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PENSIONS - AUTOMATIC ENROLMENT

THE ROLE OF THE EMPLOYER

To encourage more people to save in pension schemes, the government has placed greater responsibility on employers to provide access to pension provision.

Up until 1 October 2012 there was no requirement for an employer to pay employer contributions into a scheme. There was also no requirement for the employee to enter an employer provided scheme.

Most employers were however obliged to designate a registered stakeholder scheme that employees could join. This obligation has been removed due to the advent of automatic enrolment (or auto enrolment).

WHAT IS AUTOMATIC ENROLMENT?

Automatic enrolment places new duties on employers to automatically enrol 'workers' into a work based pension scheme. The main duties are:

- assess the types of workers in the business
- provide a qualifying automatic enrolment pension scheme for the relevant workers
- write to most of their workers explaining what automatic enrolment into a workplace pension means for them
- automatically enrol all 'eligible jobholders' into the scheme and pay employer contributions
- register with The Pensions Regulator and keep records.

ASSESSING THE TYPES OF WORKERS IN THE BUSINESS

Whether this is an easy or difficult task depends on the type of business. A business which uses the services of casual workers, very young or very old workers will need to spend some time in analysing its workforce. A business which only employs salaried staff will have an easier task.

A 'worker' is:

- an employee or
- a person who has a contract to provide work or services personally and is not undertaking the work as part of their own business.

The second category is defined in the same way as a 'worker' in employment law. Such people, although not employees, are entitled to core employment rights such as the National Minimum Wage. Individuals in this category include some agency workers and some short-term casual workers.

There are three categories of workers: eligible jobholders; non-eligible jobholders; and entitled workers.

An 'eligible jobholder' is a worker who is:

- aged between 22 years and the State Pension Age
- earning over the minimum earnings threshold (£10,000 2014/15). It is expected that the minimum earnings threshold will be changed in line with the income tax single person's allowance in future years
- working or ordinarily working in the UK
- not already in a qualifying pension scheme.

Most workers will be eligible jobholders unless the employer already has a qualifying pension scheme. These are the workers for which automatic enrolment will be required.

Other workers (non-eligible jobholders) may have the right to either 'opt in' (i.e. join a scheme) and therefore to be treated as eligible jobholders. 'Entitled workers' are entitled to join the scheme but there is no requirement on the employer to make employer contributions in respect of these workers.

The categorisation of workers can be difficult in some circumstances. Please contact us if you are unsure of how to assess the types of workers you have.

WHAT IS A QUALIFYING AUTOMATIC ENROLMENT PENSION SCHEME?

Employers are able to comply with their new obligations by using an existing qualifying pension scheme, setting up a new scheme or using the government low cost scheme - the National Employment Savings Trust (NEST).

It is important that the pension scheme chosen will deliver good outcomes for the employee's retirement savings. This may mean that an existing employer's scheme may not be appropriate as it may have been designed for the needs of higher paid and more senior employees. This may mean that NEST for example may be an appropriate scheme for employees who are not currently entitled to be a member of an existing employer scheme.

To be a qualifying automatic enrolment scheme, a scheme must meet the qualifying criteria and the automatic enrolment criteria.

The main part of the qualifying criteria requires the pension scheme to meet certain minimum standards, which differ according to the type of pension scheme. Most employers will want to offer a defined contribution pension scheme. The minimum requirements for such schemes are a minimum total contribution based on qualifying earnings, of which a specified amount must come from the employer.

To be an automatic enrolment scheme, the scheme must not contain any provisions that:

- prevent the employer from making the required arrangements to automatically enrol, opt in or re-enrol a 'jobholder'
- require the jobholder to express a choice in relation to any matter, or to provide any information, in order to remain an active member of the pension scheme.

The second point above means, for example, that the pension scheme has a default fund into which the pension contributions attributable to the jobholder will be invested. The jobholder should however have a choice of other funds if they want.

We may be able to advise you on an appropriate route to take. Please contact us.

WHEN DOES AUTOMATIC ENROLMENT APPLY TO AN EMPLOYER?

The law came into force for very large employers on 1 October 2012 but fortunately, the automatic enrolment rules have a staggered implementation by reference to the number of employees.

