Digital for individuals (MTDi), the Real Time Information (RTI) Post-Implementation Review (PIR), and IR35.

As part of MTDi, HMRC are using 2016-17 data received on single named savings accounts from banks and building societies to populate interest for the 2016-17 tax year, for example for P800/Simple Assessment purposes, and estimate interest in the 2017-18 tax year, for example for tax code review purposes. We also understand the process whereby 'in-year adjustments' are included in a tax code to collect estimated underpayments where a tax code number is reduced will be paused from January 2018 to the end of the tax year to prevent excessive tax deductions arising.

The RTI PIR was an internal review commissioned by HMRC's RTI programme board at closure of the implementation phase of RTI reporting and was undertaken by the HMRC business area most impacted by the changes to the PAYE system. The review was designed to check that the programme achieved what it set out to do and how the changes are working in normal businesses. Although HMRC found the programme achieved what it set out to do (and considering the scale and pace, the introduction of RTI went relatively smoothly), the review acknowledges there was unease about the impact of real time reporting on small business, with many smaller employers feeling unready for its introduction and implications, and that there have been a number of data quality issues and mismatches between HMRC and employer

records which continue to create discrepancies that can be time consuming and costly to resolve. The full report can be read on [GOV.UK](https://www.gov.uk).

As announced in the Autumn Budget the government is moving on from the changes to IR35 introduced in April 2017 for the public sector and focusing on the private sector (and the £1.2bn per annum tax leakage predicted by 2025). A consultation will be published in 2018 and we understand the government is open-minded as to how best to tackle the private sector so long as the tax leakage is addressed.

## **Collection of Student Loans Consultation Group (CSL)**

The CSL also met in early December and discussions focused on HMRC's processes. From April 2018 HMRC will mandate that the student loan plan type must be included in RTI submissions. This information will be used to identify when the employer is using the wrong plan type (threshold) for deductions and, where necessary, HMRC will issue a prompt to the employer to correct the plan type. HMRC and the Student Loans Company are also beginning work on moving from an end of year transfer of data on employer student loan repayment deductions to more frequent data transfers (that is real time exploitation of RTI data). This is likely to commence in 2019-20.

The student loan repayment threshold for Plan 2 loans will increase from April 2018. A Written Ministerial Statement confirming the new earnings threshold can be found on the [Parliamentary website](#).

## **IR35 Forum**

The IR35 forum met in mid-December and the meeting focused on the direct collection of employment taxes in the public sector where a public body determines that an 'off-payroll worker' falls within the IR35 rules. External members of the forum raised issues around the time taken by public bodies to assess whether an engagement falls within or outside of IR35 and where they take a blanket decision that workers are caught by IR35 but then reconsider on a case-by-case basis if the worker objects. There was also considerable concern that some agencies were ignoring the new rules and that the public sector was not supporting reputable agencies. We understand that HMRC is undertaking 'robust' compliance activities to address non-compliance with the new rules.

Additionally, concern was raised that HMRC's 'Check employment status for tax' (CEST) tool fails to check the mutuality position as it is HMRC's view that it would 'rarely if ever be the case in a public sector hiring' so HMRC would not consider mutuality of obligation to be present. We think this is a major failing that needs to be addressed, not least because CEST can be used for current or future engagements in the public or private sector.

Finally, we understand the accounting treatment of payments to a worker's personal service company, which are subject to employment tax deductions at source (ie IR35 applies and the public sector body/agency withholds income tax and NICs under PAYE), has been referred to HMRC's Tax and Accounting Forum with a view to publishing improved guidance.