

## Business Matters

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## Getting to grips with PAYE

HMRC recently reviewed the 'effectiveness' of its risk-based approach to late filing PAYE penalties, and opted to continue to use this approach for the current tax year. Here we provide an overview of the PAYE system.

### How the PAYE system works

Pay As You Earn (PAYE) is the system through which employers deduct an amount of income tax, national insurance contributions (NICs) and student loan repayments from employees' wages, in accordance with the relevant PAYE codes and HMRC procedures.

Employers must normally operate PAYE as part of their payroll process. However, if none of the employees are paid £116 or more per week, receive expenses and benefits, have an additional job or receive a pension, employers do not have to register for PAYE, but they must still keep payroll records.

### Real Time Information (RTI)

Since April 2014, employers have been required to report using the PAYE system in real time. As part of the RTI initiative, employers or their agents are required to make regular payroll submissions for each pay period during the year, outlining the payments and deductions made to and from employees each time they get paid. Employers are required to make two main returns: a Full Payment Submission (FPS), and an Employer Payment Summary (EPS).

The FPS must be sent to HMRC on or before the date employees get paid. Employers must include all employees, even if they earn less than £116 per week.

Some employers may be required to submit an EPS to cover certain situations, including:

- cases where no employees were paid in the tax month
- cases where an employer received advance funding to account for statutory payments
- situations where such statutory payments (such as Shared Parental Pay) are recoverable, alongside a National Insurance Compensation Payment

- instances where Construction Industry Scheme (CIS) deductions are suffered, which could be offset (note that this applies to companies only).

The amounts recoverable will be offset against the amount due from the FPS, in order to calculate the amount payable. An employer's EPS must be with HMRC by the 19th of the month for it to be offset against the previous tax month's payment.

At the end of the tax year, employers must make a final FPS or EPS return in order to inform HMRC that all payments and deductions have been reported.

### PAYE and new employers

Employers must contact HMRC as soon as they take on employees, as a PAYE scheme must be set up for the business. Once registered, employers will receive guidance from HMRC, including a variety of forms together with online 'basic PAYE tools' to help calculate the amount of tax and NICs due.

Understanding the requirements is vital: HMRC carries out routine compliance checks, and can visit at any time. Employers will be held liable for any under-deductions found.

### Avoiding penalties

Penalties are issued where employers fail to meet their PAYE reporting requirements. You may be liable to a penalty if your FPS was late; if you failed to send the correct number of FPSs; or if you failed to send an EPS when you didn't pay any employees in a tax month. Penalty fines issued by HMRC range from £100 for businesses with one to nine employees, to £400 for firms with 250 or more employees.

**Successfully managing a PAYE scheme can be challenging and time-consuming. We can help. Please contact us for more information.**

# Data protection self-assessment: are you up-to-date?

25 May 2018 saw the introduction of a new data protection regime in the UK. As part of the changes, a new data protection fee structure now applies, which replaces the previous requirement to register with the Information Commissioner's Office (ICO). Here, we consider the rules in more detail.

## The regulations: an overview

On 25 May 2018, the Data Protection (Charges and Information) Regulations 2018 came into effect, alongside the General Data Protection Regulation (GDPR).

The GDPR has strengthened the obligations on all organisations that deal with individuals living in an EU member state to safeguard the personal information belonging to those individuals, and to retain verified proof of this protection.

As part of the Data Protection (Charges and Information) Regulations 2018, businesses and individuals which process sensitive information – regardless of their compliance with the GDPR – must pay an annual data protection fee to the ICO, unless they are exempt. Exempt organisations are generally those which:

- manually process data
- process data for personal, household or family purposes
- process data for the purpose of maintaining a public register
- handle data for staff administration purposes

- utilise data in order to advertise or market the controller's own activities
- perform judicial functions
- operate as a not-for-profit body, and process data for specific purposes.

An exemption also exists for the purpose of keeping accounts and records and making financial forecasts, except where the data in question was obtained from a credit reference agency.

## The new fee structure

Organisations and individuals which handle personal information are termed 'data controllers'. It is data controllers who are responsible for paying fees to the ICO.

A new fee structure has been introduced, which replaces the previous requirement to 'notify' (or register) under the Data Protection Act 1998:

- a Tier 1 fee of £40 is payable by micro organisations with a maximum turnover of £632,000, or no more than ten members of staff
- a Tier 2 fee of £60 is payable by small and medium-sized organisations with a maximum turnover of £36 million, or no more than 250 employees

- if you do not meet the criteria for Tier 1 or Tier 2, the Tier 3 fee of £2,900 applies.

Controllers who have a current registration under the 1998 Act do not need to pay the new fee until their existing registration has expired.

