

# 2011 PAYE update

From April 2011, many significant changes have been made to the operation of the PAYE system. There are also changes from 2012 that you should be considering now.

## COMPENSATION RATE

From 6 April 2011, 'small employers' may reclaim 103% of statutory maternity pay. The rate had been 104.5% since 2002. A small employer is broadly one whose total national insurance payable in a year does not exceed £45,000. Other employers may only reclaim 92%, which remains unchanged.

## NEW TAX CODE

At present, there are some circumstances where an employee can be liable for a BR tax code. These include:

- Payments made after an employment has finished and a P45 issued,
- A new employee starts and cannot provide a P45 and cannot tick box A or B on the P46.

From 6 April 2011, tax code 0T must be used instead, and be applied on a week 1/month 1 basis.

The effect is that the employee may now pay tax at the higher rates. Previously only tax at the basic rate was collected, meaning that some employees could find that they still owe tax.

Even with the new system, it is possible that the whole amount will not be collected as the 0T code can allow for a slice of income to be taxed at 20% when that band has already been fully used elsewhere. However, the new tax

code system will reduce the difference between the amount of tax payable and the amount collected at source under PAYE.

## TAX CODE D1

A completely new tax code is introduced from 6 April 2011, this is the D1 code. It means that a person must pay tax at the 50% on all their income. It matches the existing D0 code that collects tax at the 40% rate.

The D1 code only applies where the first and second income together is very high.

As the 50% band was introduced in 2010 without the D1 code, it is possible that some employees could find themselves paying two years' worth of additional tax at higher rates in one year.

## REAL TIME INFORMATION (RTI)

Next year, there is a radical change being made to the PAYE system. This is known as real time information (RTI). It means that every time you make a payment by BACS to an employee you must provide a breakdown of their pay and deductions to HMRC.

This system is being trialled in 2012, and will be progressively introduced during 2013.

This is a radical change for which you must make plans now. We can advise you on making sure that your systems and software are ready so you don't get caught out.

## NATIONAL INSURANCE CHANGES

The thresholds at which national insurance becomes payable increase significantly from April 2011. For 2010/11, class 1 national insurance became payable once earnings exceed £110 a week. This rate applies for both employer and employee.

From 6 April 2011, the threshold increases significantly to £139 a week for the employee and £136 for the employer.

The rates also increase from 11.0% for employees and 12.8% for employers by 1%, to 12.0% and 13.8% respectively.

On earnings above the upper earnings limit, the employee's rate **doubles** from 1% to 2%. The upper earnings limit **reduces** from £844 a week to £817.

These changes, with the reduction in the threshold for higher rate income tax, mean that 750,000 people will become liable to pay higher rate income tax and more national insurance. We can explain the implications, and advise on any changes that can mitigate their effect.

The lower earnings limit increases from £97 to £102 a week. This can mean that some low-paid and part-time workers lose their entitlements to statutory sick pay and similar, and are no longer earning entitlement to the state retirement pension.

## LATE NOTIFICATION

Sometimes payroll departments may not know about a payment of expenses or benefits until some time later.

Strictly speaking, the payroll for that person should be recalculated for that pay period. In practice this can be time-consuming, particularly for national



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insurance. From 6 April 2011, it is acceptable to calculate tax and national insurance in a later period when payroll learns of the payment, provided this is not done deliberately for tax avoidance.

We can advise on whether you come within the scope of this new concession.

### TRAVELLING EXPENSES

If an employer reimburses an employee for using their own car on business, the employer may reimburse the employee at (usually) 45p a mile tax-free. This includes an element of standing costs (insurance, maintenance, road tax etc) in addition to running costs (petrol). At present, the running costs are unlikely to exceed 20p a mile, so there can be an incentive for employees to make unnecessary business journeys.

Some employers therefore instead may pay perhaps £100 a month to an employee for having a private car available and then reimburse at perhaps just 20p a mile. This is quite legal.

HMRC argues that the £100 is subject to tax and national insurance whereas employers have tended to regard it as tax-free to the extent that it does not exceed 45p a mile. There has been a case (*Total People v HMRC Ltd* [2010]) which HMRC lost. HMRC has refused to accept the court ruling and is appealing. If you use such a scheme, check with us that you are operating the system properly, remembering that HMRC's guidance is still being challenged in the courts.

