Section 6: Becoming an Employer

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Disclaimer

This guide is designed to alert you to some of the major issues you should be considering. It is not a replacement for professional advice tailored to your precise needs and circumstances.

You should always seek the advice of a suitably qualified professional before acting on any of the advice.

And if you would like to speak to us about any of the issues covered in this guide, please feel free to give us a call or drop us an email.

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Taking on your first employee is a big step and so this section covers what you need to do and the issues you may come across.

6.1 Registering as an employer

The first thing you will need to do if you want to employ someone is consider whether you need to register as an employer.

You don't necessarily need to register as an employer once you take someone on. Check first that at least one of the following conditions applies to you. If any apply, then you need to register:

- the employee already has another job
- they are receiving a state or occupational pension
- you're paying them at or above the National Insurance lower earnings level (check at **https://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions/rates-and-allowances-national-insurance-contributions** for the latest limits)
- you're providing them with employee benefits

If you need to register you can do so up to four weeks in advance of your first pay day.

Bear in mind that you might need to register as an employer even if you're the only person working in your business. If you run a one-person limited company, you'll be both an employer and an employee. So if any of the conditions above apply to you as an employee you'll need to register.

You can register as an employer by going on line at **https://www.gov.uk/register-employer**

6.2 Taking on a new employee

6.2.1 Should they be paid through PAYE?

You don't need to operate PAYE for an employee if you are paying them below the National Insurance lower earnings level (check at https://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions/rates-and-allowances-national-insurance-contributions for the latest limits)

You also don't need to operate PAYE for self-employed workers.

As a general rule (although in certain circumstances this may not be clear cut), someone is:

- employed if they work for you and don't have any of the risks associated with running a business
- self-employed if they run their own business and are responsible for its success or failure

Someone is probably self-employed and doesn't have the rights of an employee if they're exempt from PAYE and most of the following are also true:

- they put in bids or give quotes to get work
- they're not under direct supervision when working
- they submit invoices for the work they've done
- they're responsible for paying their own National Insurance and tax
- they don't get holiday or sick pay when they're not working
- they operate under a contract (sometimes known as a 'contract for services' or 'consultancy agreement') that uses terms like 'self-employed', 'consultant' or an 'independent contractor'

If you're not sure whether someone is employed or self-employed you can use HMRC's Employment Status Indicator (ESI) tool. However, the end result may be weighted in favour of employment as this is more advantageous for HMRC.

From our experience, the situation isn't always clear cut even though the taxman may disagree.

And if you're a client, please feel free to contact us for advice – there are lots of grey areas in deciding whether someone is an employee or a contractor!

6.2.2 Information you need

You need to get certain information from your employee so you can set them up with the correct tax code and starter declaration on your payroll software.

You'll need your employee's:

- date of birth
- gender
- full address
- start date

From your employee's P45, you'll need their:

- full name
- leaving date from their last job
- total pay and tax paid to date for the current tax year
- student loan deduction status
- National Insurance number
- existing tax code

You must keep this information in your payroll records for the current year and the 3 following tax years.

You'll need to ask your employee for this information if you don't have their P45, or if they left their last job before the end of the last tax year.

6.2.3 Using the right tax code

It's very important to make sure you set your employee up with the right tax code.

If you don't have a tax code for them for the current tax year you can use HMRC's online service to work this out **https://www.gov.uk/new-employee-tax-code**

Going forward, HMRC will send you notification if your employee's tax code changes – it's extremely important that you update this in your payroll software immediately. If you use the wrong tax code and end up over-paying your employee, HMRC will ask you to repay the tax. You will then need to try to get this tax back from your employee.

Numbers in a tax code

The numbers in a tax code tells the employer or pension provider how much tax-free income the employee gets in that tax year.

- HM Revenue and Customs works out the tax-free Personal Allowance.

- Income that the employee hasn't paid tax on (eg untaxed interest or part-time earnings) and the value of any benefits from their job (eg a company car) are added up.

- The income that they haven't paid tax on is taken away from their allowances. What's left is the tax-free income they're allowed in a tax year.

- This amount is divided by 10 and added to the letter for their circumstances.

The process is different if they have the letter 'K' in their tax code.

