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Further and Higher Education Briefing

HaysMac

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Welcome

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We are delighted to share with you our first Further and Higher Education Briefing, sharing articles and insights from experts within the sector. To begin, Stephen Patey, Senior Manager, discusses the distinction between business and non-business activities for VAT purposes, which remains a complex and increasingly contentious issue, with HMRC officers challenging the VAT treatment adopted by many organisations.

Governing Bodies are responsible for creating an investment policy that aligns with your aims and ensures effective governance. Our guest author, Max King, Head of Epoch Consulting gives us an insight into investment policy, and whether your policy might need a refresh. In his article, Max highlights how professional advisers can be valuable in ensuring proper governance, managing risk, and aligning investments with the organisation's long-term goals.

Nick Bustin, Employment Tax Director, draws our attention to the latest campaign from HMRC regarding employment status alert. The recent change will now mean that Further and Higher Education organisations will be included as part of their target audience.

Nick provides a helpful insight into what this means for your organisation going forward, what HMRC are looking for, and how we can help with a proposed response. He also provides an article on the potential benefits of utilising salary sacrifice in the current climate to help mitigate the impact on increases in NI rate increases from April 2025.

As some UK-based organisations explore international expansion, various options for structuring overseas operations arise, including trading from the UK, establishing a branch or permanent establishment, setting up a subsidiary, or entering joint ventures. Louise Veragoo, Direct Tax Director, looks at what you must carefully consider including the nature of their international activities, ensuring compliance with both local and UK tax regulations, and seeking expert advice to protect tax exemptions, manage risks, and ensure profitable operations.

Rakesh Vaitha, Risk and Advisory Director, shares his thoughts on how internal audit plays a vital role in helping to meet regulatory requirements, ensure financial integrity, and manage risks in a complex and evolving environment.

He considers various key areas of focus for internal audit including financial accountability, risk management, operational efficiency, and compliance with regulatory requirements, and explains how internal audits help institutes manage challenges, optimise resources, and maintain trust with stakeholders.

In his second article, Nick Bustin explores pension salary exchange schemes. As businesses were compelled to assess the full impact of rising employer National Insurance contributions, Nick outlines how to effectively manage these increases, highlighting the benefits for employers and the advantages for employees.

Richard Weaver, Partner, shares expert tips on best practices for governing your trading subsidiaries and ensuring your organisation upholds strong governance standards. Finally, in his third article, Nick Bustin touches on the payrolling of benefits and what this means for employers, to include what is being proposed, and how organisation can plan now for the changes to come.

We hope you enjoy this edition and find these articles of interest. Do feel free to let the articles' authors, myself, or your regular contact know if you have any questions concerning the matters discussed. I would welcome any feedback on this Briefing and, in particular, any topics you would like us to consider for future editions.

VAT: Business v Non Business

The question of whether something is a business activity or a non-business activity continues to be a "hot topic" in the world of VAT, and unfortunately, it appears to be becoming ever more topical as we have seen HM Revenue & Customs (HMRC) Officers of late challenging the treatment being adopted by a number of our clients.

This has always been a complex area of VAT. If an activity is deemed to be business related, then the question of whether the activity involves making taxable or exempt supplies needs to be considered and there may then be the opportunity to recover VAT on associated costs.

On the other hand, if an activity is deemed to be non-business in nature, then there is no VAT required to be accounted for and no VAT on associated costs can be recovered. However, certain reliefs may become available. It is therefore an area which can have an impact on both your income and your costs.

HMRC did provide some clarification regarding this complex area back in 2017 by issuing updated guidance to assist entities in determining whether something was business or non-business. This was broadly welcomed and essentially provided six indicators derived from the Lord Fisher case in the 1970s which could be used in answering the question of whether an activity was a business activity.

The business versus non-business question reared its head again in the Wakefield College case in 2018. In this case the Court of Appeal refined the tests, and essentially this is now a two stage test. Firstly, is there a supply and secondly, if there is a supply, is it made in the course or furtherance of a business? Crucially though, the Court went on to say that the answer to the question of whether there was a business activity required a "wide-ranging, not a narrow, enquiry". The Courts and HMRC guidance have consistently stated that motive is irrelevant in determining whether an activity is a business activity.

The reason for the apparent change of approach from HMRC Officers that we have been witnessing appears to stem from the Revenue & Customs Brief 10 (2022) which was published by HMRC in June 2022. The Brief itself seems to be cementing the two stage test defined by Wakefield, with the first test being whether the activity results in a supply of goods or services for consideration and secondly whether the supply is made for the purpose of obtaining income therefrom. When it was first published it therefore appeared somewhat innocuous as this did not signify a major change to the position, the test remained the same as had always been the case.

