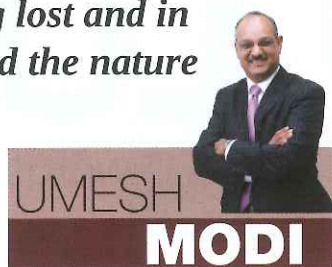


Umesh Modi

Minimising the risk of employer compliance visits

HM Revenue & Customs (HMRC) concentrates its resources in areas it considers tax is being lost and in recent years increased the nature and scope of compliance visits.

Umesh Modi explains...



The purpose of compliance visits is to confirm that PAYE has been properly operated on all earnings and payments in accordance with the rules and regulations operational, as set out in the booklet, Employer's Further Guide to PAYE and NICs (CWG2).

HMRC's visit will be to your business premises and is likely to check:

- PAYE deduction working sheets for completeness and accuracy.
- Correct use of employee codes.
- Reconciliation of the records with the Final FPS (Full Payment Submission) and/or EPS (Employer Payment Summary) for the tax year.
- Correct treatment of new employees and leavers.
- Cash payments where PAYE has not been operated.
- Expense payments, employee benefits, and their correct disclosure on forms P11D.
- Compliance with terms of any dispensation.
- Compliance with sub-contractors' rules.
- Compliance with NIC regulations.

Problem areas

The following are the main areas where problems may arise:

- Gross payments to casual employees.
- Payments to alleged 'self employed' persons – this is going to become a big revenue raiser for HMRC.
- Lump sum expenses.
- Private petrol.
- Spouse's travel and subsistence.
- Travel to work from home and vice-versa.
- Trips for purposes other than purely business, e.g. trade fairs, golf, social outings.
- Home telephone.
- Entertaining.
- Expenses for use of home as an office.
- Club subscriptions.
- Goods and services provided free or below market value.
- Luncheon expenses.
- Clothing.
- Accommodation.
- Work undertaken at an employee's home.
- Medical expenses.

Casual labour

Under the system of RTI, HMRC require employers to complete a New Starter



Checklist for all casual employees. This checklist replaces the form P46, which is no longer completed under RTI.

The checklist provides the information needed to correctly operate PAYE for a new employee. The checklist can also be used to help fill in the first Full Payment Submission (FPS) for the employee. If the employee signs that it is his or her first job since last 6 April, then PAYE and NI need not be deducted unless the payment is in excess of the NI primary threshold, currently £162 per week.

HMRC expect employers to keep this information for three years. Where the checklists have not been completed HMRC may seek to charge employers for tax and NI contributions on the grossed-up amount of these payments, often regardless of whether or not any tax has actually been lost to HMRC. Whether or not tax or NI is payable, you must keep

proper records of payments and persons paid.

Settlement

The majority of compliance visits result in some discrepancies being uncovered, and HMRC will usually calculate the 'lost' tax and NI over a period of six years plus the current year. This period may be extended if they suspect that deductions have been withheld deliberately.

HMRC may also seek penalties, although these will normally depend on the gravity of the discrepancy and the existence or absence of 'reasonable care.'

Source: Practice Track

This article is based on current legislation and practice and is for guidance only. Specific professional advice should be taken before acting on matters mentioned here. Umesh Modi BA ACA is a chartered accountant, tax adviser and a partner at Silver Levene LLP. He can be contacted on 020 7383 3200 or umesh.modi@silverlevene.co.uk