

# CHANCERY MANAGEMENT NEWS UPDATE

Issue 06

01 June 2009

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## **On This Day In Previous Years**

In 1953 the Coronation of Queen Elizabeth II (aged 27 years) took place.

In 1987 President Ronald Regan appointed Alan Greenspan the Chairman of the Federal Reserve.

## **Changes To The Next End Of Tax Year Reporting**

The end of year reporting requirements have changed. From the end of the 2009-2010 tax year it will be necessary to report amended National Insurance earnings values on the returns forms P14 and P60 to allow for the upper accrual point.

This is the first time for many years that the information on the form P60 has changed. Therefore any employer using a non standard format will need to change it and probably need to obtain approval from HM Revenue & Customs before the end of the tax year.

Another change announced in advance is the 50% tax rate. This will probably mean returning to multiple tax band rates. Currently D0 is 40% with no allowances. Therefore, we should expect the introduction of D1 for 50%.

HM Revenue & Customs have also stated that the tapered reduction in the personal allowance for high earners from April 2010 will be dealt with by the tax code notification and not by changing the PAYE calculation.

Whilst this decision is helpful it will not be at all accurate and will result in many underpayments and overpayments in tax because the tax code will need to take into account all income including pensions and investments which at best HM Revenue & Customs will only have knowledge of in arrears from end of year reporting and Self Assessment tax returns.

Another major change is that all employers will have to report end of year electronically as paper returns are no longer accepted.

## **Flexible Working Time Rights Extended**

From 6 April 2009, the right for employees to carry out flexible working arrangements were extended. The flexible working arrangements now covers employees with parental responsibility for children aged 16 or under.

Flexible working covers: Part time work, shift work, and home working. Flexible working also includes term time working where the employee stays on and is allowed to have a permanent contract but can take paid or unpaid leave during school holidays.

Term time has been and continues to be more common in local authorities especially where an

employee has previously worked in a school or school related job and then retains the academic working year when moving to an office related career in the public or private sector.

Term time only working can help to improve customer satisfaction by providing the necessary level of cover at busy times matching resources to variable demand across the working day or week but this does depend on the type of industry in which the employee works.

For example if the employment is within the leisure industry, an employer in that sector may have their busiest times out of term time.

The benefits for an employee include having a more flexible working pattern, enabling them to take leave of absence during school holidays whilst retaining continuity of employment. Even if it is on an unpaid leave basis flexible working can significantly reduce overheads such as paying a child minder outside of term time

The benefits for the employer may include improved use of resources in busy times, enabling the employer to recruit and retain staff with other commitments and to schedule work during times when the demand for service is greatest or where the demand during school holidays falls. In the latter case the most benefit to the employer is that if the leave is unpaid the employer cost reduces during quiet periods. However, this would not apply to all businesses.

Properly managed term time working arrangements can also help to reduce the need for temporary and agency staff to cover busy periods and can be beneficial to the employer.

There are also disadvantages of term time working for the employer.

Managers may not have sufficient cover during school holidays depending on the type of industry. In such circumstances managers need to be extremely competent in employee resourcing to ensure continuity of service delivery during school holidays without putting undue pressure on other staff.

Term time working can also result in a lack of consistency over the year especially if the employee has key skills or manages other staff.

The employer, depending on the industry, may also find it difficult to recruit additional cover and the introduction of term time may make it even harder to plan annual leave across the entire year because staff on year round contracts may be unable to take time off during school holidays which they may find too restrictive.

Term time working can be very effective where there is a requirement to provide a reduced service during school holidays. For example if it is an industry providing services to schools such as contract cleaning, contract school meals, or a provider of other services to schools.

Salary / wage calculations for term time payments can be quite complex depending on the company rules, the terms and conditions of employment, and the requirement of the employees.

In the majority of cases pay would be based on an annual salary divided by 52 weeks, divided by the hours per week to give an hourly rate. The rate would then be multiplied by hours per week multiplied by the number of weeks required to be worked for the year plus 28 days statutory holidays including the 8 bank and public holidays. This figure would normally be divided by 12 and paid monthly throughout the year. All holidays in excess of the 28 statutory days for holiday and bank and public holidays would be unpaid. If term time staff are required to work additional days or weeks to provide some additional cover during school holidays then this would be paid as additional pay at, at least the normal hourly rates as a minimum.