However, we have been seeing Officers suggesting that the Brief does significantly change the position, with some Officers citing the Brief and arguing that the fact that something is being charged for automatically means it is a business activity, or other Officers asking whether an activity is for the purposes of generating income without first ascertaining whether there has been a supply made. This clearly shows that HMRC are not looking at this in a "wide-ranging" context that is required under case law.

Essentially, it seems that HMRC are still of the belief that motive is relevant when all of the published guidance and case law states that motive is not relevant. Just because you may have a charitable motive for doing something, if you are making a supply of goods or services and that supply is being made for the purposes of obtaining income this would be a business activity.

So, what does this mean for you? As noted, recently we have been seeing HMRC challenging the current approach taken by a number of our clients. If you have not recently reviewed the VAT position of your current activities, we would advise you to carry out a review of your activities and ask your advisors to carry out a VAT health check.

In addition, if you are contacted by HMRC in order to carry out an inspection or enquiry into recent returns, we would advise you to obtain specialist advice in dealing with any enquiry at the outset. This is a complex area of VAT, however, recent case law and the HMRC guidance should have simplified the position and not made it more of a challenge.

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Does your investment policy need a refresh?

Those responsible for governance are required to formulate an investment policy that is in the best interest of the institution and its aims.

There is an expectation that Boards will adopt an investment policy that they believe is representative of the institutions best interests. A written policy provides a framework for making investment decisions, helping Boards to manage the resources effectively and demonstrate good governance. Regardless of size, having a written investment policy is important for all organisations with investment assets.

Most institutions we come across have an Investment Policy or a Statement of Investment Principles. However, in most cases, the documents are either out of date or need refreshing. In many cases it can be both.

In some scenarios we also find that the document was created by decision-makers that are no longer with the institution. Naturally, as you evolve, so does the need to maintain and improve your investment governance.

This is increasingly important with a fast-changing, macro-economic background and an increased focus on many Boards looking to invest with an environmental, social and governance (ESG) consideration. ESG is an area you must now discuss as part of any decision when it comes to any investment assets.

Without a robust set of documents, it can be very difficult to observe how your investment manager(s) is/are doing. Not only should there be aspirational performance objectives, but your policy should also include appropriate benchmarks, any income requirements, tolerances to risk, ethical criteria, and diversification expectations.

Unsurprisingly, many decision-makers have their own opinions on how this should look and therefore need help facilitating and documenting the objectives of the collective. Maintaining and reviewing the policy regularly is then paramount to ensuring the quality of your ongoing governance.

When working with organisations, we assess whether their objectives are:

- Clear?
- Prioritised?
- Realistic?
- Measurable?

In our experience, whenever we are presented with a policy document, almost every single one fails our CPR(M) test on one criterion. More than half fail on all four.

The success of anything can only be measured when you are clear on what you are trying to achieve.

Leaving significant amounts of monies in cash that you don't need or can't use – for example, permanently endowed funds - may be considered as no longer appropriate. Whilst interest rates may now offer more attractive rates of return, we will likely see ongoing inflation volatility, meaning the probability of making a real return over the longer term is low. Coupling this with the uncertain economic background, both at home and overseas, and the need for sound governance has never been greater.

The burden of ensuring that your investment portfolios are appropriately invested and can continue to deliver your objectives falls to the Board, financial directors and often other members of the senior management team.

Where time is an issue, or boards only meet a few times a year, we have seen many institutions employing professional advisers to help. This can remove an element of risk and ensure there is a constant eye on the portfolio. They can also help provide a valuable insight to help your organisation achieve your objectives and ensure that the investment solutions are appropriate, suitable and the strategy is repeatable.

