

Minimising the Risk of Employer Compliance Visits

Because HM Revenue & Customs (HMRC) seeks to concentrate its resources in areas where it considers tax is being lost, it has in recent years increased the nature and scope of compliance visits.

The purpose of compliance visits is to confirm that PAYE has been properly operated on all earnings and payments in accordance with the rules and regulations operational, as set out in the booklet, Employer's Further Guide to PAYE and NICs (CWG2).

HMRC's visit will be to your business premises and is likely to check:

- PAYE deduction working sheets for completeness and accuracy
- Correct use of employee codes
- Reconciliation of the records with the Final FPS (Full Payment Submission) and/or EPS (Employer Payment Summary) for the tax year
- Correct treatment of new employees and leavers
- Cash payments where PAYE has not been operated
- Expense payments, employee benefits, and their correct disclosure on forms P11D
- Compliance with sub-contractors' rules
- Compliance with NIC regulations

Problem areas

The following are the main areas where problems may arise:

- Gross payments to casual employees
- Payments to alleged 'self employed' persons
- Lump sum expenses
- Private petrol
- Spouse's travel and subsistence
- Travel to work from home and vice versa
- Trips for purposes other than purely business, e.g. trade fairs, golf, social outings
- Home telephone
- Entertaining
- Expenses for use of home as an office
- Club subscriptions
- Goods and services provided free or below market value
- Luncheon expenses
- Clothing
- Accommodation
- Work undertaken at an employee's home
- Medical expenses

Casual labour

Under the system of RTI, HMRC require employers to complete a New Starter Checklist for all casual employees. The checklist provides the information needed to correctly operate PAYE for a new employee. The checklist can also be used to help fill in the first Full Payment Submission (FPS) for the employee. If the employee signs that it is his or her first job since last 6 April, then PAYE and NI need not be deducted unless the payment is in excess of the NI primary threshold, currently £175 per week for 2022/23. It is advisable to keep this information for six years. Where the checklists have not been completed HMRC may seek to charge employers for tax and NI contributions on the grossed-up amount of these payments, often regardless of whether or not any tax has actually been lost to HMRC.

Whether or not tax or NI is payable, you must keep proper records of payments and persons paid.

Settlement

The majority of compliance visits result in some discrepancies being uncovered, and HMRC will usually calculate the 'lost' tax and NI over a period of six years plus the current year. This period may be extended if they suspect that deductions have been withheld deliberately. HMRC may also seek penalties, although these will normally depend on the gravity of the discrepancy and the existence or absence of 'reasonable care'.

How can we help?

We can assist in reviewing your wage and salary records with a view to identifying possible areas of non-compliance with PAYE and NI regulations. If a visit is made we can advise on, and assist in, negotiating a settlement with HMRC.

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