



EMPLOYMENT TAX HOT TOPICS

Supporting employers
in Retail and Leisure
& Hospitality

March 2023

KEY AREAS TO BE MANAGED

In the current economic climate, careful planning for staffing resources is essential but there is much to consider. It is vitally important that companies plan for the significant changes ahead so that, when engaging with employees, they can 'get it right first time' and that includes updating systems: HM Revenue & Customs continues to rely on companies to take all the responsibility for record keeping and reporting, setting ever higher standards for process management clear audit trails.



OFF-PAYROLL LABOUR SUPPLY CHAIN DUE DILIGENCE AND IR35

HMRC has started to issue 'nudge' letters to employers about their responsibilities. What actions have you taken to make sure you can confirm that all contractors engaged directly or indirectly via a PSC have been identified, assessed for employment status before payment and all those deemed employed included in an IR35 payroll correctly since April 2021?

AREAS OF COMPLEXITY

- ▶ Identifying all PSCs currently engaged or being engaged
- ▶ Undertaking correct employment assessments with a bespoke process or using HMRC's CEST tool
- ▶ Implementing robust due diligence for all indirectly engaged labour including use of Umbrella Companies and agencies
- ▶ Introduction of robust processes and policies articulating the start to end IR35 process.

BDO can provide bespoke IR35 support which could include looking at how PSCs are identified, assessed and reviewed, putting robust procedures in place, providing template documentation, policies and process maps.



KEY AREAS TO BE MANAGED



NATIONAL MINIMUM WAGE (NMW)

Mistakes with the National Minimum Wage (NMW) can be expensive. If HMRC identify an issue, they require employers to pay back underpayments to workers, apply a 200% penalty and publish a “naming and shaming” list of employers who have been found to be in breach of the legislation. Are you comfortable that all decisions taken regarding NMW are supported by robust documentation in case of an NMW review by HMRC?

AREAS WHERE MISTAKES ARE COMMONLY MADE

- ▶ Insufficient or lack of time keeping records
- ▶ Additional time worked by employees and not paid for (such as arriving early or leaving late, being subjected to compulsory searches, etc.)
- ▶ Trial shifts
- ▶ Salary sacrifice
- ▶ Deductions for uniform costs or imposition of specific dress code
- ▶ Deductions from pay for savings clubs, travel cards or subsidised car parking.

BDO offer a NMW risk assessment tool to conduct a risk reviews for you: fees for this tool are from £5,000 depending on the size and nature of your workforce.



CORONAVIRUS JOB RETENTION SCHEME (CJRS)

HMRC is still checking up on CJRS compliance and expects companies to have a full audit trail of how the rules were approached, operated, decisions made, reviewed by professional advisers, and correctly reported on tax returns. What actions have you taken to make sure you are prepared for an HMRC CJRS review?

LIKELY PROBLEM AREAS

- ▶ Are employees on fixed and variable pay?
- ▶ Were you aware of the different rules for the different claim periods?
- ▶ Have you considered whether salary sacrifice arrangements were treated correctly?
- ▶ Have employees received full payment of the grant?
- ▶ Were periods of sickness and holiday dealt with correctly?

BDO have an internal tool to undertake an initial assessment of your CJRS risks: fees for this tool are from £5,000 depending on the size and nature of your workforce.

TIPS AND TRONCS

The leisure and hospitality and retail sectors are faced with an ever-changing burden of employer regulation including potential new changes to tips and tronc.

TIPS AND TRONCS

Proposed legislative changes on how tips should be treated expected in the next year or so, possibly as early as April 2023. The proposal includes a requirement for employers to pay all tips to staff and new governance and transparency obligations. Have you reviewed your current arrangements and policies to ensure that they are robust and can be adapted easily if the new rules are adopted at short notice?

Reviewing your current position

- ▶ Is the tronc scheme compliant with current HMRC guidance?
- ▶ Are all employees aware of how they could participate in the tronc scheme and how this impacts them personally?
- ▶ Is the tronc scheme set up effectively for tax and NIC purposes for the allocation of tips, gratuities and service charges paid by customers?
- ▶ Have you considered what you need to do once implementation of required changes and new rules come into force?

BDO can work with tronc masters to review current tronc arrangements that are in place, updating the tronc policies and to provide guidance and training to employers on the expected legislative changes when implemented.



HOW TO GET IN TOUCH

Our national team of employment tax specialists provides a comprehensive range of both advisory and compliance services, enabling you to better understand and manage the risks, identify potential savings and implement cost efficient processes.



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