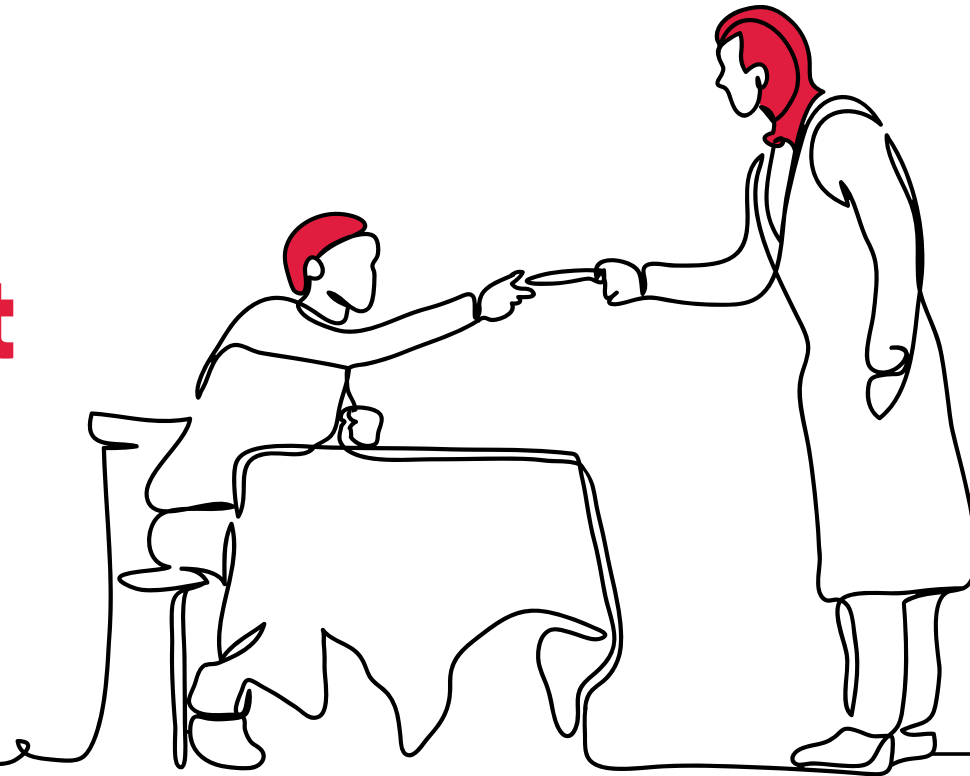


Payroll & Employment



A Payroll scheme (or "PAYE Scheme") is set up with H M Revenue and Customs (HMRC) to administer the payroll taxes due on payments made to UK employees.



What is an Employee?

In employment law and tax law, a person's employment status determines their legal rights and the employer's responsibilities towards the person.

In employment law there are 3 main types of employment status:

- self-employed;
- worker,
- employee.

In tax law there are two types of employment status:

- employed;
- self-employed.

You are likely to be an employee if:

- you have to personally do the work
- someone can tell you what/when/where/how to work
- you have to work a set number of hours
- you are paid a regular wage or salary
- you are entitled to holiday and/or sickness pay

It is an employer's responsibility to work out the employment status of each person and correctly calculate and deduct the necessary taxes.

[HMRC offer a tool to help give guidance](#), it's not fool proof but it could help.

Payroll registration

If a business has any staff employed in the UK a Pay As You Earn (PAYE) scheme will need to be set up in the business name for the collection of both income tax and social security (National Insurance).

- Where the employer has no place of business in the UK (e.g. the employee works from home and travels) then it is usually the employers responsibility to ensure that a payroll scheme is set up and taxes paid to HMRC... However, if the employee agrees, the employee may operate their own payroll scheme.

