Update

Hotels & Leisure

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Apprenticeship Levy: how will it affect you as an employer?

Despite continued lobbying from business over economic uncertainty sparked by the Brexit vote, the UK Government has confirmed its intention to go ahead with the Apprenticeship Levy from April 2017. Employers within the hotels and leisure sectors will need to start thinking about the impact of this legislation on their own payroll.

The basics

The levy was announced in the 2016 Budget as intending to fund three million apprenticeships, and draft legislation was included in the subsequent Finance Bill giving a lot more detail as to how it work in practice. The key elements are:

1. The apprenticeship levy will come into effect in April 2017. It will be payable by employers in the UK at 0.5% of gross wage costs on a monthly basis. This is in addition to any other industry levy already in place.
2. All employers will receive an annual allowance of £15,000 to offset against the payment of the levy. This effectively means that the levy will only be payable by employers with total wages in excess of £3 million per year.
3. The levy will be payable through the Pay As You Earn (PAYE) system.
4. Groups of companies will only receive one allowance to offset against their levy. The connected persons rule (similar to the employment allowance) will apply so employers or groups of employers who operate multiple payrolls will only be able to claim one allowance in total. If one employer does not fully utilise the allowance then the balance can be used against other PAYE schemes after the end of the tax year.

> "If your wage bill is in excess of £3m then you will need to pay a levy."

5. The levy will be calculated by reference to the total earnings subject to employer's Class 1 National Insurance Contributions (NIC).
6. As soon as the levy has been paid to HM Revenue & Customs, employers will be able to access this amount for apprenticeships through a new digital apprenticeship service account.
7. The apprenticeship service account will be topped up by 10% from the Government but must be used within 18 months otherwise the money will not be available for apprenticeship training costs.

How does this impact on you as an employer?

For the majority of employers (over 90% of UK employers) their total wages bill will be less than £3m a year and so no levy will be due. However, if your wage bill is in excess of £3m then you will need to pay the levy.

As the charge is based on earnings subject to employers' Class 1 NIC, there will be no levy on employees seconded from overseas who have an A1 or other certificate of coverage.

There will still be a charge on pensioners, those employees paying reduced rate contributions and those with deferment certificates. Also, where part-time staff are employed who earn less than the lower earnings limit Class 1 NIC would not be payable, but these earnings will be specifically included for the purposes of calculating the amount of levy due.

What will affect many more employers though will be the interaction with other pay structures such as payrolling benefits, salary sacrifice and PAYE settlement agreements. While there are plans to restrict the impact of salary sacrifice from April 2017 in certain instances, the main use of salary sacrifice for pensions, child care and cycling schemes will be unaffected. The use of such arrangements has always been tax efficient, but by reducing the pay on which Class 1 NIC is payable the employer will reduce the pay for levy purposes as well.

Payrolling benefits will be unaffected by the levy as even though PAYE tax is assessed on benefits through the payroll the employer is still required to assess Class 1A NIC in the normal manner and so the pay subject to Class 1 NIC will not be affected.

PAYE settlement agreements allow an employer to settle the tax and NIC due on certain benefits to staff directly. These typically include items such as late night taxis, staff accommodation and staff entertaining which can, in some circumstances, be otherwise subject to Class 1 NIC (e.g. reimbursed meal costs). Inclusion of such items in a PSA will therefore ring-fence these expenses from the levy calculation.

Interestingly, for hotels and restaurants that operate a proper qualifying 'tronc' system, as no employers NIC liability arises, the total amount of tips paid will also not fall within the apprenticeship levy. This is just another reason why such employers should look to operate a proper tronc system if appropriate.

Planning points

In readying yourself for April 2017 you need to ensure that:

1. In groups of companies you determine in advance which employer will claim the £15,000 allowance or how at least this amount is going to be split between companies within the group.
2. Your payroll system will enabled you to calculate and pay over the levy from April.
3. Any salary sacrifice arrangements (e.g. pension contributions or childcare costs) or similar planning is implemented prior to April to reduce the levy if possible.
4. Consider if some benefits which are currently liable to Class 1 NIC can be provided in such a way that only a Class 1A NIC liability arises in the future.

If you have any further queries relating to the Apprenticeship Levy, or would like our team to review your existing Troncs system or PAYE settlement agreement, then please do not hesitate to contact us.

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