william duncan + co

Chartered Accountants
& Business Advisers

Ellersley House, 30 Miller Road, Ayr Tel: 01292 265071
75 Glaisnock Street, Cumnock, Ayrshire Tel: 01290 420333
2nd Floor, 18 Bothwell Street, Glasgow Tel: 0141 535 3133
4D Auchingramont Road, Hamilton Tel: 01698 283103
44 Bank Street, Kilmarnock Tel: 01563 626000
Loch Awe House, Barmore Road, Tarbert Tel: 01880 820277

williamduncan.co.uk

Essential Employer Update 2017

Workplace Pensions - don't get caught out

Under pensions auto enrolment employers are obliged to enrol eligible jobholders in a qualifying pension scheme and make pension contributions on their behalf from the employer's staging date. Workers are 'eligible' if they are between 22 and the State pension age and earn the equivalent of £10,000 per annum. Employers also have duties for employees who fall outside these criteria.

According to The Pensions Regulator (TPR) over a million small employers are due to stage during the last quarter of 2016/17 and 2017/18.

As more employers reach their staging date the amount of penalties being issued has not surprisingly increased. The latest TPR statistics show 3,728 Fixed Penalty Notices of £400 were issued in the quarter to September 2016, more than the total number issued since Auto Enrolment was introduced. These notices were issued for failing to meet the employers' duties under auto enrolment. Several of these employers appealed against the penalty at a tribunal. Some claimed non-compliance was unintentional and that they had a 'reasonable excuse' due to amongst other reasons, confusion between the employer and the payroll administrator as to who was supposed to be doing what, illness, and being short-staffed. The appeals were rejected. If you would like help with complying with your auto enrolment duties please contact us.

Tax-Free Childcare - what you need to know

Tax-Free Childcare, the new government scheme to help working parents with the cost of childcare, will be launched in 2017.

For every £8 a parent pays in, the government will pay in an extra £2. Parents can receive up to £2,000 per child, per year, towards their childcare costs making a total amount of £10,000. Higher limits of £4,000 and £20,000 apply for disabled children.

To qualify for Tax-Free Childcare all parents in the household must generally meet a minimum income level, based on working 16 hours a week and each earn less than £100,000 a year.

The scheme will be available for children up to the age of 12, or 17 for children with disabilities. All eligible parents will be able to join the scheme by the end of 2017. Parents will be able to apply for all their children at the same time although the government rollout is expected to start with the youngest children first. Parents will need to open an online account, which they can use to pay for childcare from a registered provider.

For those employers who currently offer Employer Supported Childcare, usually in the form of childcare vouchers, these schemes can remain open to new entrants until April 2018. Existing members will have the option to remain in their existing scheme or change over to Tax-Free childcare as their child becomes eligible.

Salary sacrifice

From 6 April 2017 the government will limit the income tax and employer NICs advantages where:

- benefits in kind are offered through salary sacrifice or
- where the employee can choose between cash allowances and benefits in kind.

The taxable value of benefits in kind where cash has been forgone will be fixed at the higher of the current taxable value or the value of the cash forgone.

The new rules will not affect employer-provided pension saving, employer-provided pensions advice, childcare vouchers, workplace nurseries, Cycle to Work and ultra low emission vehicles (under 75 grams of CO_2 per kilometre).

Those already in salary sacrifice contracts at 6 April 2017 will become subject to the new rules in respect of those contracts at the earlier of:

- an end, change, modification or renewal of the contract
- 6 April 2018, except for cars, accommodation and school fees when the last date is 6 April 2021.

The new rules will generally only apply where cash is being given up in exchange for a benefit in kind. However where an employee is offered the alternative of a benefit or a cash allowance in lieu of the benefit, this may be affected by the new rules.

If you would like advice on remuneration planning please do get in touch.

National Minimum Wage (NMW) and National Living Wage (NLW) update

Employers need to ensure they are paying their employees at least the appropriate NMW or NLW rate. The rates are due to increase from 1 April 2017.

	From 1 October 2016	From 1 April 2017
NLW rate for workers aged 25 and over	£7.20*	£7.50
the main rate for workers aged 21-24	£6.95	£7.05
the 18-20 rate	£5.55	£5.60
the 16-17 rate for workers above school leaving age but under 18	£4.00	£4.05
the apprentice rate **	£3.40	£3.50

* introduced and applies from 1 April 2016

**for apprentices under 19 or 19 or over and in the first year of their apprenticeship

Going forward the NMW and NLW rates will be reviewed annually in April.

