

# HMRC's employment tax hit-list

HM Revenue and Customs (HMRC) routinely visit employers to ensure that they are complying with their tax and NIC obligations. Where compliance failures are discovered, it will seek to settle with employers for the last six tax years at least and add interest and penalties to amounts of tax and NIC underpaid. The areas HMRC is currently focusing on are:

## Employment status

Many employment tax issues which we debate with HMRC come under the heading of 'grey areas' – employment status would definitely fall under that heading. HMRC is always keen to reclassify self-employed consultants as employees but there are various tests which have to be considered. It is not enough to have a self-employed reference number or a copy of an individual's public liability insurance certificate. All the tests need to be considered before a balanced view can be taken.

## Staff entertainment

When an employee claims entertaining expenses he or she should provide details of who was being entertained and the company or organisation they represent. This is a minimum HMRC requirement and is required to distinguish entertaining expenses from subsistence expenses, i.e. why would an employee be putting in a claim for dinner at, or near, his normal place of work.

## Incidental Overnight Expenses

Employers can pay an amount to cover incidental costs of £5 per night for UK travel and £10 a night for overseas travel. This allowance is intended to cover the costs of newspapers,

laundry, calls home etc. If the employer makes a payment to cover these costs that exceeds these limits then all of the payment must be subject to tax and NIC not just the excess.

## Car benefits

HMRC has estimated that 90% of list prices which are reported on P11D forms are incorrect so, obviously, it is vital that employers double check that car benefits are being reported correctly. In addition, it has stated that many of the emissions ratings for the cars which are reported are incorrect.

## Car fuel benefit

To avoid the car fuel scale charge, employers need to ensure that the cost of private motoring is not being paid on behalf of the employee. Therefore, it is essential that detailed mileage records are maintained by employees to justify that only the cost of business motoring is being paid for by the employer.

## Home to work travel

Home to work travel is taxable even where someone needs to travel to work during the night to deal with an emergency. Any reimbursed expenses relating to this should be subjected to tax and NIC through the payroll.

## Construction Industry Scheme

New rules for the Construction Industry Scheme take effect from 6 April 2007. One of the major changes is that the onus will be on the contractor to determine the tax statuses of the individual who is going to carry out the work. The contractor will also be required to make monthly returns of payments made to sub-contractors and the tax deducted.

## Non-executive directors

As these individuals are office holders then they are deemed by HMRC as being employees and any income paid to them has to go through the PAYE system. However, a non-executive director could also provide consultancy services to an organisation on a self-employed basis. These arrangements have to be structured very carefully.

## Termination payments

Termination payments are always high up on HMRC's agenda when carrying out a PAYE audit. Pay In Lieu of Notice (PILON) which has not been taxed by an employer will always come under the HMRC microscope. Where an employee is contractually entitled to a PILON or where there is any form of expectation of receiving one, a tax and NIC liability will arise. Care should be taken in respect of the tax and NIC treatment of any type of termination payment.

## Aggregation of Earnings

Where an employee has one employment with an organisation and another employment with an associated organisation then the employer must add together the earnings from each job and calculate NICs on the total earnings figure.

**If you would like to discuss this issue in greater depth,  
please contact your local PKF office or visit**

**[www.pkf.co.uk](http://www.pkf.co.uk)**

The items contained in this briefing have been prepared as a general guide. They are not a substitute for professional advice, which would necessarily have to take account of the particular circumstances. The information and opinions given are liable to change without notice. Neither PKF (UK) LLP nor its partners or employees make any representation regarding the completeness or accuracy thereof and they accept no responsibility for any loss or damage incurred as a result of any user acting or refraining from acting upon anything contained in this briefing or upon its omission therefrom.

PKF (UK) LLP is registered to carry out audit work by the Institute of Chartered Accountants in England and Wales. The principal place of business is Farringdon Place, 20 Farringdon Road, London, EC1M 3AP. Certain of the services described in this briefing may be provided through PKF Financial Planning Limited. PKF Financial Planning Limited is authorised and regulated by the Financial Services Authority for investment business activities.

PKF (UK) LLP operates a code of conduct to ensure that all types of data are managed in a way which complies with the Data Protection Act 1998. If you do not wish to be informed about the services we offer and forthcoming events, please contact your local office. © PKF (UK) LLP 2007. All rights reserved.