Care England and RSM UK joint webinar: Employment Tax, 8 April 2025
Q&A summary document

Q: Can you give an overview of changes to employer National Insurance Contributions (NIC) and National Living Wage (NLW)?

Andrew Timpson, RSM:

- The chancellor in the Autumn budget announced that there would be a rise in employer NIC from 13.8% to 15%. That has taken effect from this month for all pay periods from April. The secondary threshold for NIC, which is the employer threshold, has reduced from £9,100 to £5,000, again from April for all pay periods. This was announced in the budget at the same time which was unexpected.

- The House of Lords prepared a comprehensive case for health and care providers, charities with annual revenues of less than £1 million and transport providers for children with special educational needs and disabilities to be exempt from the rise. This was rejected by the House of Commons, including all 21 amendments, so the above two changes will impact all employers from this month.

- However, the employers' allowance has been increased from April, from £5,000 to £10,500, and with this increase the Chancellor also announced that they would remove the £100,000 NIC criteria, which meant that all employers (with the exception of publicly sector employers) will now benefit from the £10,500 allowance again starting this month.

- There is no change to the employer NIC exemption for employees under the age of 21, and no change to the employer NIC exemption for employees under the age of 25, who are employed on approved apprenticeship contracts.

Charlie Barnes, RSM:

- The National Minimum Wage (NMW) rates were recommended by the Low Pay Commission and approved by the government in October 2024 and were effective from 1 April 2025. The NMW rates are:

    - £12 an hour for workers aged 21 and over, a 6.7% increase from last year;
    - £10 an hour for workers aged 18 to 21, a 16.3% increase from last year; and
    - £7.55 an hour for workers aged 16 to 17, a 18% increase from last year.

- The Employment Rights Bill is currently going through the Houses of Parliament, which will impact the cost of labour going forwards and the use of flexible workers.

Q: The direction of travel is an increase in labour costs in the care sector, what can organisations do to mitigate increased costs, in terms of NIC and NLW?

Andrew Timpson, RSM: There are mechanisms or expense items that organisations can utilise to change employer remuneration structures. They can provide great value at low or no NIC cost pressures. There are four main areas of salary sacrifice arrangements that HMRC have approved from a NIC perspective:

1. Pension contributions: This is the most common, but for most organisations aren't 100% allocated. Whether implementing for the first time or a longstanding advocate of its inclusion, it's worth revisiting this to remind employees of the benefit, ensuring it's being optimised to the fullest, are communications up-to-date allowing employees to comprehensively understand the benefits, which could result in increased contribution requests.

2. Life assurance: This is the least common for salary sacrifice, but high on the benefits scale in terms of provision. Where it's linked to a registered pension scheme, it can be included as an allowable salary sacrifice arrangement with no tax/NIC adverse implications.

3. Cycle to work arrangements: Not uncommon but normally for a small cohort of employees. Since the restriction of the credit limit of £1,000 was removed a few years ago, more expensive bikes, for example, electric bikes can be included, so this becomes more appealing for a wider cohort of employees.

4. Electric vehicles: The costliest arrangement and may be relevant for a smaller cohort of employees. There remains a low taxable benefit cost to employees, but this has increased from 2% to 3% from April and will go up to 5% by 2028. The electric carpool is expanding into the city cars as well as the larger family vehicles, which means a greater number of employees may find this benefit becoming more attractive, particularly if car costs become more affordable.

In terms of tax-exempt items, the following can be considered to help employees meet the costs of everyday items and help to stretch their net pay:

- Home working allowance: Organisations can provide up to £6 a week to employees where there's an arrangement in place for them to work from home; for the avoidance of doubt, it doesn't have to be a necessity for employees to work from home, for the employer to be able to pay this allowance. With hybrid working more common, organisations more frequently have a structure where they should be able to provide this allowance to employees.

- Car parking at or near the place of work: This could be a welcomed benefit to meet the cost of this benefit for employees, in part or in full.

- Free or subsidised meals: In addition to free tea or coffee facilities, employers can go further and provide full meals as a benefit for employees, which can get tax and NIC free status.

- Trivial benefits: This is the provision of non-cash, non-reward or performance related items which are no more than £50 in value, can be provided free of tax and NIC where all criteria are met.

Q: In terms of exempt items, do you need full employee participation?