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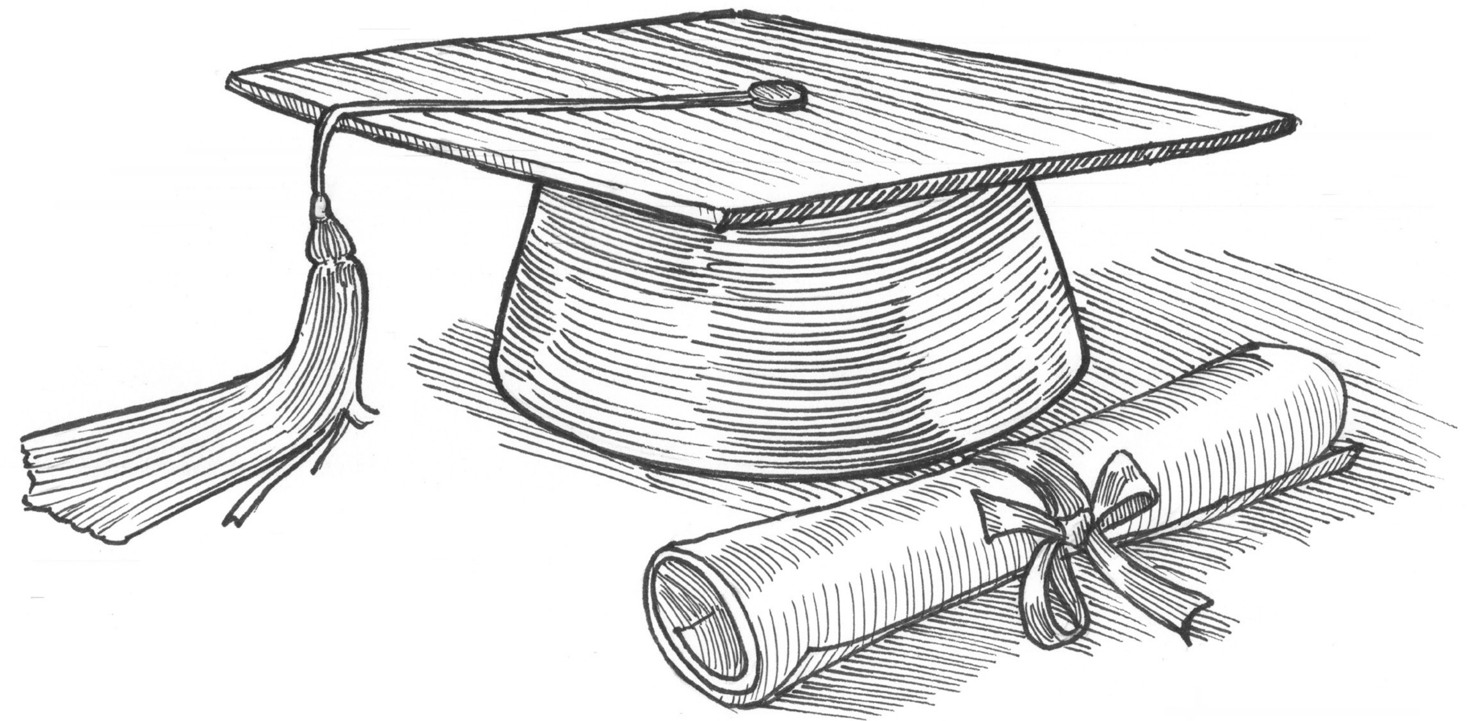

HMRC Employment status alert

Employment status has always proved to be an area of interest for HMRC and their latest campaign into the charity and not for profit sectors will include professional institutes and membership body organisations as part of their 'target audience'.

Employment status has always proved to be an area of interest for HMRC and their latest campaign into the social purpose sector will include Further and Higher Education Institutions as part of their 'target audience'.

Over recent years there has been much written about off payroll working arrangements, including the introduction of the off-payroll work legislation, which saw the responsibility for its implementation moving away from the worker to the engager. These changes took place in April 2017 for public sector entities and in April 2022 for the private sector.

However, in respect of the intermediaries legislation (commonly referred to as the IR35 legislation), the transition of responsibility from worker to engager did not go smoothly, with instances where engagers were taking a blanket approach and deducting PAYE and National Insurance regardless as to whether the legislation applied.

Further challenges included, for example:

- Is the organisation caught by the legislation?
- Who at the organisation was going to have overall responsibility for legislation?
- What policies and procedures needed to be put in place to ensure the legislation was being applied?

To recap, an organisation will fall within scope of the legislation where two of the three conditions are met:

- Turnover exceeds £10.2m
- Gross assets of £5.1m plus
- 50 plus employees

Organisations regularly engage individuals directly, on a self-employed basis, and it is the same 'tests' for both IR35 and employment status which need to be considered to help determine whether they can be paid 'gross' or PAYE, and if Class 1 National Insurance needs to be deducted.

Examples of the tests which need to be considered include, but are not limited to:

- Mutuality of obligation – Is the organisation obliged to provide work to the contractor/worker?
- Personal skills – Is the individual providing specialist skills which nobody else possess and do they have the right to provide a substitute (including the unfettered right of substitution)?
- Reality of the engagement – HMRC will typically look at what the contracts say and compare this with how the services are provided.

The amount of questions HMRC can raise during an employment status review can be more than one hundred, which can be time consuming for both the engager and the worker to deal with.

HMRC campaign letter

The current HMRC campaign is not limited to individuals who provide their services via an intermediary, such as a personal service company. It will look at any individual who is paid by an organisation and the payments made are not subject to payroll deductions, such as income tax and National Insurance.

What is HMRC looking for?

Based on the campaign letters we have seen to date, HMRC is requesting the following information:

- A full list of all sub-contractors, workers and individuals who were engaged during the 2022/23 tax year
- Details of payments made to those individuals, subcontractors and workers including details of the services provided
- Provision of sample invoices
- Copy of any internal guidance and/or manuals
- Sample contracts and time records

The final question concerns a description of the procedures in place for determining the employment status of the contractors/workers.

In respect of the final question, HMRC want to understand what steps organisations are taking to ensure they have fully considered the tax treatment on the payments they make to any 'off-payroll' workers they may engage.