Any data controller who processes personal data, or is responsible for the processing of personal data, and either fails to pay a fee, or fails to pay the correct fee, is breaking the law and could be subject to significant penalties. The maximum penalty is £4,350, which equates to 150% of the top tier fee.

## Ensuring you are compliant

The ICO provides a free self-assessment tool: <https://bit.ly/2HFyNMM>. It has also developed a data protection self-assessment toolkit specifically for small and medium-sized enterprises, which contains assurance checklists, alongside support in regard to the security of information, direct marketing, the management of records, data sharing, and the data protection rules relating to CCTV.

**Staying up-to-date with the data protection regulations could help you to avoid significant penalties.**

## Changes to the stamp duty payment window

**The government has confirmed its plans to reduce the time limit for filing Stamp Duty Land Tax (SDLT) returns and paying any tax due.**

First announced in 2015, the measure was due to come into effect in 2017/18, but was subject to a delay. The publication of the draft Finance Bill 2018-19 in the summer has confirmed the plans.

### The new timescales

SDLT is payable on the purchase of land and buildings in England and Northern Ireland. Under the existing rules, purchasers currently have 30 days from the effective date of the transaction (usually the completion date) to file an SDLT return and pay the tax due.

Following the changes, for transactions with an effective date on or after 1 March 2019, the time period for filing and paying tax will be reduced to 14 days.

Separate rules apply in Scotland and Wales, where the Land and Buildings Transaction Tax (LBTT) and Land Transaction Tax (LTT) apply respectively. LBTT and LTT returns must currently be made, and tax paid, within 30 days of the effective date of the transaction.

### Other considerations

The amount of duty payable depends on factors such as whether the land or property is residential, non-residential, or of mixed use. Non-residential property includes commercial property (such as shops and offices); agricultural land; or six or more residential

properties bought in a single transaction. The current starting thresholds for SDLT, LBTT and LTT are as follows:

	Residential	Non-residential
SDLT	£125,000	£150,000
LBTT	£145,000	£150,000
LTT	£180,000	£150,000

First-time buyers in England and Northern Ireland can benefit from a new relief on the first £300,000 of residential purchases up to £500,000, while a similar first-time buyer exemption can apply to the first £175,000 of residential purchases in Scotland.

Across the UK, residential rates may be increased by 3% on the purchase of additional residential properties. Although these are targeted at second home owners and buy-to-let landlords, the higher rates can also impact other purchasers. Care is therefore needed if an individual owns or partly owns a property, and has not disposed of the first before transacting to purchase a second. This scenario may arise where, for example, there is a delay in selling the main residence and a new purchase has completed.

**We can advise on all areas of tax and property. Please contact us for further assistance.**



## Creating a business continuity plan

**A recent report by the Federation of Small Businesses (FSB) has revealed that many business owners in the UK are not sufficiently prepared to handle unexpected disruption to their business.**

A business continuity plan can help to safeguard your business against both internal and external disasters. By considering the points below, you can help to ensure that your business continuity plan covers some of the major areas of risk.

### Cybercrime

Cybercrime, such as phishing emails and malware, can cause a great deal of disruption to a business, especially if you rely on the use of computers and other devices for a significant part of your work.

In order to protect your business against the risks, you need to ensure that you download and install the latest software updates on all company devices, and that you are using a suitable firewall and anti-virus system, which is also updated regularly.

Implementing a robust password policy for work devices is key to protecting against cybercrime. It is also advisable to create a company policy on how to identify potential cybercrime issues, which can be circulated to all staff members. Ensuring that your policies and procedures cover mobile workers is key.

Finally, make sure that you back up data from all computers onto an external drive or a cloud storage system on a regular basis.

### Loss of key staff members

If your business relies on key individuals, you need to consider how it would be affected if anything happened to them. A key staff member could be yourself, another director or an employee who is essential to the successful running of your business.

Key person insurance will protect your company against any potential financial loss. Keeping up-to-date notes on each key person's responsibilities, and ensuring that another person can act as a back-up when required, is crucial to enable your business to continue to run smoothly.

### Severe weather and unexpected incidents

Adverse weather conditions, such as heavy snowfall, could mean that staff are unable to come in to the office. In addition, fire or flooding and thefts or accidents can happen at any time and could cause severe disruption to your business.



It is essential to have in place an appropriate and up-to-date buildings and contents insurance policy. If you have records saved on an external drive, you should ensure that a copy is kept in a secure location off-site. Where relevant, ensure prototypes of your products or services are kept off-site too.

Transport disruptions can also affect businesses financially. Staff delays or no-shows often mean that production is halted or deadlines are not met.