- Where an employee operates their own scheme, Employer's National Insurance contributions are not due. This can represent a substantial saving to the employer. It is therefore common practice for the employer to bear the cost of administering the scheme. But please note that there can be practical difficulties associated with such schemes e.g. provision of staff benefits such as private medical insurance. Processing the application for a scheme takes approximately 20 working days, and HMRC will request confirmation of the expected first payment date as they will not set up a scheme in advance.

Payroll processing

Once the payroll registration is set up:

- Can be operated weekly, fortnightly or monthly. Taxes are calculated and the amount due to employees and HMRC reported.
- A payroll tax period runs to 5th of each month, all payments within each payroll period are subject to statutory deductions for the period with taxes due to HMRC 2 weeks after the end of the period.
- Generally, on a monthly payroll, the taxes are due on 22nd of the month following 'payday'. In many cases funds should therefore be transferred by the 19th of the month to allow sufficient time for HMRC to allocate the payment
- Employees must be provided with evidence of their earnings and statutory deductions either as a physical or online payslip.

Auto Enrolment

- All payroll schemes must operate a pension scheme suitable for auto enrolment.
- This applies from when staff begin their employment and not when a PAYE scheme is registered.
- Employers are required to write to their workforce within 6 weeks of beginning to work to inform them how auto enrolment applies to them.
- Employers must complete a Declaration of Compliance for The Pension Regulator (TPR) to declare how they have met their legal duties within 5 months or duties beginning.
- Every 3 years employers must re-enrol any eligible staff that have opted out of

their pension scheme on the anniversary of their duties start date. They must then complete a new Declaration of Compliance to inform TPR how they have met their duties.

ANNUAL PAYROLL RETURNS There is a requirement to submit a "final" RTI submission for the tax year (year to 5 April).

Forms P11D

Any benefits provided to employees or on behalf of employees, which are not reported through payroll, must be declared annually on a Form P11d. Employers are required to file a Form P11d(b) annually.

Exemptions automatically apply to certain business expenses such as:

- business travel
- phone bills
- business entertainment expenses

Any Benefits-in-Kind provided to staff may be subject to both PAYE and National Insurance contributions. HMRC will take the information submitted by the employer to calculate any taxes due and will instruct the payroll scheme to deduct tax accordingly by adjusting the employees Tax Code.

See our quickguides for more information

- [P11D Reporting Guidance](#)
- [Common Areas of P11D Confusion](#)

Payrolling Benefits

An employer can now choose to payroll all benefits except:

- employer provided living accommodation
- interest free and low interest (beneficial) loans

To payroll benefits, an employer must register their intention to do so before the start of the tax year using the.gov.uk website.

- The employer will need to inform HMRC which benefits they wish to payroll.
- The employer will then need to include the cash equivalent of the benefit on the employee's payslip so they are taxed through payroll. HMRC will then not adjust the individual's tax code for these benefits.

Whilst there will no longer be an obligation to submit a P11d for these benefits, there is still a requirement to work out any Class 1A National Insurance contributions and complete a Form P11d(b).

Employment Related Securities ("ERS") Return

This return is required if there has been any share related activity involving either employees or contractors in a given tax year.

The scope of reporting is extremely wide including both tax-advantaged and non-tax-advantaged share option schemes / shares issued at an undervalue / issue of restricted securities.

This is an extremely complex area and professional advice should always be sought before any return is submitted to HMRC.

Short Term Business Visitors ("Appendix 4") Return

This return is required if the Employer has overseas employees visiting the UK for work purposes.

See our Quickguide for more information:

[Relief for Short Term Business Visitors](#)

Responsibilities as an employer

There are other Oury Clark Quick Guides in this series that provide more detail on the responsibilities and obligations of an employer, but some key points to note are:-

- Minimum Wage regulations
- Right to Work checks
- Employers Liability Insurance cover
- Terms and Conditions of employment (no employment at will)
- Health and Safety regulations
- Working Time Directive

This is only intended as a Quick Guide, so do seek further advice with all of the above to avoid potential penalties and legal issues.