This will include, for example:

- What testing of the contractual arrangements is being carried out?
- Is the organisation making use of HMRC's Check Employment Status for Tax (CEST) tool, or any other similar software as part of its verification processes?
- Where there is any disagreement over the tax treatment on payments made to a worker, how is that dispute resolved?
- How often does the organisation review the employment status of its workers?

If an organisation receives a campaign letter, we recommend that a review of your arrangement and/or the proposed response is conducted. Employment status is a complex area, especially as there is no statutory definition as to who is employed or self employed, or inside/outside the scope of the IR35 legislation.

If you have any questions, please contact Nick Bustin, Employment Tax Director.

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Doing business internationally

Across the schools' sector, international expansion is becoming ever more prevalent. The opportunities to explore business partnerships worldwide are vast and many schools are exploring ways to further grow their brand and income streams internationally. This article explores some of the options for international partnerships and how they can be structured, together with some of the direct tax considerations needed when contemplating new international ventures.

The most common scenarios for overseas operations of a UK based entity include:

- Trading/service provision from the UK, with no local presence in the overseas jurisdiction;
- Operating a branch or 'permanent establishment' (PE) of the UK institution, in the overseas jurisdiction;
- Establishing a separate legal entity in the form of a subsidiary company, registered in the overseas jurisdiction, or
- Joint venture arrangements with third parties.

The above options can apply to either the institution itself, or a subsidiary. In addition, any overseas subsidiary could be owned by the institution (if local laws allow), or might be partly owned by local overseas shareholders as a 'joint venture'.

The exact nature of operations overseas will impact the considerations required by the institution from both a commercial and a tax point of view. Therefore, it is important to consider what the nature of the international presence will be and the implications of that, as part of the initial due diligence.

How do you intend to do business?

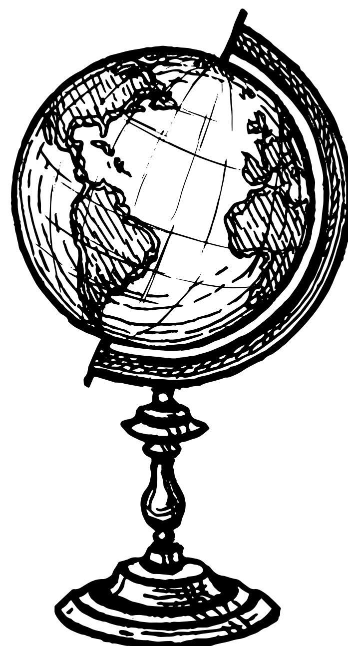
Simply 'doing business' with customers in another country, without a presence there is unlikely to lead to a UK based entity having a taxable presence in the other country. For example, providing consultancy or advisory services from the UK into an overseas jurisdiction, is unlikely to create any local tax presence there.

As such, where the institution is entering into arrangements to deliver consultancy services from the UK, it is more likely that UK tax considerations (rather than overseas) will be in play. This might include the requirement for the overseas partner to deduct withholding tax from payments made to the UK, meaning that UK receipts could be reduced. Double tax agreements between the UK and the specific overseas jurisdiction will help to establish the requirements for such a deduction.

On the other hand, where the institution or its subsidiary is doing business in the overseas jurisdiction, via either a branch or a PE, this activity will generally create a taxable presence in that overseas jurisdiction.

The latter is much more complex to navigate and is likely to result in the operations/activities relating to the PE/branch becoming tax resident in the overseas jurisdiction whilst also remaining taxable as part of the UK operations. This can result in the same profits being taxed twice.

Alternatively, where a decision is made to incorporate an overseas registered company, that company will be subject to the legal and tax framework of the overseas jurisdiction (rather than the UK) and local advice will need to be sought to understand the obligations required of it. In most cases however, the overseas company will not be captured by the UK tax net. There may, however, be UK tax considerations in the form of recharges and transfer pricing to navigate here.



A PE is generally a dependent office of the UK entity, which acts as an extension of the UK operations. It does not, in itself, create a separate legal entity in the overseas jurisdiction, however it may still be required to register as a PE in the overseas jurisdiction depending on the requirements of the particular jurisdiction. The PE will be subject to tax and other filing obligations in the overseas jurisdiction.

A branch is more akin to an independent office of the UK entity, though for tax purposes still falls within the definition of a PE (see overleaf). A branch tends to have its own management structure and the ability to have its own employees and carry out business in that jurisdiction. It also remains an extension of the UK company, with the results reported as part of the UK operations in the UK financial statements.

Although both the branch and PE might be operationally quite different, in both cases, the profits arising from the branch or PE may be subject to taxes in the overseas jurisdiction and in the UK. Double tax agreements may allow relief in some cases.