Letters in a tax code

Letter	What it means
L	You're entitled to the basic tax-free Personal Allowance
P	You were born between 6 April 1938 and 5 April 1948 and entitled to your full tax-free Personal Allowance
Y	You were born before 6 April 1938 or over and entitled to your full tax-free Personal Allowance
T	Your tax code includes other calculations to work out your Personal Allowance (eg it's been reduced because your income is over specific limits)
0T	Your Personal Allowance has been used up, or you've started a new job and don't have a form P45, or you didn't give your new employer the details they need to give you a tax code
BR	All your income from this job or pension is taxed at the 20% basic rate (usually used if you've got more than one job or pension or when you start your first job and your employer is waiting for a tax code)
D0	All your income from this job or pension is taxed at the 40% higher rate (usually used if you've got more than one job or pension)
D1	All your income from this job or pension is taxed at the 45% additional rate (usually used if you've got more than one job or pension)
NT	You're not paying any tax on this income

L, P, T V or Y usually appear at the end of a tax code whilst D codes appear at the beginning of a tax code.

K tax codes

Tax codes with 'K' at the beginning means that your employee has income that isn't being taxed another way and it's worth more than their tax-free allowance. For most people, this happens when they're:

- paying tax they owe from a previous year through their wages or pension
- getting State benefits that they need to pay tax on (like the State Pension)
- getting benefits from work that they must pay tax on (like a company car or health insurance)

The employer or pension provider takes the tax due on the income that hasn't been taxed from the employee's wages or pension - even if another organisation is paying the untaxed income to the employee.

Employers and pension providers can't take more than half an employee's pre-tax wages or pension when using a K tax code.

BR and NT

BR and NT are letter only tax codes.

BR means you must deduct tax at the basic rate from all the employee's pay.

NT means you mustn't deduct any tax from their pay.

(Note: Do not refund any tax deducted from an employee before the issue of an NT code, unless your HM Revenue & Customs office tells you to.)

Week 1/Month 1 tax codes

Most tax codes have the effect of deducting tax evenly over the full tax year – that way your employee's take-home pay doesn't change much from week to week or month to month.

However sometimes you'll have to use a special method of working out their tax deductions - called a 'Week 1' or 'Month 1' basis depending on how often you pay them. With this method, you ignore all previous pay and tax in the year. HMRC will sort out the final position with your employee at the end of the tax year.

You must use the Week 1 or Month 1 basis if:

- HMRC tell you to
- HMRC issue a code starting with D
- HMRC issue a code that says Week 1 or Month 1 - for example 522L M1 or 522L W1
- your new employee gives you a P45 with a Week 1 or Month 1 code on it
- it's the 53rd pay week in a tax year

You may also have to use the Week 1 or Month 1 basis when your new employee gives you a P45 for an earlier year.

Changes to tax codes

The most common reasons for a tax code change are if your employee starts or stops getting:

- benefits from their job that you need to pay tax on
- expenses from work that they can reclaim tax for
- income that isn’t being taxed (like rental income)
- State benefits (including the State Pension) that they need to pay tax on

Their tax code will also change if they need to pay tax due from previous years through their wages or pension.

An employee may be temporarily put on an emergency tax code if you change jobs.

What happens when your tax code changes

The employee, the employer or the pension provider tells HM Revenue and Customs (HMRC) about the change.

HMRC works out what to do with the employee’s tax code (or tax codes if they’ve got more than one).

HMRC sends a new tax code to the employer or pension provider. Once they’ve got it, they’ll use it to work out how much tax to take from the employee’s payments from the next time they pay the employee.

HMRC sends the employee a ‘PAYE Coding Notice’ which explains the changes

6.3 Real Time Information

RTI (Real Time Information) is a new payroll reporting system which was introduced by HMRC in April 2013 and involves the submission of employee pay related information at the time of payment rather than at year end.

It replaces both submitting P45/P46 details for new employees and the P35 end of year submission.

6.3.1 Reporting

There are two main reporting requirements:

> The Full Payment Submission (known as FPS) - each time a payroll is run (usually weekly or monthly) a payroll submission has to be sent to HMRC, showing that periods pay and deduction details for each employee. This should be submitted either before or on the date payment is made.
>
> The Employer Payment Summary (known as an EPS) – this is used to recover statutory payments (Sick/Maternity/Paternity/Adoption pay) and to report a NICs holiday (eg the £2k holiday given in 2014-15). The EPS must also be used to report if a nil payment to HMRC is due for the month (in which case no FPS will be required).

