Employment Taxes update 2021

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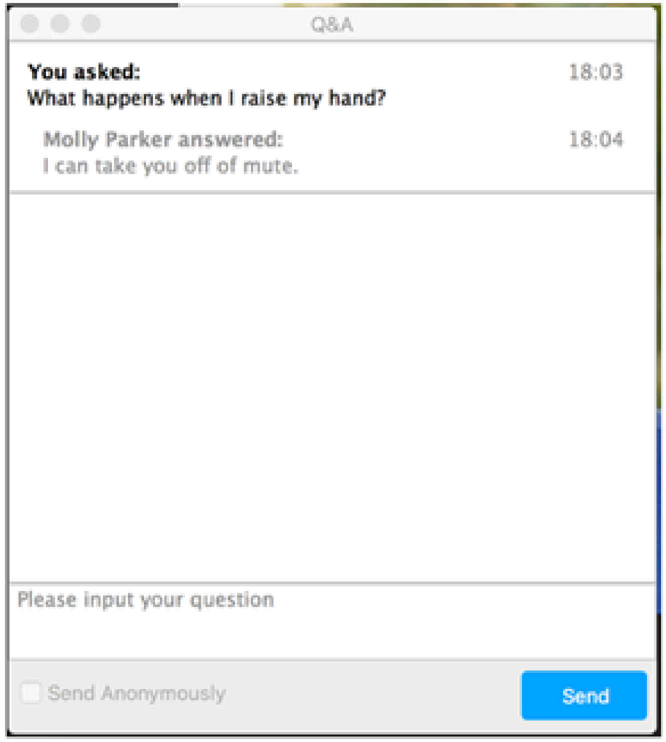
Ask a question



To ask a question

Click on the **Q&A** button in the bottom toolbar to open the submit question prompt.

Type in your question and click **send**.

Note. If you wish to ask your question anonymously check the **send anonymously** box shown on the illustration to the left.

Agenda

- CJRS compliance activity: assessing and mitigating risk
- COVID-19: benefit in kind easements
- National Minimum Wage: the impacts of this year's changes, last April's regulations and common mistakes
- Universal Credit & RTI data why does it matter more than ever?
- Hot topics: student loans, off-payroll, new NI exemption and FB 2021 changes

Compliance where are we now?

- 20-page ‘concern’ letters to employers of all sizes
  - Not copied to agents
  - 2-week lead time
- “There is no De Minimis!
- 21,000+ whistleblowing reports – HMRC have to respond
- £100m in Budget for Taxpayer Protection Force: HMRC think 5-10% error and fraud in claims up to £6.1bn!

2. Employee information

For each employee included in your claims for CJRS grant numbered all claims, I need to know:

- their name, address and National Insurance number
- the furlough start and end date
- details of how you calculate their 'usual' pay
- how you calculated their furlough pay
- whether you paid your employee at least the amount on the claim and provide evidence of this – for example, a BACS list, payslip or employee signature for receipt of payment
- the number of hours usually worked (CJRS flexible)
- the number of hours worked (CJRS flexible)
- the number of hours on furlough (CJRS flexible)
- the employer National Insurance contribution claimed (claims up to 31 July)

3. Details or corrections or adjustments

I need details of any corrections or adjustments to your CJRS claims.

4. RTI confirmation

Please confirm that all the employees you give me information for from section 2 are included in the Real Time Information (RTI) you sent to us on or before 19 March 2020.

If they were not, please tell us the employees names, National Insurance numbers and why they were included in your claim but not included on your RTI.

5. Other information I need

Please provide evidence of all claims being paid to the employees

Sending me the information I need

There are certain risks with using email. So before you do, please read the enclosed information sheet DSC2, 'Corresponding with HMRC electronically'. Before you send any information by email or dropbox you'll need to confirm that:

- you understand and accept the risks of using email and/or dropbox
- you are content for financial information to be sent by email and/or dropbox
- the attachments can be sent with email

You can send this confirmation by email. Or you can send it by post to the address at the top of this letter.

If the information you have is too large to send by email, please tell me. I can arrange for you to send it in a different way.

Please send the information to me by 28 February 2021. If you think you may not be able to do this, you need to phone and let me know.

When I've looked at the information you've sent, I'll phone you to talk about your claim in more detail.