A PE is created where there is:

- A fixed place of business through which the business of an enterprise is wholly or partly carried on. This can include:
  - A place of management,;
  - A branch (detailed above); or
  - An office. But only where the activities are not preparatory or auxiliary in nature.
- An agent acting on behalf of the entity that has and habitually exercises authority to do business on behalf of the entity (as long as that agent is not of independent status acting in the ordinary course of his business).

Given the above definitions, it will be crucial to understand exactly how the entity intends to operate in respect of its overseas operations, who will be involved, and their responsibilities. Once these facts are determined, the UK entity will be able to establish whether or not it will create a PE/branch.

UK (direct tax) considerations

Once there is an understanding of how the UK entity will do business, there are other tax points to consider, including:

- Are there any local tax filing obligations?
- How do we protect any UK charitable direct tax exemptions?
- Do we need to contract with overseas jurisdictions via a subsidiary rather than the charitable institution?
- Will the overseas operations be profitable from the outset?
- Is there a double tax treaty between the overseas jurisdiction and the UK?
  - If so, what arrangements do we need in place between the UK companies?
- Are any applications required to tax authorities to benefit from the double tax treaty?
- How do we ensure risk is managed?
- How do we protect the brand?
- How do we fund the overseas operations?
- Will any income streams received from overseas be subject to withholding taxes?
  - If so, can we claim tax relief for overseas taxes withheld?
- For overseas payments, is there a UK requirement to withhold tax?

Conclusion

As you can see, when expanding into an overseas jurisdiction, understanding the tax implications is crucial. Each jurisdiction will have its own requirements, and some will be more administratively burdensome than others. The rewards of a successful international partnership can be vast, but the risk also needs to be managed with thorough due diligence and tax advice at an early stage. If you are considering international expansion, in whatever form, please do reach out to your contacts at HaysMac for specific and practical advice.

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Internal Audit and value for money

As part of the regulatory requirements of its registration with the Office for Students (OfS) and/or Education and Skills Funding Agency (ESFA), institutions are required to have in place a comprehensive system of risk management, control and corporate governance. Internal Audit provides a mechanism to give internal assurance to the Board.

Institutes operate in a complex environment marked by financial challenges, regulatory demands, and the ever-evolving needs of students and society. In such a dynamic landscape, internal audit functions play a pivotal role in ensuring operational efficiency, financial integrity, and risk management.

The overall goal of internal audit is to improve operations across various systems, policies and procedures and ensure that these provide value for money.

Internal audit focus areas

Here are several key reasons why internal audits are crucial for the sector:

Financial integrity and accountability

Institutes will manage substantial budgets, often drawn from multiple sources including government funding, student fees, donations, and research grants. Internal audit activity in these areas provides assurances that these funds are managed and accounted for properly. Through regular internal audits, institutes can identify areas of financial waste, fraud, or mismanagement, providing stakeholders such as board, students, faculty, donors, and regulators with assurance of financial accountability and regulatory compliance.

Risk management and compliance with regulatory requirements

Institutes face numerous risks, from cybersecurity threats to compliance with regulatory requirements. Both Higher Education and Further Institutions are closely regulated and need to meet the requirements of a range of regulators. Internal audits in this space serves as a tool for proactive risk management. By identifying potential vulnerabilities in processes, technology, and governance, internal audit activity helps institutes manage risks before they materialise.

Improving operational efficiency

In an increasingly competitive landscape, organisations in this sector are always looking for ways to optimise their resources to remain sustainable. Therefore, internal audit activity can be used to evaluate operational processes to identify inefficiencies, redundant practices, or misallocations of resources. By undertaking risk-based reviews, the recommendations from internal audits help institutes streamline operations, manage costs, and enhance service delivery to students, faculty, and other stakeholders.

This is particularly important in areas such as procurement, facilities management, and information technology, where inefficient processes can lead to significant financial losses or disruptions in critical services.

Strengthening governance and strategic decision-making

Internal audits offer valuable insights that inform strategic decision-making and governance. By assessing internal controls, auditors provide an independent review of governance structures, ensuring that policies are not only established but also adhered to.

We have seen internal auditors evaluate strategic initiatives and capital projects, providing assurances that these are implemented efficiently and in alignment with the institutes mission and long-term goals. This helps leadership maintain accountability, transparency, and credibility with both internal and external stakeholders, including governing boards, faculty, students, and funding agencies.

Enhancing information security and data protection

In an era of digital transformation, data security is one of the most critical concerns for the sector. With vast amounts of sensitive information—from student records to research data—internal audit activity is vital in evaluating and strengthening information security framework. By continuously assessing the data protection measures, internal audit provides assurances over key control measures that institutes have in place.

Promoting continuous improvement and resilience

Internal audit fosters a culture of continuous improvement. Through regular reviews in line with annual plans, audits identify not only areas of concern but also opportunities for enhancing performance. This is supported by benchmarking data with other organisations in the sector where audit results and benchmark information provide discussions on continuous improvements to internal processes. This promotes a proactive rather than reactive approach to managing challenges, ensuring institutes can adapt to change effectively.