The proposals / examples of pay calculations are not necessarily based on the way local authorities or private schools calculate term time payments.

Agreement has to be achieved in all cases as to how much unpaid leave is required and will usually be based on the normal rates for a particular industry.

Other types of flexible working include but are not limited to:

- **Flexi time:** Employees have the freedom to work in any way they choose outside of a set of core hours determined by the employer.
- **Staggered hours:** Employees have different start, finish and break times allowing the business to stay open longer hours or cover busier periods.

- **Compressed working hours:** Workers can cover their total number of hours in fewer working days.
- **Job sharing:** One full time job is split between two people who agree the hours between them.
- **Shift swapping:** People arrange shift working among themselves, provided all shifts are always covered.
- **Self rostering:** Employees nominate the shifts they prefer, leaving employers to compile shift patterns matching their individual preferences.
- **Time off in lieu:** Staff are allowed to take time off for extra hours worked.
- **Term time working:** As described above.
- **Annual hours:** Contracted hours are calculated over a year. Whilst the majority of shifts are allocated, the remainder of hours are kept in reserve so that employees can be called upon at short notice as the employer requires.
- **V time working:** Employees agree to reduce their hours for a fixed period with a guarantee of full time working when the reduced hours end.
- **Zero hours:** Employees work only the hours they are needed.
- **Home working:** Employees spend all or part of their working week working from home or somewhere else away from the premises of the employer.

## **Employment Status**

We have experienced high volumes of queries regarding employment status from customers recently.

The correct status as to whether someone is employed or self employed is not determined by a job title. If for example, someone joins an organisation and is given a title of consultant that does not necessarily mean that person can be considered self employed. It is the relationship that will determine employment or self employment status.

To decide whether a worker is employed or self employed it is necessary to establish the facts and to decide if they require a contract of employment, a contract of service or a contract for services.

HM Revenue and Customs have published guidance to determine whether the worker should be classed as employment or self employment status. If the majority of the answers to the questions listed below are yes then HM Revenue & Customs consider the worker an employee.

- Does the worker have to do the work himself/herself?
- Can someone tell him/her at any time what to do, where to carry out the work and what the hours of work are?
- Can someone move them from task to task?
- Are they paid by the hour by the week or by the month?
- Can he/she get overtime or bonus payments?
- Is the worker using the organisations facilities such as telephones, computers and copiers etc?

- Is the worker just doing the work for the organisation?

If the answer to the following questions is yes then the worker is probably self employed.

- Can the worker employ someone else to carry out the work at their own expense?
- Does he/she work for other organisations or people on a regular basis?
- Does he/she use main items of equipment?
- Does he or she provide a quotation or fixed price to do the job?
- Can the worker come and go as and when he/she likes?
- Will he/she work unsupervised on a project or several projects for the organisation unsupervised?
- Does he or she correct any unsatisfactory work at their own expense?

Although answering yes to most of each set of questions will assist in determining the employment or self employment status there will, in some cases, be instances where the position is less clear cut and the relationship will appear to be partly employed and partly self employed.

In such circumstances although there is no single test that that is conclusive in determining if the worker is in fact an employee or self employed.

In determining the status it is necessary to establish whether there is a contract between the parties and if there is a contract, the nature of the contract should help to determine the status.

A contract can be written or verbal but it is advisable to have a written contract for services or for service being a contract of employment. If in doubt please contact your payroll manager.

#### Quotations of the Month

He who laughs lasts.

A diplomat is a person who can tell you to go to hell in such a way that you actually look forward to the trip.

There is no cure for birth and death, save to enjoy the interval

Source: The CML Collection

#### Statistics of the Month

People working in the media, publishing and entertainment are the heaviest drinkers in Britain consuming an average of 44 units a week, twice the recommended maximum. Teachers and transport workers are the most moderate drinkers. Source: The Independent.

45% of British firms say they do not plan to recruit any of the university graduates who will come on to the job market this summer. Source: CIPD/The Independent

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