

HMRC Employer Compliance Reviews

Over the past year or so, HMRC has been increasing its Employer Compliance Reviews (ECR). ECRs cut across all business sectors and organisation sizes. We set out below what an ECR is, why you may have been picked and what you should do.

What is the purpose of an ECR?

The aim is to check that your processes, controls and governance are robust so that the correct amount of Income Tax and National Insurance Contributions (NICs) are paid and within the statutory time limits. The intention may seem innocent but if not handled correctly, it can lead to additional Income Tax, NICs liabilities, as well as interest and penalties being levied.

Why were you picked?

HMRC now has a very sophisticated analytical software called Connect which can obtain information from wide ranging sources. HMRC's Risk and Intelligence Service (RIS) identifies cases for ECR. There was a time when HMRC would advise you of the reason you were picked for ECR - that is, the risk or risks identified but that is not the case now. HMRC wants to ensure that you are meeting your Income Tax and NIC obligations as an employer.

How will you be notified of an ECR?

HMRC will send an enquiry notification letter, either:

- Highlighting specific areas and requesting information and records; or
- Requesting a time and date for an onsite visit to review a sample of business records. If it is a desktop review, they will arrange a date and time to go through a questionnaire and then a sample of payroll and business records will be requested.
- HMRC may also ask you to send sample electronic payroll records in a specific format which they can interrogate prior to the visit/call.

Major areas reviewed in an ECR

From experience, the three main risk areas and where HMRC officers will concentrate the majority of their time and effort are expenses and benefits (particularly staff entertaining, gifts and awards), termination payments and employment status. However, the following are examples of areas for review:

- Payroll operation
- Employment status of off payroll workers
- Expenses and benefits including review of forms P11D and PAYE settlement agreements
- Termination payments
- Staff entertaining
- Relocation expenditure
- Salary sacrifice arrangements
- Provision of employer provided accommodation
- Director's loan account
- Construction industry scheme (CIS)
- Expatriate workers, secondees and interns
- National Minimum Wage

Onsite visit/desktop review

The typical format for an ECR is going through a detailed questionnaire which is used to understand how the business operates, its processes, controls and governance to ensure that the right amount of Income Tax and NIC is paid at the right time.

This is followed by a walkthrough of the company's processes and controls by reviewing sample records. The sample period will be determined by the volume of records in the period of review. Typically, it will either be a month or three months.

The review period is 12 months from the date on the ECR visit notification letter. This means that HMRC can check records in the closed and current Income Tax years.

What are the potential risks?

- Additional Income Tax and NICs where a failure to operate PAYE correctly is identified.
- Additionally, where a benefit in kind error has been made, HMRC can ask the employer to voluntarily settle the employee's Income Tax on a grossed up basis. The grossed up Income Tax will also attract Class 1 NICs and there will be Class 1A NICs on the benefit.
- Interest and penalties will be levied.
- Overall, the error can result in a significant sum of money which has not been budgeted for.
- Reputational damage.

Preparing for an ECR

- Firstly, do not panic but contact a member of our Employment Tax team who can help manage the review, as well as be onsite on the day.
- It might be advisable to have a light touch review beforehand, so you are fully aware of any potential risk areas.
- Ensure you have a dedicated point of contact for HMRC, so flow of information is managed.
- Fully comply with HMRC's information requests.
- Check any Income Tax and NICs, and interest calculations, as HMRC sometimes make mistakes.

How can you ensure compliance?

- Check that your processes, controls and governance are robust enough to withstand any HMRC challenge.
- Update these in line with the prevailing Income Tax legislation.
- Ensure all stakeholders are adequately trained.

How we can help

Our dedicated Employment Tax team regularly deal with ECRs.

We can support you in advance of any employer compliance/standalone reviews and can offer advice on reducing the risk of non-compliance. We provide a range of services from a full employment taxes review to a light touch one, as well as an employment status review/workshop.

If you would like to discuss this further, please contact a member of our Employment Tax team using the contact details below, or your normal haysmacintyre contact.

Employment Tax team



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