

HMRC's Post-implementation review of RTI

Employment Tax

01 June 2016

HMRC launched its post-implementation review of RTI in April and approached stakeholders for their input on a number of points, including what HMRC had done well, what it could have done better and the actions that still need to be taken. The ATT and LITRG provided detailed responses, both of which are summarised below.

ATT's response

What HMRC did well during the introduction of RTI

The decision to defer the implementation of in-year filing penalties until 6 October 2014 for large employers and to further defer this for small businesses to 6 March 2015 were welcome.

Another welcome move by HMRC was the decision, after lobbying from the ATT and other professional bodies, to remove from the final FPS the requirement to answer particular questions (which had previously been included on the old form P35). Answering these questions by 19 April had been problematic and administratively burdensome for employers, usually resulting in the need to submit a further return via an employment payment summary.

What HMRC could have done better

Overall, it was felt that, although there was early consultation, comments made by stakeholders appeared to be largely ignored initially. ATT noted that many issues raised earlier by employers and agents are only now being acknowledged and addressed by HMRC.

How HMRC dealt with disputed charges could have been handled much better. There should have been a clear procedure in place from the outset that was communicated to agents and employers. Instead, disputed charges appeared to disappear into a 'black-hole' for months and a backlog at HMRC's end rapidly built up.

The issues employers are still struggling with

ATT's response pointed out that the requirement to file 'on or before' is continuing to raise issues for employers. HMRC did introduce a couple of easements to assist employers (for micro employers and also a relaxation for all employers submitting within a three-day window of payment). Both of these measures were due to end on 5 April 2016, but, perhaps because there is still widespread concern that the education provided by HMRC in the interim has not been enough and that employers are continuing to struggle, HMRC recently announced that both penalty easements will continue until 5 April 2017.

Submitting amendments by an end of year update (EYU) form remains problematic. The ATT has been pushing for the EYU form to be redesigned to report year-to-date figures rather than the difference between amount submitted and the correct amount.

The lessons HMRC can learn for the future

In the ATT's opinion, the principal lesson that should be taken away from this review is the importance of listening to the people who are on the front line. As the ATT highlighted, this will be a critical lesson to carry forward into the Making Tax Digital project.

Further work or actions that HMRC should consider

The ATT believes there is now an overwhelming business case for reviewing the 'on or before' requirements and moving the filing deadline to the fifth of each month. The whole payroll community would benefit from significantly reduced burdens. Much of the justification for the 'on or before' requirements would appear to have less relevance following the Department for Work and Pensions' (DWP) surplus earnings provisions. These 'smooth out' fluctuations in earnings when determining the universal credit award, making the exact pay date somewhat redundant.

LITRG's response

LITRG focused on the time-sensitive nature of RTI. Despite the genuine difficulty many smaller employers have in achieving real-time reporting 'on or before' paying their staff, employees who receive universal credit may rely to a great extent on the employer's timeliness and accuracy. Information reported a day or two late may arrive on the DWP's systems in the assessment period after actual payment, which could cause the employee or claimant to be paid too much in one period and not enough in another.

The risk in introducing a system that requires electronic reporting is that significant numbers may be unable to comply because they do not have the requisite digital access, skills or equipment. However, under reg 67D(11) of The PAYE Regulations (SI 2003/2682), the HMRC commissioners may exempt an employer from electronic reporting if they are satisfied that it is not reasonably practicable for them to do so. LITRG suggested that the exemption from VAT online filing provides some useful criteria for determining whether the 'not reasonably practicable' test is fulfilled: viz for reasons of disability, age, remoteness of location or any other reason – the last category indicating that there could be other grounds on which a person's human rights could be breached by being required to file electronically.

Since April 2014, HMRC has been using RTI to finalise some tax credit claims. Early experience has shown that it is important not to place too much reliance on RTI figures when checking income for tax credits purposes. RTI figures show the P60 data used for income tax purposes, but not all of those figures are correct for tax credits. It is not unknown for the claimant to report the (correct) income figure but for HMRC's systems to override that in favour of the RTI data, which may be incorrect for tax credits. Similarly, an indication in RTI data that a person has been paid a higher amount in one pay period should not necessarily be extrapolated to give an indication that their annual household income will be increased overall.

Read ATT's full response on the [ATT website](#).

Read LITRG's full response on the [LITRG website](#).