In both scenarios, offering staff the option to work from home or at an alternative location may help to reduce the impact and allow your business to continue operating.

### Creating a disaster recovery team

Creating a dedicated disaster recovery team could help your business to plan for any potential catastrophes. Your disaster recovery team should analyse potential areas of risk and have responsibility for overseeing the running of the business until normal service can resume.

#### Your business continuity plan

A robust business continuity plan should ideally include:

- ✓ the names and emergency contact details of your disaster recovery team
- ✓ your insurance policy details
- ✓ step-by-step instructions on how to recover from some of the main scenarios which could affect your business
- ✓ procedures for testing the plan, to ensure that it is effective and to iron out any issues
- ✓ a timeframe for regular reviews, to make sure that your plan remains up-to-date and reflects any changes to your business.

**We can advise on a range of strategies to help with the smooth running of your business.**



## Business Round-up

### Government scraps its plans to abolish Class 2 NICs

The government recently scrapped its plans to abolish Class 2 national insurance contributions (NICs). They were originally due to be abolished in April 2018, but the plans were delayed for a year until April 2019. The government has now announced that Class 2 NICs will not be abolished during this Parliament.

Former Chancellor George Osborne had previously announced the plans, stating that abolishing Class 2 NICs would benefit an estimated 3.4 million self-employed workers. Class 2 NICs are currently paid at a rate of £2.95 per week by self-employed individuals with profits of £6,205 or more per year.

In a written statement to MPs, Robert Jenrick, Exchequer Secretary to the Treasury, stated that eliminating Class 2 NICs would have introduced 'greater complexity' to the UK tax system. He added: 'The government remains committed to simplifying the tax system for the self-employed, and will keep this issue under review in the context of the wider tax system and the sustainability of the public finances.'

Responding to the government's decision, Mike Cherry, National Chairman of the Federation of Small Businesses (FSB), commented: 'The Treasury should have worked harder to develop more effective ways to protect around 300,000 low-earners and maintain their contributions for the State Pension.'

### Mental health becoming 'less taboo' in UK workplaces

A survey conducted by the British Chambers of Commerce (BCC) in conjunction with insurer Aviva has suggested that discussing mental health in the workplace is becoming 'less taboo' for both employers and employees.

Almost 30% of firms have experienced an increase in the number of employees taking time off work due to mental health issues.

Meanwhile, a further 33% of business owners reported an increase in the length of time staff members take off as a consequence of mental health concerns.

Employers are supporting employees with their mental health issues by reviewing individual workloads, agreeing to flexible working arrangements, organising counselling and training managers to better support their staff members.

Dr Adam Marshall, Director General of the BCC, said: 'As the world of work changes, it is absolutely critical for business leaders to pay ever closer attention to the health and wellbeing of their employees – especially at a time when firms are facing severe challenges finding and retaining the skilled staff they need.'



### Web Watch

Essential sites for business owners.

**[britishsmallbusinessgrants.uk](http://britishsmallbusinessgrants.uk)**

Offering small businesses a chance to win a significant grant to invest in their firm.

**[smallbusiness.googleblog.com](http://smallbusiness.googleblog.com)**

Considers topical business and technology issues.

**[isbe.org.uk](http://isbe.org.uk)**

Network for businesses and individuals to discuss research and policies.



### Reminders for your diary

#### December 2018

- 1 New Advisory Fuel Rates (AFR) for company car users apply from today.
- 19 PAYE, Student loan and CIS deductions are due for the month to 5 December 2018.
- 30 Online filing deadline for submitting 2017/18 self assessment return if you require HMRC to collect any underpaid tax by making an adjustment to your 2019/20 tax code.
- 31 End of CT61 quarterly period. Filing date for Company Tax Return Form CT600 for period ended 31 December 2017.

#### January 2019

- 1 Due date for payment of corporation tax for period ended 31 March 2018.
- 14 Due date for income tax for the CT61 quarter to 31 December 2018.
- 19 PAYE, Student loan and CIS deductions are due for the month to 5 January 2019. PAYE quarterly payments are due for small employers for the pay periods 6 October 2018 to 5 January 2019.
- 31 Deadline for submitting your 2017/18 self assessment return (£100 automatic penalty if your return is late) and the balance of your

2017/18 liability together with the first payment on account for 2018/19 are also due.

Capital gains tax payment for 2017/18.

Balancing payment – 2017/18 income tax and Class 4 NICs. Class 2 NICs also due.

#### February 2019

- 2 Deadline for submitting P46(car) for employees whose car/fuel benefits changed during the quarter to 5 January 2019.
- 19 PAYE, Student loan and CIS deductions are due for the month to 5 February 2019.