More information

I enclose:

- factsheet CC/FS1a, 'About compliance checks'
- factsheet CC/FS48, 'Coronavirus Job Retention Scheme – receiving grants you were not entitled to'
- factsheet DSC2, 'Corresponding with HMRC electronically'

Employee details & NICs value already on claim

- How was reference pay calculated?
- Usual, furloughed and worked hours (already provided for 100+ claim)
- Corrections – already notified to them
- Confirm they were on RTI (they know this)
- BACS file or wages signing sheet!

Respond by date on letter even if just to request more time

Who might initiate compliance activity?

HMRC re CJRS

HMRC re NMW

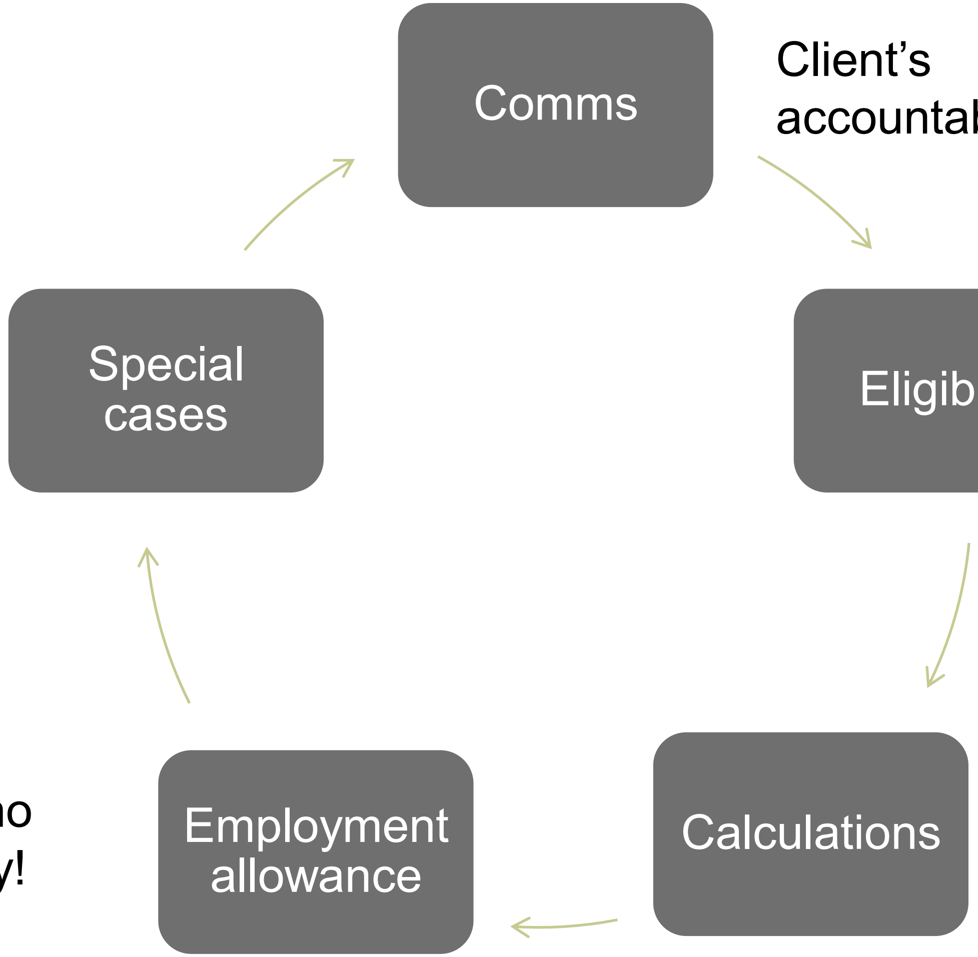
TPR

Pension provider or employee

Employee

Employment tribunal or via HMRC – CJRS or NMW

Top risk areas: CJRS schemes v1 & v2



Client's accountability

- RTI cut off, - high water mark,
- 21 days until 30.6.20

- NI recovery
- corresponding pay period

Still no clarity!