Conclusion

To maximise the value of internal audit activities within a given year, institutes should prioritise potential audits by aligning them with areas of highest risk. This ensures that independent assurance is focused where it matters most, helping to mitigate potential impacts on the organisations or group.

Internal audit is more than a regulatory or financial check, we see it as a strategic tool for enhancing accountability, efficiency, and resilience in institutes. Internal audit also provides assurances to your regulators of effective risk management and governance arrangements that support continuous improvement.

With internal audit providing independent and objective evaluation, the results help navigate complex challenges, safeguard resources, and maintain trust of stakeholders and regulators. As the sector continues to evolve and manage complex risks, the role of internal audit remains to be a critical one, acting as the third line of defence and ensuring the long-term success and sustainability.

If you have any questions, please contact Rakesh Vaitha, Risk Assurance Director.

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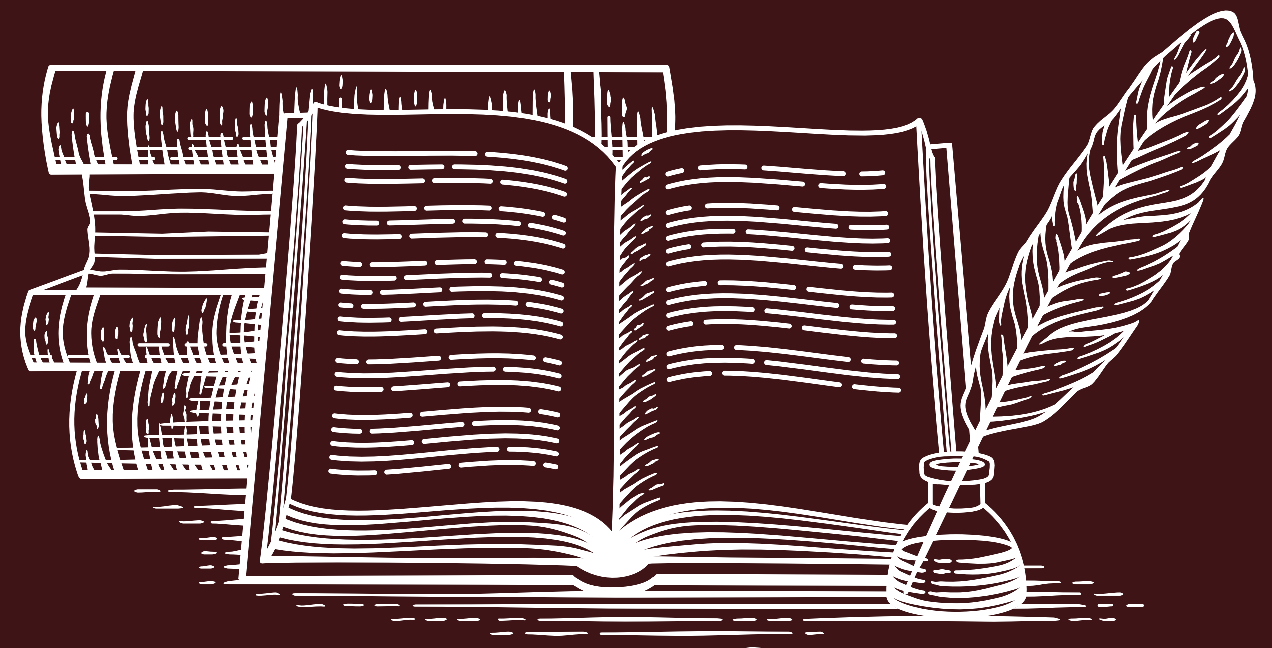


Pension salary exchange schemes, how to manage the increase in employers National Insurance contributions

Following the Government's Autumn Statement, businesses from all sectors were left to consider what the full extent the increase in employer's National Insurance contributions (NIC) will mean to them. For the Further and Higher education sector the salary bill is the largest cost to the business and so any measures to mitigate the increase should be carefully considered.

Autumn Budget changes

To recap, the headline rate of employer's NIC is going up by 1.2% to 15% with effect from 6 April 2025. Furthermore, the point at which NIC will be payable by employers will go down from £9,100 to £5,000. The increase in employers NIC will average around £900 per employee, or more pointily add over £450,000 to the wage bill for an institution with 500 employees. Whilst all employers will benefit from the Employer's Allowance, this will in reality have little impact for most businesses.