If you send an FPS after you have paid your employee, you must let HMRC know why in the 'Late Reporting Reason' field.

Part of the information that is submitted is the employee's average expected working hours, this information will then be used when qualifying individuals are in receipt of Universal Credits (Universal Credit will eventually replace most existing benefits and tax credits).
The way you do this will depend on whether your employee gives you a P45 from a previous job or not.

6.3.2 Penalties for late submission

HM Revenue and Customs (HMRC) is introducing penalties for employers who report their payroll information late from:

- October 2014 for employers with 50 or more employees
- March 2015 for employers with fewer than 50 employees

You can get a penalty if:

- your Full Payment Submission (FPS) was late
- you didn't send the expected number of FPSs
- you didn't send an Employer Payment Summary (EPS) when you didn't pay any employees in a tax month

HMRC won't charge a penalty if:

- you're a new employer and you sent your first FPS within 30 days of paying an employee
- it's your first failure in the tax year to send a report on time

Existing employers with fewer than 10 employees, who take advantage of the temporary reporting relaxation, must remember to use late reporting code 'E'.

How much you're charged depends on how many employees you have.

Number of employees	Monthly penalty
1 to 9	£100
10 to 49	£200
50 to 249	£300
250 or more	£400

If you're over 3 months late you can be charged an additional penalty of 5% of the tax and National Insurance that you should have reported.

HMRC sends penalty notices in July, October, January and April. A notice will include what you owe, how to pay and what to do if you don't agree with HMRC's decision to charge you.

Pay the penalty within 30 days of getting the notice - you'll be charged interest if you don't.

The first penalty notices for tax year 2014 to 2015 will be issued in January 2015. You will be able to appeal online against a filing penalty, using HMRC's Online Service. In some cases, HMRC will accept and settle the appeal automatically.

You can appeal if you think:

- the penalty is not due
- the amount of the penalty is wrong
- you had a reasonable excuse for sending your reports late

These are some of the reasons you can give as grounds for appeal:

- data on the returns was incorrect
- death/bereavement
- filing expectation incorrect
- filed on time
- fire/flood/natural disaster
- ill health
- IT difficulty
- missed correction/easement
- no longer have any employees
- no payments to employees
- theft/crime
- other

You can also send your appeal in writing to:

Customer Operations Employer Office
BP4102
Chillingham House
Benton Park View
Newcastle Upon Tyne
NE98 1ZZ

The Notice of Penalty Assessment will contain a 'Unique ID' for each penalty shown on the notice. You must include the Unique ID to identify which penalty you wish to appeal against.

Where HMRC discovers careless or deliberate errors, the penalties that could apply will be based on the behaviour that led to the error and the amount of potential lost revenue for that return.

6.4 Paying any NIC/PAYE due

You must pay your PAYE bill to HM Revenue and Customs (HMRC) by the 22nd of the month (or the 19th if paying by post) when you're running payroll.

Make sure you pay HMRC by the deadline. You may have to pay interest and penalties if your payment is late.

The time you need to allow depends on how you pay.

Same or next day

- online or telephone banking (Faster Payments)
- CHAPS

3 working days

- by debit or credit card online (Bill Pay)
- Bacs
- at your bank or building society
- at the Post Office
- Direct Debit (if you've already set one up)
- by post

5 working days

- Direct Debit (if you haven't set up one before)

If the deadline falls on a weekend or bank holiday, make sure your payment reaches HMRC on the last working day before it (unless you're paying by Faster Payments).

You need your HMRC payment booklet, if you pay at a bank or building society, at the Post Office or by cheque in the post. You can ask HMRC to stop sending you payment booklets if you pay by online or telephone banking, Direct Debit, or by debit or credit card online.

If your monthly PAYE/NIC due is less than £1,500 per month, you can pay quarterly instead of monthly.

You will need to pay your quarterly bills by 19th (if paying by post) or 22nd, of July, October, January and April.

6.4.1 Paying online

You can pay by Faster Payments, CHAPS or Bacs to HM Revenue and Customs' (HMRC) account.

Sort code	Account number	Account name
08 32 10	12001039	HMRC Cumbernauld

You'll need to use your 13-character Accounts Office reference number as the payment reference. You can find this on:

- the letter HMRC sent you when you first registered as an employer
- the front of your payment booklet or the letter from HMRC that replaced it

Your payment may be delayed if you use the wrong reference number.