- SSP
- Family-related leave 25.4.20 regs
- Holiday pay 6.4.20 regs

Covid-19:Benefit in kind easements

- Homeworking allowance/relief
- Business equipment used at home
- Business equipment reimbursed
- Christmas parties & gifts
- Catering at work
- COVID-19 tests at work
- Bicycle schemes when no cycle to work journeys

Working from home and benefits in kind

- Employers can pay home working allowance £6 p.w. or £26 per month tax and NI free
  - Still OK for employee to claim full amount even if mix of home and office
  - No pro-rating needed for part-time staff either
- Alternatively employee can claim tax relief from HMRC on P87/PTA/SA return **until 5.4.21, new claim needed for 2021/22**
- New homeworking claim service: *bit.ly/3pDCjhT*

Working from home and benefits in kind

- No benefit in kind on using company equipment at home
  - Don’t reimburse broadband costs
- If employee buys their own equipment, they can be reimbursed as expenses as reimbursement isn’t taxable/Ni’able **until 5.4.22**
- For car benefit not to occur employee must return keys for at least 30 days, so car is not available
- Where is workplace now: it’s not your home!
  - The employer paying for taxis to get to work is not a tax-relieved expense
  - Tax issues overseas
- Guidance on benefits and expenses whilst working from home
  - bit.ly/3bdm4AC and bit.ly/2LJjh73

Christmas

- Annual party exemption of £150 per head including VAT was available even for virtual parties
- Trivial benefit of a gift of up to £50 per person including VAT will work as long as it is provided by the employer not reimbursed to a line manager as cash

Other benefit in kind relaxations

- Antigen tests exempt 8.12.20 - **5.4.22** if provided by employers
  - To detect COVID-19, not antibody tests to see if you've immunity
- Cycle to work schemes
  - Scheme members on or before 20.12.20 no issue if not using for 'qualifying work journeys' until 5.4.22
- HMRC will automatically accept that 'COVID-19' is a new PSA category for 2020/21 but must email lbs.compliance@hmrc.gov.uk

NMW 2021/22

- Check salary sacrifices
- Remember this is an ‘Alabaster’ increase

National Minimum Wage

- Top rate now applies to 23 and 24 year olds
  - Check salary sacrifices
  - This is an 'Alabaster' increase
  - Apprentices

Rate/Age	Current rate	New rate
NLW - 23 and over	£8.72	£8.91
21-22 years old	£8.20	£8.36
18-20 years old	£6.45	£6.56
16-17 years old	£4.55	£4.62
Apprentice rate	£4.15	£4.30
Accommodation offset	£8.20	£8.36

NMW regulations 2020 and enforcement policy

- Change of enforcement announced in February 2020
  - Salary sacrifice and ‘deductions for the benefit of the employer’ still reduce NMW pay
  - No naming and shaming will now take place where these are the only two offences are discovered
  - Conditions:
    - The employer has not received a national minimum wage enforcement notice in the last six years
    - These are the only two types of offence discovered
- Naming and shaming to be more frequent but £500 arrears threshold per employer
- Where HMRC find during a national minimum wage enquiry that salary sacrifice has not been implemented correctly they will now inform colleagues to launch a PAYE enquiry - HMRC want to see proof that contract has been varied

NMW regulations 2020 and enforcement policy

- The National Minimum Wage (Amendment) (No. 2) Regulations 2020
    - ‘Salaried workers’ can now be fortnightly and 4-weekly paid not just weekly or monthly
    - Being a salaried worker is important so you can pay in equal instalments whatever the length of the month ie hours in the month
    - Ensure annual hours are shown all contracts unless weekly paid as there aren’t 52 weeks in a calendar year
    - You can be salaried and receive rates other than basic and a bonus ie overtime or shift rates (but these still aren’t part of NMW pay)
- BUT to use this relaxation you have to set a new ‘worker calculation year’, otherwise the new definition only takes effect from the first worker calculation year that starts after April 2022
- What is a ‘worker calculation year’?...

NMW regulations 2020 and enforcement policy

- It is used to check that the employee hasn’t worked more than the annual hours specified in their contract
- It is based on the start date of the worker’s employment
  - An employee who began work on 1st March has a worker calculation year of 1st March – 28th/29th February.
  - In this example the employer would not be able to move the employee to be legally treated as salaried until 1st March 2023
- Avoid this by setting new calculation year

NMW regulations 2020 and enforcement policy

- How? Write to each worker explain why the calculation year is changing
  - Provide the date the new year takes effect which must be 3 months from the date of the notice (and 3 months from the employee's start date), and
  - That this will take effect unless the worker objects in writing, and
  - Ensure no change of hours or deduction from pay occurs as result of the change
- Wise to recategorise to avoid leaving employees as open to the risk that HMRC will classify them as 'unmeasured' means,
  - Meaning: that all hours worked particularly at peak times must be captured to ensure NMW has been paid or
  - A top up payment made when there is a long 31 day month

