Employment tax changes commencing 6 April 2018

Kingston Smith

From April 2018, the employment tax rules are changing again! It is crucial that all employers are aware of these changes and consider the impact they may have on their internal procedures and controls and any necessary communication with employees.

Salary sacrifice Schemes

From April 2017, it was no longer possible to implement a salary sacrifice scheme unless the benefit being provided under the scheme fell within one of the excluded categories of.

- Childcare benefits
- Pension contributions
- Employer-provided pension advice
- Cycle to work schemes
- Ultra-low emission cars (<75 g/km)

If employers had other schemes in place, such as for employer provided training or the provision of mobile phones which commenced before 6 April 2017 then, under transitional rules, these are not subject to these rules until 6 April 2018 - so a review of schemes in place is needed before this date.

The transitional rules are extended until April 2021 where the benefit being provided is a company car (>75 g/km), the provision of accommodation or subsidised school fees.

If you are contractually obliged to continue to provide benefits under salary sacrifice schemes which are not within the excluded categories or within the transitional rules, the amount of salary foregone by the employee will remain taxable even though they are not being paid this amount.

Employers need to understand their payroll obligations before the April 2018 deadline when the first set of transitional rules expire as otherwise they risk under-deducting tax from their payroll from April 2018 onwards.

Pension Automatic Enrolment

Under Automatic Enrolment all employers will have to provide a workplace pension for eligible staff by 6 April 2018 and many already do. On that date both the minimum employee and minimum employer contributions will increase and then again in April 2019.

	Minimum employer contribution	Minimum employee contribution	Total minimum contribution
Now	1%	1%	2%
From April 2018	2%	3%	5%
From April 2019	3%	5%	8%

Both the employer and employee can choose to contribute greater amounts to the pension if they wish; however, it is the employer's responsibility to ensure the schemes are in-line with the minimum contributions.

With the cost of pension contributions for employees set to rise fivefold, employers should consider implementing a salary sacrifice scheme for the employee element whereby the employee gives up part of their salary and the employer pays this straight into their pension.

Paying the employee contribution under a salary sacrifice arrangement will generate a saving of employer's NI which may not have been significant when the contribution level was only 1% but could become substantial for an employer once the employee contributions increase to 5%.

Termination payments

From 6 April 2018 the taxation termination payments is changing. The aspect which will have the most impact is both contractual and non-contractual payments in lieu of notice (PILONs) will be taxable and subject to Class 1 NIC's whereas, before April 2018, non-contractual PILONs can be tax and NI free.

The taxable amount after April 2018 is the amount the employee would contractually have been entitled to had they worked their notice period. This will include any bonus, commission or incentive payments that they would be entitled to had they worked their notice period, as well as any sums which would accrue during the notice period. The amount calculated will be treated as earnings and will not be eligible for the £30,000 Income Tax exemption.

Also changing is the calculation of termination packages which are subject to NICs. Although this has now been delayed to April 2019, payments in excess of the £30,000 exemption are subject to employer's NIC but not employee's NIC whereas before this date they were NIC exempt altogether.

The new legislation also removes the Foreign Service Relief element on termination payments and confirms that payments made for injury to feelings will fall outside the exemption for injury payments.

Employers who may be anticipating making redundancies should make sure they understand the new rules as these changes could significantly increase the cost of making termination payments. Any contractual terms agreed with an employee now will impact on how termination payments are taxed post 6 April 2018. Careful analysis of the nature of a termination payment is crucial before any offer is put forward to an employee as part of a termination package so that both parties are sure as to the net sum that the employee will receive.

Employers may also wish to consider whether any planned termination should be brought forward in order to benefit from the existing regime.

If you would like to speak to a member of the Kingston Smith tax team about these employment tax rules and what steps to take, please call the team directly on 020 7566 4000.

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