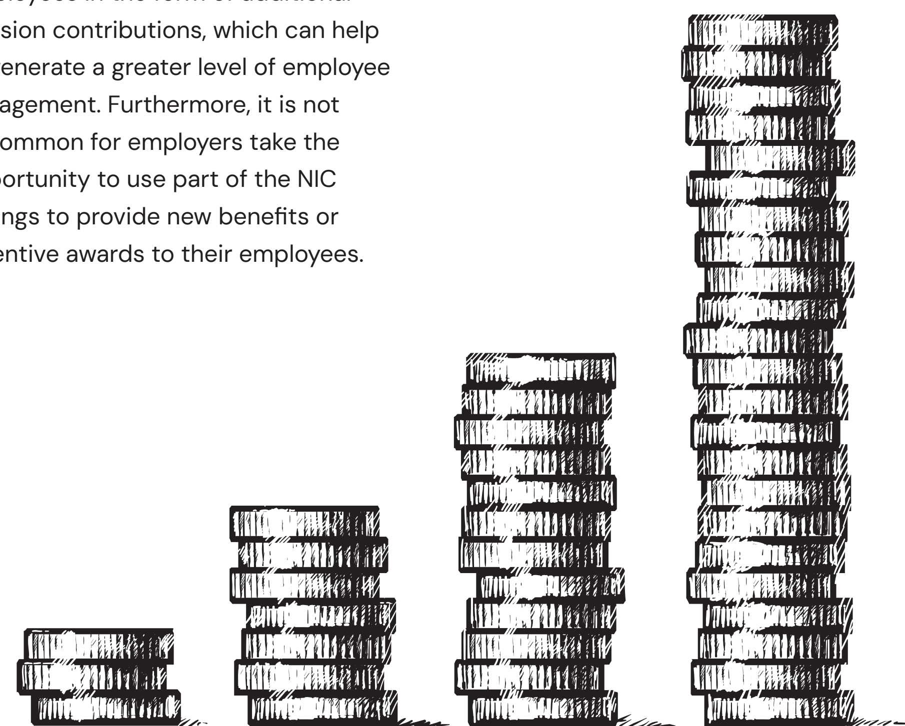
Unsurprisingly, the sector has been actively looking at how they can manage the increase in the employment costs they are confronting. One option includes the use of pension salary exchange where a direct contribution scheme is provided.

Under a pension salary exchange employees forego or 'sacrifice' some of their monthly salary in return for increased employer pension contributions. Employers will be the greater beneficiary by virtue of the savings in the amount of NIC they will pay but employees will see a modest increase in their 'take home' pay. At the same time, the employer will take on responsibility for paying the pension contributions in full.

Benefits for employers

Pension salary exchange schemes help employers make their salary budget stretch a bit further. Put simply, for every £100 the employee agrees to sacrifice, the organisation will see a £15.00 reduction in their NIC bill. This will be further enhanced by 0.5% for those employers with an annual wage bill in excess of £3m per annum who pay the Apprenticeship Levy. This will help to make in-roads into mitigating the impact that the increase in employer's NIC has created. Historically, many employers share all or part of their NIC savings with employees in the form of additional pension contributions, which can help to generate a greater level of employee engagement. Furthermore, it is not uncommon for employers take the opportunity to use part of the NIC savings to provide new benefits or incentive awards to their employees.

However, the key message is that making use of a pension salary exchange provides employers with the ability to partly reduce the increase which employers NIC will bring from next April.



Key advantages for employees

If we consider the position from the employees point of view and what a pension salary exchange will mean to them, for basic rate taxpayers will see a reduction in the amount of NIC they pay by £8 for every £100 they agree to sacrifice. As far as higher and additional rate taxpayers are concerned, whilst the savings will not be so significant, these will essentially be limited to a 2% saving in NIC. The ability to receive immediate tax relief is a key advantage of the scheme, alongside reducing the need to adjust their PAYE code number will help to simplify their tax position. Furthermore, it is recommended this provides an ideal opportunity for employees to consider the amount of salary they wish to sacrifice. Bear in mind by reducing their earnings, this could bring their salary into a lower tax band or help to preserve child benefit entitlements.

Where you already offer a pension salary exchange, it is recommended the next few months provides an ideal opportunity to re-engage with employees, especially if there has been minimal take up in the past.

Implementing salary exchange schemes

Where you are not already making use of the arrangement, a key aspect of the exchange will require a variation to the employees' contractual terms. Employees will need to agree to a reduction in their salary, and in return the employer will agree to pay the corresponding amount in pension contributions on their behalf.

Communication is key to the implementation of a successful pension salary exchange. Typically, consideration needs to be given to staff briefings and written communications which clearly set out the advantages and disadvantages connected with a pension salary exchange. It is important that employees are provided with sufficient information to explain what it will mean to them. A word of caution, a pension salary exchange must not take any employee's pay below the National Minium or Living Wage limits, so there is a requirement to ensure any employees who are paid at, or close to these thresholds continue to pay pension contributions outside of any salary exchange.

All organisations should at least consider the viability of using a pension salary exchange, not only to help mitigate the impact of the increase in wage costs being forced upon them but also to help promote greater employee engagement.

The use of a carefully planned pension salary sacrifice will help to provide a favourable platform for employees to save towards retirement but to help mitigate some of the financial burden which will come into play from next April.