Andrew Timpson, RSM: This only applies to the free or subsidised meals which must be offered as an available benefit for all employees to have the opportunity to participate in, which they don't have to use, but you can't exclude part of the employee population to be tax and NIC exempt. The other items are not all employee exclusive and can be used for part of the employee cohort.

Q: What risks are associated with salary sacrifice schemes, especially at the lower end of the pay scale?

Andrew Timpson, RSM: It's important to note that any reduction in salary can't be below NMW but if you can meet the terms of the criteria, salary sacrifice arrangements are available and something to take advantage of. However, it is worth considering the impact from a legislative and governance perspective.

Charlie Barnes, RSM: The position on salary sacrifice and NMW is that employers must look at the post-salary sacrifice pay for NMW compliance purposes. If a large proportion of the workforce is paid at or near NMW, this may prevent them from benefiting from that arrangement as that cannot participate.

In 2020, the government had the opportunity to revisit this position but didn't despite a lot of support for a review. We would certainly encourage the government to revisit this as it's preventing the low paid from entering into similar arrangements than those who are higher earners.

Q: In terms of NLW, do you have any other advice for employers to think about?

Charlie Barnes, RSM:

- We have had recent experience of employers overpaying when making good any underpayments of NMW from previous pay periods. Employers should ensure that these

arrears payments are accurate, they are not inadvertently overpaying and adding to their wage bill.

- The Low Pay Commission (LPC) recommends the NMW and NLW rates to the government and collects feedback at roundtable events throughout the year. Employers have the opportunity to influence the LPC's recommendations by providing feedback on their impact for their business either directly or at the events: Low Pay Commission regional visits 2025 – Low Pay Commission

- Employers should review workforce utilisation to make sure they are optimising the productivity of their existing workforce and not unnecessarily requiring additional overtime to be worked or engaging casual or agency labour at additional cost.

Andrew Timpson, RSM:

Employers can consider off-payroll workers to reduce gaps and bring in necessary skills for both short and long-term contracts. However, HMRC has been trying to tackle off-payroll working non-compliance for a long time and it is not stopping in its pursuit, with recent tribunal case wins demonstrating its appetite to continuously press the message that only bona fide, independent off payroll workers should be consider as such for tax purposes. To ensure this position remains compliant for Organisations, they should have a a clear policy, structure and commercial requirement to consider bringing off payroll workers into their workforce structure. It's important to have a robust policy and good internal communication to educate and engage the workforce, particularly those with the authority to engage off payroll workers, for example, strong onboarding procedures for all off payroll workers, similar to that for, can mitigate the risks associated with engaging this population of the workforce.

Q: For NLW compliance, what are they key challenges and risks? What are employers often getting wrong?

Charlie Barnes, RSM: We are seeing that status is still an issue, with employers not correctly categorising their labour supply for working rights, which leads to breaches of NMW. The other top 3 NMW issues are:

1. Salary sacrifice: where the post-salary sacrifice pay is not being looked at for NMW purposes.

2. Not reviewing contracts to correctly categorise the workers for NMW purposes. The rules differ depending on the category of work the worker is performing.
3. Working time: employers need to understand the NMW rules and capture what counts as working time. Employers shouldn't just rely on the contractual hours because the amount of time worked tends to be different – for example if employees have worked through rest breaks or stayed on later. Employers need systems to accurately capture time and attendance that feed through to how employees are paid. Also, any deductions that count towards the NMW compliance check must be correctly calculated, including those that can't be seen in the payroll such as the purchase of equipment or uniform costs.

The Fair Workers Agency is taking on responsibility from HMRC in the enforcement of compliance. We are hoping they will take a more collaborative approach to working with employers, not trying to trip them up and helping them to make sense of the complex rules.

Q: What are the main differences or challenges between full time and part time workers?

Andrew Timpson, RSM: As, historically, the secondary threshold for NIC was set at £9,100, employers could take advantage of workforce planning, including part-time or reduced hours employees and job sharing, allowing a pro-rated salary which usually led to lower NIC costs. With the reduction in the secondary threshold to £5,000, this erodes the headroom for employers, increasing their costs for these cohorts or employees. As a result, practically, it could be more beneficial for employers to seek to employee full-time workers, potentially reducing the overall number of employees in the workforce but maintaining or even increasing production levels.