There is a separate advisory rate when reimbursement is made by an employee for private use of a company car. These rates normally change each year on 1 June and 1 December, to reflect current fuel prices. Because of the large increases since 1 December 2010, new rates have been published from 1 March 2011.

### CHILDCARE VOUCHERS

There is a change for employees who:

- start work for you after 5 April 2011; and
- receive childcare vouchers from you.

For such workers you must make an estimate of the highest rate of tax they are likely to pay during the tax year. The tax-free and NI-free limit of childcare vouchers depends on the highest tax rate, thus:

Highest tax rate	Maximum weekly benefit
20%	£55
40%	£28
50%	£22

If you pay more than this, the excess is subject to PAYE and national insurance. For existing employees, you may continue to provide vouchers up to £55 a week tax-free, regardless of their tax rates.

### PENSION WHILE WORKING

If, exceptionally, you start paying a pension directly to an employee who is still working for you, do not complete a P45. Instead you must complete form P46(Pen).

### EMPLOYMENT BENEFIT TRUSTS

Some employers have sought to avoid PAYE and national insurance by using an employment benefit trust (EBT) or similar scheme. There have been several recent cases where HMRC has successfully challenged such schemes.

It has also been announced that steps are being taken to deal with 'disguised remuneration' such as when payments are artificially deferred or paid by a third party.

### PENSIONS

There are many changes being made to pension laws in the next few years.

The annual allowance for tax-free contributions to pension funds is reduced by more than three-quarters to £50,000 a year. If more than that is contributed to a pension scheme (including the employer's contributions), the employee can be liable to pay an additional tax charge. We can explain the implications for any high earners so affected.

Employers should also note that, from 6 April 2012, it will no longer be possible to 'contract out' using money purchase or defined contribution schemes. All employees in such an occupational pension scheme will pay the full rates of national insurance and earn an entitlement under the State Second Pension (previously called SERPS).

For defined benefit or final salary schemes, employees may still be contracted out but the NI rebates are being reduced from 6 April 2012. The total reduction is currently 5.3% but will reduce to 4.8%. And remember that the state-backed NEST pensions start in 2012.

The state retirement age (which is also relevant for national insurance) is being increased to 66 by April 2020. This affects all men and women born after 5 April 1953.

### NON-RESIDENT WORKERS

The tax position for non-resident workers is set out in leaflet HMRC 6. This replaces leaflet IR20. Leaflet HMRC 6 was revised on 29 December 2010 with effect from 6 April 2011. The changes mostly relate to employees who become non-resident but continue to visit the UK.

If such employees wish to gain non-resident status, we can check that their plan of visits allow this under the new rules.

### NATIONAL MINIMUM WAGE

From 1 January 2011, it is not possible to include travelling and subsistence expenses in determining whether an employee has been paid the national minimum wage. From 1 October 2011 the main national minimum wage increases to £6.08.

### PATERNITY LEAVE

It will be possible to claim additional paternity leave and Additional Statutory Paternity Pay (ASPP) for up to 26 weeks in addition to the existing two weeks. This applies for children expected to be born after 2 April 2011 (even if born earlier). These paternity rights may be claimed by a man or woman whose partner is claiming statutory maternity pay or statutory adoption pay for the same child. The new rules allow paternity leave and ASPP to be claimed for up to 26 weeks in a 32-week window. This is the period from 20 weeks after the actual birth to 52 weeks after, provided that payments of related maternity pay or adoption pay have ceased.

The government has announced that this new scheme will itself be replaced in 2015.

### ELECTRONICS

From 6 April 2011, you may issue P60 end-of-year certificates electronically.

The publication Employer Bulletin and most tax tables and documents are now only available by downloading from HMRC website.

### STUDENT LOANS

Employers must collect repayments of student loans through the payroll. At present, the sum collected is 9% of any amount above £15,000 a year.

The £15,000 threshold has remained unchanged since 2005. From 6 April 2012, it will be updated each year by inflation. In September 2016, it will be increased to £21,000 to reflect increased tuition fees.

And finally...

We can advise on all these changes to make sure that you continue to comply with the law, and use opportunities for legal tax planning.