

Example of potential operation of the off-payroll rules

This is an example of the likely effect of the operation of the rules based on how the rules for the public sector operate.

Derek provides personal services to a large business via his personal services company, Derek Ltd. The business considers the off-payroll working legislation applies. The contract will end on 30 September 2020.

In 2020/21, Derek Ltd invoices the business £4,000 a month. There is no VAT and no expenses in the invoices.

The business would treat each of the monthly payments as deemed payments. Derek will need to provide the business with his National Insurance Number, address, date of birth and P45 if appropriate in order that they can set him up on their payroll.

As Derek has a 'primary employment' with his PSC, the services he provides to the business are treated as a 'secondary employment'. The authority would initially operate tax code BR which means income tax is deducted at basic rate. Employee NICs would be deducted at normal rates on £4,000 a month.

Employer NICs would be payable by the business on the deemed payment of £4,000.

The business will report and pay PAYE and NICs to HMRC. In due course, HMRC may issue the authority with a tax code to use against future payments made to Derek Ltd.

When the contract ends on 30 September 2020, the business should send to Derek a P45 showing the total deemed payment and deductions for PAYE and NICs.

If the contract extends beyond the 2020/21 tax year, the business should issue a P60 to Derek showing the total payment and deductions in the 2020/21 tax year.

The total amount invoiced by Derek Ltd and recorded as gross deemed payments by the business is £24,000 (6 X £4,000).

Assuming the tax code BR does not get adjusted the net deemed payments total (the figures below are based on rates and allowances for 2019/20):

| | £ |
|---|------------------|
| Amount invoiced | 24,000.00 |
| Less: PAYE - £24,000 at 20% | (4,800.00) |
| Less: Employee NIC – 6 x monthly NICs of £393.72 | (2,362.32) |
| Total net deemed payments | <u>16,837.68</u> |

If VAT has been charged by Derek Ltd, the business would pay Derek Ltd £16,837.68 plus the VAT charged on £24,000.

The business will also need to pay employer NICs. The monthly amounts due will be £452.78 which totals £2,716.68.

Effect in Derek Ltd

The company will get relief from corporation tax for the VAT exclusive amount of the invoices ie £24,000.

Procedure if Derek Ltd pays Derek the net deemed payment through the payroll

Any amount of income paid to Derek up to £16,837.68 will have already been subject to deduction of PAYE and NICs. HMRC guidance is that the payment should be recorded on a Full Payment Submission as non-taxable income.

Procedure if Derek Ltd pays Derek the net deemed payment as dividend

Alternatively Derek can receive a dividend up to £16,837.68. This will not be reported as a dividend on his self assessment return.

Effect for Derek

Derek would be treated as having received the net deemed payment from the company in the 2020/21 tax year irrespective of whether he has received it as salary or dividend (or even if he has not received it from his company).

On his 2020/21 self assessment return he will record the information supplied to him from the business:

| | |
|-------------------|---------|
| Employment income | £24,000 |
| PAYE deducted | £4,800 |

There may be a tax repayment due to Derek if he has not utilised his personal tax allowance against other income. Alternatively income received from the medium or large business may attract a higher rate tax liability, if Derek has other taxable income.