

Important Information for Employers



We want to make the process of employing staff in the UK as easy for you as possible. Therefore, we have created a list of important considerations which we want to draw to your attention.



- 1. Employers' Liability Insurance:** If you have employees in the UK, you must have Employers' Liability insurance. It is not expensive, but the penalties for not having it are very high (£2,500 per day).
- 2. Visas:** All foreign nationals (except Irish and obviously excluding British Nationals) must have a visa to lawfully live and work in the UK. EEA nationals living in the UK before 31 December 2020 should have applied under the EU Settlement Scheme for Settled or Pre-Settled Status, enabling them to live and work in the UK without the need to apply for a visa. If they have not, they are likely to require sponsorship along with all foreign nationals.
- 3. Right to work checks:** You are required to hold on file evidence of all your employees' right to work in the UK before they start with you, e.g., copy of passport or online right to work check. If you are found employing someone without a right to work, you can face a £20,000 fine per illegal worker. The onus is on the employer to complete the right to work check. See our Quick Guide for guidance on conducting [Employee Right to Work Checks](#).
- 4. Contractors versus Employees:** If you plan to engage someone as a contractor to avoid them being an employee – don't. The UK authorities are quick to challenge independent contractor relationships where there is any possibility of treating the contractor as an employee. The actual terms of any contract will not prevent a contractor being treated as an employee for tax and employment law purposes, it is the actual facts of the relationship which matter. (They can look behind any contract). It's not that bad employing someone in the UK as there is more flexibility for employers under UK law.
- 5. Payroll:** Where any staff are employed by a business registered in the UK a PAYE scheme will need to be set up in the business' name for the collection of both tax and National Insurance.

In order to setup a UK payroll, once you have registered as an employer with HMRC they will issue you a PAYE Reference and your PAYE Accounts Office. At this point you (or your payroll provider) will then be able to calculate pay and deductions and report these to HMRC.
- 6. National Insurance:** It is a legal requirement to have a National Insurance (NI) Number if you are working in the UK, if you do not currently hold a NI number, please ensure you apply as soon as you arrive in the country: <https://www.gov.uk/apply-nationalinsurance-number>.

National Insurance Contributions are payable by both employees and employers and are deducted through PAYE. For a breakdown of the current National Insurance rates please see page 7 of our 2022/23 tax card as follows:- <https://www.ouryclark.com/resource-library/tax-data.html>

- 7. Employment contracts:** You need to provide your employees with a "Section 1 statement of terms of employment" as required by the Employment Rights Act 1996. This is a written statement setting out the basic particulars of employment. However, in most cases a formal contract is desirable to ensure that the business interests of the employer are fully protected. This must be provided to the employee on or before their employment start date. See our Quick Guide [An Overview of UK Employment Law for more information.](#)
- 8. Termination of employment:** In the majority of cases, it is more straightforward to terminate an employee's employment during the first two years. After 2 years' continuous employment, there are more detailed processes which must be followed to avoid a claim of unfair dismissal. Irrespective of the employee's length of service, always get legal advice as soon as you are considering removing a member of staff.
- 9. Pension:** Auto Enrolment pension schemes have 2 types of arrangements:
 - a. Net Pay arrangement:** The employer takes the employee's pension contribution from the employee's pay before it's taxed. The employee only pays tax on what's left after the deduction. This means the employee gets full tax relief, no matter if the employee pays tax at the basic, higher or additional tax rates.
 - b. Relief at source:** The employer takes the employee's pension contribution after deducting tax and National Insurance from the employee's pay. However much an employee earns, the pension provider then adds tax relief to the employee's pension pot at the basic tax rate. Salary sacrifice pension schemes are also available, whereby no tax or National Insurance is charged on the pension contributions.

10. Tax charges on staff benefits to be aware of:

- a. Mobile Phones:** Contracts must be in the company name – where it is in the name of the employee this will likely incur a benefit in kind tax charge.
- b. Annual Staff Entertainment:** Events and functions that are open to all employees and the cost does not exceed £150 per person are usually tax exempt. Where it exceeds £150 per head, the tax charge can be transferred to the company to avoid staff having to pay tax for the cost of the staff party!
- c. Food:** If you provide food in the office for your staff it is possible to avoid that being classed as "entertainment" as long as certain conditions are met, the most important one being that the food is provided to all staff, not just a select few, again, please ask for specific advice.
- d. Travel and Subsistence Expenses:** Be aware that the usual commute between the workplace and home is, in most instances, considered a personal expense on employees and therefore taxable if paid for by the employer.
- e. Season Ticket:** As an employer you can lend up to £10,000 interest free to employees in order to cover the cost of an advance season ticket without incurring a tax liability.
- f. Business Use of Employee's Car:** Payments should be restricted to HMRC approved rates (currently 45p per mile up to 10,000 miles then 25p per mile thereafter OR 24p per mile flat rate for motorcycles). The provision of company cars (with the exception of electric) is usually prohibitively expensive in tax terms.
- g. Share Options:** Where you are providing share options to employees be aware that, unless the scheme is tax advantaged, a large tax liability could arise. There are various tax efficient approved share option plans which you can use but shares not covered by these could be taxed at over 47%, so it is important to get advice on this area. There are also reporting requirements and corporation tax considerations so please do get in touch.

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Disclaimer: This note does not contain a full statement of the law and it does not constitute legal advice. Please contact us if you have any questions about the information set out above.

11. Tax Efficient Benefits:

- **Cycle to Work Scheme:** The scheme means that you can purchase a bicycle and rent it to an employee, eventually selling it onto them tax free. As an employer you receive tax relief on the cost of the bike.
- **Group Protection Schemes:** The use of a group protection scheme will provide tax benefits for staff in certain cases as well as offering cost savings. The cost per employee will decrease as the number of staff members under the cover increases. Group Life and Critical illness schemes provide a tax-free lump sum to the employee upon a successful claim. Income protection arrangements can be used to maintain employee salaries during a period of absence due to sickness or accidents.

12. Other Popular Benefits:

- **Company Car:** The provision of a company car to employees is heavily taxed in the UK and only employees with very high private mileage will benefit from the provision of a company car. There are lower tax liabilities at play for the provision of electric cars.
- **Private Medical and Dental Insurance:** This is a frequent benefit provided by employers. The cost of medical insurance is relatively low compared to insurance in countries such as the US, resulting from the UK private insurance only being used by employees after NHS treatment has been sought. This is taxable on the employee and the employer has to pay national insurance but does receive corporation tax relief on the full cost of providing the benefit. Benefits paid out by the scheme to employees are tax free.
- **Key Man Insurance:** This may be appropriate for companies who invest a significant amount into setting up operations with a heavy reliance on one individual.

Expenses and benefits are reported to HMRC annually on forms P11D which are filed by 6th July following the end of each tax year. It is important that clear records are kept of what payments are made to or in respect of individual employees so that these forms can be produced. It is possible to process benefits and expenses through the payroll (payrolling benefits) which means that you will not have to submit a form P11D.