An employer can precisely work out when the automatic enrolment rules will have to be applied as the implementation date (known as the 'staging date') is set by reference to the number of persons in an employer's PAYE scheme on 1 April 2012. The more employees an employer has on that date, the earlier the staging date.

Examples of staging dates

NO. OF EMPLOYEES	STAGING DATE
250	1 February 2014
62	1 July 2014
50	1 April 2015

For those with less than 50 employees the earliest start date is 1 June 2015 but the precise date will depend not only on the actual number of employees on 1 April 2012 but also an employer's PAYE reference number. The earliest date for an employer with up to 30 employees on 1 April 2012 is 1 June 2015 and the latest date is 1 April 2017.

Importantly it doesn't matter how many employees an employer has on the staging date – there may be considerably more (or less) than on the 1 April. So if you are an employer, look at the number of employees you had on the 1 April to know where you stand.

EMPLOYERS WITH LESS THAN 50 EMPLOYEES BUT ARE PART OF A LARGER PAYE SCHEME

You may be an employer of a company which has less than 50 employees but the company is part of a group of companies and the company has a shared scheme with other employers.

There are special rules for such employers.

An employer can find out the detailed staging date rules from www.thepensionsregulator.gov.uk.

COMMUNICATING WITH YOUR WORKERS

Employers are required to write to all workers (except those aged under 16, or 75 and over) explaining what automatic enrolment into a workplace pension means for them.

There are different information requirements for each category of worker. For an eligible jobholder, the letter must include details of how the employee can opt out of the scheme if they wish. The letter must not, however, encourage the employee to opt out.

The Pensions Regulator has developed a set of letter templates to help you when writing to your workers.

AUTOMATIC ENROLMENT OF ELIGIBLE JOBHOLDERS AND PAYMENT OF CONTRIBUTIONS

As part of the automatic enrolment process, employers will need to make contributions to the pension scheme for eligible jobholders. In principle, contributions will be due from the staging date but it is possible to postpone automatic enrolment for some or all employees for a period of up to three months. This may, for example, be used to avoid calculation of contributions on part-period earnings.

All businesses will need to contribute at least 3% on the 'qualifying pensionable earnings' for eligible jobholders. However, to help employers adjust, compulsory contributions will be phased in, starting at 1% before eventually rising to 3%.

There will also be a total minimum contribution which will need to be paid by employees if the employer does not meet the total minimum contributions. If the employer only pays the employer's minimum contribution, employees' contributions will start at 1% of their salary, before eventually rising to 4%. An additional 1% in the form of tax relief will mean that there is a minimum 8% contribution rate.

TRANSITIONAL PERIOD	DURATION	EMPLOYER MINIMUM CONTRIBUTION	TOTAL MINIMUM CONTRIBUTION
1	Employer's staging date to 30 September 2017	1%	2%
2	1 October 2017 to 30 September 2018	2%	5%
1 October 2018 onwards		3%	8%

WHAT ARE QUALIFYING PENSIONABLE EARNINGS?

Earnings cover cash elements of pay including overtime and bonuses (gross) but minimum contributions are not calculated on all the earnings. Contributions will be payable on earnings between the lower threshold of £5,772 and the higher threshold of £41,865 for 2014/15. The earnings between these amounts are called qualifying earnings. The thresholds will be reviewed by the Government each tax year.

If we do your payroll, we can help you make these calculations and tell you the deductions from pay and the payments required to the pension scheme.

REGISTERING WITH THE PENSIONS REGULATOR AND KEEPING RECORDS

The Pensions Regulator was established to regulate work-based pensions.

An employer must register with The Pensions Regulator within four months of the staging date (or the last day of the postponement period(s) where postponement was used at staging). In essence the registration process requires the employer to:

- confirm the correct auto enrolment procedures have been followed and
- provide various pieces of information such as the number of eligible jobholders enrolled.

Finally, an employer must keep records which will enable them to prove that they have complied with their duties. Keeping accurate records also makes good business sense because it can help an employer to:

- avoid or resolve potential disputes with employees
- help check or reconcile contributions made to the pension scheme.

HOW WE CAN HELP

As you can see Pensions automatic enrolment is not a straightforward business. Please do contact us for help and advice. We can help you to manage the road to automatic enrolment and help you to comply with the requirements when you are in automatic enrolment.

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