Charlie Barnes, RSM: For younger workers, there has been a higher % increase in NMW, and the majority will be part time workers. In addition, the costs of employing part time workers are going up due to the lowering of the NIC threshold. Employers could move to employ more full-time workers instead From an employment legal perspective, it is a concern that the unintended consequence of this is that it could lead to claims of age or sex discrimination (as the majority of part time workers are younger workers or female workers with childcare responsibilities).

Q: In practice, how do employers put these changes in place?

Andrew Timpson, RSM: The number one challenge of salary sacrifice or other arrangements is communication. Implementation is relatively straight forward but it's important to get communication to employees right: what is the benefit, what is the impact, what is the difference between benefits and pay rises. How do employers bring in a collective approach to remuneration where they can seek to communicate a wider package, bringing in every aspect of what they are providing. This can foster greater engagement through understanding what the benefits of the remuneration structures are and mean to each employee. In turn this can increase employee motivation as they understand how supportive the employer is being with their needs, above a mere pay rise or pay freeze.
Charlie Barnes, RSM: The importance of change management, culture and narrative can't be understated in terms of the messaging and how it's delivered, why you are doing it and getting people to buy in to the change. Also, timing can be critical. Employers may need to change contracts and the workforce structure, so practically it makes sense tobring all changes in at the same time. So, it's about legal compliance, narrative and timing.

Q: Looking forwards, what is coming down line, what is the direction of travel with government?

Andrew Timpson, RSM: Given the current geopolitical headwinds, the position is not clear. Keir Starmer has said he will not raise taxes, which he has stretched with employer NIC increases, instead his messaging this week was focused on reduced spending and increased borrowing. A positive outlook could be government may listen to the think tanks and remove NMW non-compliance from salary sacrifice arrangements, particularly pensions. Alternatively, as mooted before the last Autumn budget, the government could include NIC on employer pensions contributions or seek to remove pensions tax relief for high earning employee, but this is a highly emotive issue, which the government could be well advised to give a wide birth.

Charlie Barnes, RSM: With the Employment Rights Bill coming down the line, there is concern about the lack of clarity about some aspects of the bill, such as day one unfair dismissal rights and statutory probationary periods, the use of casual workers and the right to guaranteed hours of work. Will we get enough clarity before the bill becomes an act (which is looking like Summer 2025)? We believe government needs to have more engagement and understanding about how those provisions will impact businesses, provide greater clarity to limit any uncertainty, and have greater recognition that there are benefits of flexible work for both employers and employees.

Q: If you could summarise one key takeaway for listeners, what would it be?

Andrew Timpson, RSM: It's worth looking at how you can stretch your employee net pay packages and how you can utilise mechanisms or expense items to provide additional value to employees. Separately, where an Organisation isn't already taking advantage of the NIC exemptions for those employees under 25 years old, we would suggest this is considered as part of workforce strategy.
Charlie Barnes, RSM: Make sure your workforce is properly utilised, so you are getting the most out of what you currently have.

Questions posted during the session

Q: About the employee allowance mentioned, we are a local government funded organisation, are the rules relevant for one of a group of companies?

Andrew Timpson, RSM: Unfortunately, government funded organisation may not be able to benefit from the employment allowance. Also, if an organisation is part of a wider group (and not government funded), only one PAYE scheme (or entity, depending on how structured) is able to benefit from the employment allowance.

Q: Contracts could be amended to make salary sacrifice pension as a default offering the employee the option to opt out of salary sacrifice.

Charlie Barnes, RSM: The key thing about a genuine salary sacrifice arrangement is that there needs to be a valid variation of the contract of employment. You can automatically opt people into the arrangement, but from a legal perspective, employers must be transparent about this and the impact so that employees can make an informed choice and have necessary processes and controls so that they don't include employers where the salary sacrifice arrangement may breach NMW rates.

Andrew Timpson, RSM: Employers could structure the arrangement in a way that anyone with salary below £X won't be included.

Q: Which areas have you seen HMRC focus on as a point of enquiry within employment tax and especially within our sector?

Andrew Timpson, RSM: We have seen HMRC focus on:
Travel and consideration of more than one workplace.
Off-payroll worker compliance.
Agency and supply chain operating PAYE/NIC accurately.

Q: Can you please explain the issue just raised about the use of agency workers and if we should check the agencies are applying PAYE correctly

Andrew Timpson, RSM: This means checking if your agencies are operating payroll correctly, and if they are utilising other agencies, how are they keep track of their supply chain to ensure PAYE is being operated correctly.

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