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Top tips when governing your trading subsidiaries

It is a common structure for organisations in the sector to have a trading subsidiary to channel certain types of activity for tax efficiency or to manage risk. This structure can work very effectively but there are a number of areas, particularly around governance, that are worth considering.

1. The company is a separately constituted legal entity and the directors of the subsidiary have exactly the same roles, duties and responsibilities as any other company director. It is important to hold regular meetings, with minutes, and review the financial performance of the organisation. The minutes are a vital piece of evidence which record decisions reached as well as the directors statutory duties.

2. Gift Aiding the profits of the company are a common way of ensuring that there is no Corporation Tax on the profits generated. The Gift Aid payment, in order to be effective, must be paid by a transfer of cash from one entity to another and not netted off any other balances due between the parent and subsidiary, within nine months of the year end date.

3. Where a company has a deed of covenant in place between the parent and the subsidiary, this is a legal document which evidences an obligation to make a Gift Aid payment. Where such a covenant is in place, the Gift Aid should be provided for (if not already paid in part through the year) at the year end date. Where a covenant is not in place the Gift Aid is accounted for in the period in which the physical transfer of cash occurs.

4. Where they are transactions between the parent and the trading company, these should be treated as any other transaction between third party organisations. Intercompany balances should be cleared regularly. Any balances owed to the parent (where it is a charitable body) for an extended period of time may be deemed to be monies used to financially support non-charitable organisations. HMRC may deem this to be misuse of charitable funds.

5. If the parent is asked to financially assist a trading company that it owns, it can do so, but it is always advisable to ensure that such arrangements are formal and the reason for the loan are minuted. This might be because it pursues the aims and objectives of the parent body itself, or it might be to enable the trading subsidiary to develop and grow and in turn deliver financial return to the parent from an increase in future profits. A loan agreement between the two parties, with a commercial rate of interest and repayment plan will help to evidence this. As part of this loan facility the Board of the parent should consider and document its assessment of the trading company's ability to make the repayments. As noted above, to do so without the expectation of repayment may be deemed to be a misuse of charitable funds where the parent is a charitable body.

6. On occasions activity is channelled through a trading subsidiary which is an extension of the parents aims and objectives – research activity for example. Where this is the case, it is best practice to ensure that any funds provided to the subsidiary, any monies lent or any balances due to the parent that are written off, are very clearly documented as being in the best interests of and in furtherance of the objectives of the parent.

Following these tips can help your organisation to ensure it maintains good governance.

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Payrolling of benefits: What does it mean for Employers?

In January 2024, HM Revenue & Customs (HMRC) announced the mandatory payrolling of benefits with effect from April 2026. Whilst the announcement provided a two-year period for employers to implement the new requirements, we are still awaiting more details, including a formal consultation process.

The change is badged as a tax simplification, as it will remove the obligation to file forms P11D on an annual basis. However, it will accelerate the payment of Class 1A National Insurance from an annual to a monthly payment to be made to HMRC.

What is being proposed?

Under the proposals made by the Government, taxable benefits in kind will be subject to income tax in real time through the payroll. The employee will pay income tax, via PAYE, on their salary, typically monthly, weekly, or four-weekly; and in addition, they will pay tax on the value of the benefits provided by the employer for the same period.

Additionally, employers will also be required to pay the Class 1A National Insurance liabilities in 'real time' and at the same time PAYE and Class 1 payments are remitted to HMRC; a move away from paying the liability annually.

This will see a change in the employer's payroll procedures, as there will be the need to ensure your systems can collate the data required, in particular:

- Determine which employees are provided with any taxable benefits. This is particularly important where new taxable benefits are being provided.
- Ensure the value of the benefits are ascertained and kept under regular review. This is particularly important where there is a variation in the value of the benefit, for example, an annual uplift in medical insurance premiums.
- Communicate the changes to employees, as the payrolling of benefits will have an impact on their net salary.

Employers will need to plan ahead as April 2026 is not that far away. Consideration needs to be given to the following:

- Determine what taxable benefits are going to be provided after April 2026.
- Speak with your payroll department or payroll provider as how they are proposing to manage the payrolling of benefits.
- For example, agree any changes which need to be made to your data export files.
- Contact your benefit providers to ensure they can provide data in an acceptable format.
- Where in-house benefits are provided, such as, taxable living accommodation that you can determine the value of the benefit throughout the tax year.

We are, however, still waiting for the Government consultation documents which will no doubt raise many points which need to be considered in more detail, in particular how they propose to address:

- Changes which need to be made to the payroll.
- How to value benefits which are paid annually by the employer.
- How to manage joiners and leavers.
- Whether employers will be required to provide supplementary reports to HMRC and/or employees in respect of the value of the benefits provided each year.

Whilst there is much which still needs to be clarified, employers need to be taking steps in advance of April 2026.

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