Disallowed deductions, reductions & payments

Deductions from net pay that reduce gross	Notes
Meals	
Parking fees & travel costs	
Equipment for work Uniforms/dress code	Not being reimbursed is classed as a deduction Making a payment to the employer to buy work equipment/clothes is classed as a deduction
Court order fees	
Training costs	
Childcare	For employer's nursery
Christmas club	Iceland case
Rent	
Salary sacrifice	

Anything that is classed as for the employer's 'own use and benefit' *Reg 12 2015 NMW regulations*

Staff purchases/discount (unrelated to work) should be operated as a payment to the employer outside payroll not as a deduction –*Middlesbrough FC case*

Universal credit and RTI

- Now 2.3m people on UC are working, 130% increase on a year ago
  - COVID-19 changes have brought those with higher earnings on to UC
- It's vital the payment date in field 43 of the Full Payment Submission is
  - Contractual payment date not actual if this has been moved as result of a weekend or bank holiday
  - The filing deadline is 'on or before' the actual payment date
- If you don't know what date your payroll software populates field 43 then find out!
- If the wrong earnings have been used against the wrong award period
  - Regulations changed 16.11.20 and DWP now have to reassess earnings: https://bit.ly/3vX0JoX

Hot topics….

Student loans

- New Plan 4 introduced from 6 April 2021
- Repayers moved out of plan 1 via SL1 switch notice
  - If you missed any instructions you will have to refund any overpayments
- Amended new starter checklist: https://bit.ly/3o66nCB
  - Confusing negative Question 9: say YES only if you have no loan due to be repaid at this time
  - If Question 10 says more than one undergraduate plan, default to plan with lowest threshold for the tax year of the live plans for that repayer

Off-payroll: practicalities

- Use the starter checklist for deemed employees too
  - Set OPW marker: what else does that stop in your software?
  - Tax code as per Statements A, B or C
  - NI table letter: normal rules
  - Residential address not business
  - PSC’s bank details not deemed employee’s
  - VAT/allowable expenses can go through payroll as non-taxable/non-ni’able if you choose
  - Not entitled to payslip, P45 or P60 but best practice to provide
- If SDS overturned on appeal
  - Set YTD values to zero to refund deemed employer and engager’s liabilities
  - Set start and leave date to same date

Veterans' NI exemption

- Employer NI exemption up to the UEL for first 12 months since leaving regular armed forces (not reserves)
  - Begins 6.4.21 even if employment has begun before then and expires on 12-month anniversary – check with previous employer
- Get eligibility proof: guidance *bit.ly/3u4431t*
- Can apply to deemed employees so ask them!
- How to deliver
  - Outside payroll 2021/22, claim at year end so pay over during year
  - New table letter 2022/23?

And the rest….

- New P60 this year: statutory parental bereavement pay
- EYU has been replaced by YTD FPS (thank goodness!)
- Warn employees with Type A or B OpRAs that their 2021/22 P11D may be higher as final transitional protection ended 5.4.21 for cars over 75 g/km, school fees and living accommodation
  - Type A: giving up cash for a benefit in kind
  - Type B: choosing a benefit and not receiving cash allowance
  - Use P11D working sheet 2b for cars via Type A or B: https://bit.ly/2SCNE5P
  - If contract amended as a result of a statutory payment including the new statutory parental bereavement pay it doesn't impact the transitional protection

Finance Bill 2021: employment tax clauses

- Clause 21: tidying up off-payroll regulations to make them work as intended
- Clause 22: post employment notice pay (PENP): mandating the use of 30.42 days in a month
- Clause 23: electric vans to zero tax charge from 21/22
- Clause 24: EMI working time threshold of 25 hours work per week can be ignored if not met due to COVID-19
- Clause 25: cycle to work easement
- Clause 26: antigen tests easement
- Clause 26: OpRA and statutory parental bereavement pay

Any questions?

Future events and schedule

- Upcoming Events
  - 9 June E-Commerce VAT
  - 14 June Capital allowances post Finance Bill 2021
- Events Schedule
  - Topics updated regularly
- Webinar Archive
  - If you miss a webinar, you can view the recording
  - **For further details visit www.icaew.com/taxfacevents**

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