

MASSERS

EMPLOYMENT LAW UPDATE

JULY 2015

Important proposals regarding the treatment of Termination Payments

On 24 July 2015, the government launched a consultation on simplifying the tax and National Insurance Contribution's ("NIC") treatment of Termination Payments.

Currently, payments and other benefits "*received directly, indirectly, in consideration or in consequence of, or otherwise in connection with*" a termination of employment are taxable under Sections 401 to 416 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003). However, the first £30,000.00 of any non-contractual termination payment is free of tax and National Insurance (Sections 403 and 404, ITEPA 2003).

The government is considering:

- Removing the distinction between contractual and non-contractual payments. Changing the fixed £30,000.00 tax-free sum, to an amount which increases the longer the employee has worked.
- Introducing a 2 year qualifying period, so no employee can receive a tax-free termination period unless they have been working for 2 years.
- Making injury to feeling awards (which are in most cases tax free) subject to tax for some or all of the award.

The government is considering limiting the exemption to termination payments made on redundancy, including voluntary redundancy. If the proposal was implemented, the government would introduce two further new exemptions for:

- Compensation for unfair or wrongful dismissal.
- Compensation for loss of future earnings following discrimination.

The government has recognised that simplification in the area is badly needed and that reforms should lead to simplification that greatly reduces the burden on those needing to establish the tax position at an already stressful time.

As with most things, however, there will be winners and losers and those with less than two years' service will be disadvantaged, and the effect for those with longer service would depend on the rates of exemption that are set.

The government intends to make an announcement on any decisions made, in light of the consultation, as part of its 2015 Autumn Statement.

The impact of the first years Early Conciliation (EC)

ACAS has recently published statistics showing the impact of the first year of EC.

The statistics show that ACAS dealt with over 83,000 EC cases between April 2014 and March 2015 and 3 out of 4 employees and employers agreed to try EC. Further, EC is having a affect on the number of claims preceding to the Tribunal as between April 2014 and December 2015:-

63 % of notifications did not proceed to a Tribunal claim;
15% resulted in a COT3 Settlement; and
22% progressed to a Tribunal Claim.

Of the 22% in which a claim was issued, more than half (51%) subsequently settled by way of an ACAS COT3.

Acas Guide: Handling pay and wages

Workers must be paid in accordance with the Law and with their contracts of employment. ACAS has recently published a new guide for small employers which covers the basics of employment law on staff pay.

Issues regarding pay and wages arise from time to time and the way an employer handles them can have a huge effect on workplace morale and productivity. ACAS states that the guide can *“help small and medium sized businesses stay n the right side of the law and ensure pay issues are handled correctly”*. The new guide on **“Help for small firms: handling pay and wages: sets out steps that employers should consider following to pay problems arising.**

Fit for Work Service

Earlier this year and in our January Employment Law Update we reported on the trialling of the new Fit for Work service (FFW). The service is now available in England, Scotland and Wales. The aim of the service is to prevent a long-term absence and encourage employees back into work. The service was initially trialled in Sheffield.

A recent survey of FFW has, however, shown that 60% of GP's remain unaware of it as do 76% of employers. The survey has also revealed scepticism among many GP's who remain unconvinced about the impact of the service and the reduction of sickness absence levels.

Further to our earlier article regarding FFW the web site can be accessed at www.fitforwork.org.

Contact Us

For further information please contact:

Laura Whitworth
Direct Dial: 0115 851 1640
E-mail: lauraw@massers.co.uk

Massers Limited t/a Massers Solicitors is registered at 15 Victoria Street No. 4227801 and also has an office in West Bridgford.

We provide specialist legal services for both private and commercial clients.

www.massers.co.uk

This publication is intended for general guidance and represents our understanding of the relevant law and practice on the date it is published. Explicit advice should be sought for specific cases; we cannot be held responsible for any action (or decision not to take action) made in reliance upon the content of this publication.