HMRC cite common errors:

- not paying the right rate, perhaps missing an employee's birthday
- making deductions from wages which reduce the employee's pay below the NMW/NLW rate
- including top ups to pay that do not qualify for NMW/NLW
- failure to classify workers correctly, so treating them as interns, volunteers or self employed and
- failure to include all the time a worker is working, for example time spent 'shutting up shop' or waiting to clear security.

What are the penalties for non-compliance?

The penalties imposed on employers that are in breach of the minimum wage legislation are 200% of arrears owed to workers. The maximum penalty is £20,000 per worker. The penalty is reduced by 50% if the unpaid wages and the penalty are paid within 14 days. HMRC also name and shame employers who are penalised.

Apprenticeship Levy

From April 2017 a new charge will apply to some employers, the Apprenticeship Levy. The Levy will only impact on large employers with an annual 'pay bill' in excess of £3 million. Although the Levy is 0.5% of the pay bill there is an annual allowance to offset against the amount due of £15,000.

Pay bill means the total earnings upon which Class 1 employer National Insurance contributions (NIC) is calculated. The Levy will not be charged on other payments for employees such as benefits in kind.

Calculations of any Levy liability need to be reported, via RTI PAYE, within 14 days of the end of each tax month, and generally paid by 22nd following the tax month if paying electronically. The calculation is done on a cumulative basis for the year giving a proportion of the £15,000 annual allowance for each tax month. There will only be a need to report the Levy if the employer had a pay bill of £3 million in the previous tax year, or considers that the pay bill will be over £3 million in the current tax year. So most employers will not only have no liability to pay the Levy there will also be no reporting requirements.

Although many employers will not pay the Levy, there will be significant additional amounts available for the funding of apprenticeships for all employers. The government estimates the Levy will raise £2.7 billion in 2017/18. Of this, Scotland is expected to receive £221 million, Wales £128 million, Northern Ireland £76 million with the balance going to England.

The UK government has issued the policy for the funding of apprenticeships in England, which will apply for new apprenticeships started from 1 May 2017. Employers in other parts of the UK will be paying the Levy but each devolved government will be drawing up their own policy.

Tax relief for travel and subsistence costs

The government has introduced changes to restrict tax relief for certain workers engaged through an 'employment intermediary'. The rules apply for travel and subsistence expenses incurred from 6 April 2016.

When is tax relief due?

Employees are generally entitled to tax relief for travelling costs related to their work as long as the journey is not 'ordinary commuting' (travel between an employee's home and their normal workplace). So tax relief is available for travel costs to a 'temporary workplace' (and subsistence costs while they are travelling or at the temporary workplace). However where employees have a succession of short term contracts each contract is regarded as a separate employment. If they attend the same workplace for most of the period of each contract, their travel will also be ordinary commuting.

The government considered 'employment intermediaries' have manipulated these rules by treating an individual as having one continuous employment with the intermediary. So when the intermediary sent the individual to a number of places, tax relief for travelling was available. The government considered such trips should properly be regarded as home to work travel.

Some places of work which used to be regarded as temporary workplaces are now to be regarded as places at which an employee has separate employments. The employee will not be able to obtain tax relief on the travel between home and these workplaces and any payments for travel and subsistence cost will be subject to income tax and NIC.

Who will this affect?

The restrictions will mainly apply to individuals who work for clients via employment intermediaries such as agencies or 'managed service companies'. Some personal service companies are affected but only if, and to the extent that, contracts the company has with a client are within the special tax system commonly referred to as 'IR35'.

Please contact us if you would like help and advice in dealing with this complex area.

Employment Allowance restriction

From 6 April 2016, limited companies where the sole director is the only employee paid earnings above the Secondary Threshold (ST) for Class 1 NICs of £156 a week, are no longer able to claim the Employment Allowance of up to £3,000.

The company is no longer eligible for the allowance if:

- only one employee (or director) in the limited company is paid above the ST
- that employee is a director of the limited company.

Companies with several employees, where the director is the only employee paid above the ST, are no longer eligible for the Employment Allowance.