Payments made by Faster Payments (online or telephone banking) will usually reach HMRC on the same or next day. CHAPS payments usually reach HMRC the same working day if you pay within your bank's processing times.

Bacs payments and payments using 'Bill Pay' with a debit or credit card usually take 3 working days.

Check your bank's transaction limits and processing times before making a payment.

If you're making a payment for a period other than the current tax period, add 4 numbers to the end of your 13-character Accounts Office reference to tell HMRC which tax month and year you're paying for.

These extra numbers are made up of:

- 2 digits for the tax month, eg '01' for month 1 (6 April to 5 May)
- 2 digits for the year, eg '14' for 2014

Example To submit a late payment for month 2 (6 May to 5 June) in the tax year 2013 to 2014, add the digits '1402' to the end of your reference number.

HMRC will assign it to the wrong tax month if the reference is incorrect.

6.5 End of year requirements

At the end of the year you will need to complete certain requirements as follows:

P60 The P60 is given to the employee at the end of the year as a record of his pay and deductions. The P60 must be given to the employee by 31st May each year.

P11D This form details certain expenses and benefits (eg company cars, telephones, medical insurance etc) given to employees earning over £8,500 or directors even if they earn less than £8,500.

P9D This form details certain expenses and benefits (eg company cars, telephones, medical insurance etc) given to employees earning less than £8,500.

P11D (b) This form summarises the Class 1A NIC liability due on the expenses and benefits reported on the P11D and P9D. If HMRC send you a P11D (b), you must complete it and return it even if there are no NICs due.

The P11D, P9d and P11d(b) must be filed with HMRC by 6th July following the end of the tax year and any class 1A NIC due on these benefits must be paid by 19th July or 22nd July following the end of the tax year depending on your method of payment.

6.6 Company cars

You need to tell HMRC if you provide company cars to your employees by filling in form P46 (Car). You will normally be able to do this via your payroll software.

You need to tell HMRC if you provide any cars for private use by company directors or employees earning at a rate of £8,500 or more including expenses and benefits. 'Private use' includes employees' journeys between home and work, unless they're travelling to a temporary place of work.

If you replace a company car, you can tell HMRC straight away by submitting the new details online. Otherwise, you'll have to report the change on your end-of-year forms.

You also need to tell HMRC if:

- you stop providing a company car
- you provide someone with an additional car, available for private use
- someone you provide a car starts earning at a rate of £8,500 or more

You don't need to tell HMRC if you provide:

- 'pool' cars, which are used by more than one employee for business purposes, and normally kept on your premises
- cars adapted for use by employees with a disability, if the only private use is for journeys between home and work
- emergency vehicles used only by on-call employees of the police, fire and rescue, ambulance or paramedic services

There are different deadlines for sending in form P46 (Car), depending on when the change to company cars you provide happens.

When the change takes place	When you need to tell HMRC by
6 January to 5 April	5 April (electronic form)
6 January to 5 April	3 May (paper form)
6 April to 5 July	2 August
6 July to 5 October	2 November
6 October to 5 January	2 February

6.7 Auto-enrolment

Millions of workers are being automatically enrolled into a workplace pension by their employer. Once they're enrolled, not only will they pay in to it but so will their employer and the government.

Example John puts in £40, his employer puts in £30, the government adds £10 tax relief.

A total of £80 will be paid into John's pension.

This is to make it easier for employees to start saving. Employees can opt out if they want to, but that means losing out on employer and government contributions – and if they stay in they'll have their own pension when you retire.

Every employer must automatically enrol workers into a workplace pension scheme who:

- are not already in one
- are aged between 22 and State Pension age
- earn more than £10,000 a year
- work in the UK

As an employer you should know your staging date and what to do next:

http://www.thepensionsregulator.gov.uk/employers/tools/staging-date.aspx

The Government has set up a pension plan called NEST (National Employment Savings Trust) which any employer can use. And of course there are other pension providers who can be used.

6.8 Payroll software

Many small employers use the HMRC Basic PAYE Tools to run their payroll. This is suitable if you have up to 9 employees although this doesn't produce payslips.

There are also other payroll providers – some of whom have free versions of their software.

Our personal paid for favourite is a bit of software called Moneysoft Payroll – it costs about £60+VAT a year but does everything you need it to do.