

Advisory Insights Quarterly

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NEW EMPLOYEE CHECKS

HMRC is publicising a new way that employers can be provided with an employee's National Insurance number (NINO).

Apple iPhone users have now been given the functionality to store the NINO in their Apple Wallet: online, or through the HMRC App. This means that new employees may increasingly provide proof of their NINO by using their Apple Wallet, rather than giving the employer the traditional NINO confirmation letter from HMRC.

HMRC is reassuring employers that this makes valid proof, and can be accepted in just the same way that the traditional letter would be. At the moment, it's a service only available to Apple users, but HMRC is working to extend it to Android phone users in due course. It will provide an update when it's made provisions for the NINO to be saved to the Google Wallet.

Employers should check that the employee's name matches what they see in the Apple Wallet. If a record is needed, HMRC advises asking the employee for a screenshot.

It's all part of HMRC's continuing push towards digital service. Issuing confirmation letters by post can take HMRC up to 15 days: on the other hand, HMRC says that using its App to confirm the NINO should only take a matter of minutes. The Personal Tax Account can also be used to view or download, print, save or share a letter showing the NINO.

One widget or two? Covid support payments still on HMRC's radar

With support schemes having lost between £3.3 billion and £7.3 billion to error and fraud, HMRC isn't letting go now.

It's still checking that claims under schemes like the Coronavirus Job Retention Scheme (CJRS or furlough scheme), met all necessary conditions.

Any employers who used the furlough scheme, and have yet to review details of their claim, are advised to make time to do so. If this brings any errors or uncertainties to light, it is best to contact HMRC at once. Repayment of any money received in error will be needed, but it is just as important that HMRC is formally notified that support has been overclaimed. Where errors are disclosed voluntarily (rather than at HMRC prompting), and HMRC is satisfied as to the full cooperation of the taxpayer, it can reduce the amount of any penalty it may seek to charge.

Cases over eligibility to Covid support are already starting to come before the Tax Tribunal, and they make useful reminders of the key points to check. One area where HMRC has picked up many errors is around eligibility in the first phase of the furlough scheme, when employees were not permitted to do any work at all for their employer.

This was the area where one small business, which ran parent and baby groups, children's events and after-school clubs, was held by the Tribunal to have fallen the wrong side of the rules. The company relied heavily on generating interest via social media posts: and the question was whether the fact that a director/employee posted on the business Facebook account while she was on furlough, meant she was 'working'. Because if it did, it made the furlough claim invalid. Although the Tribunal voiced

considerable sympathy for the business, it pointed out that its job is to look at the facts of a case, and apply the law to the facts involved. It has 'no jurisdiction to consider the fairness of the legislation or of HMRC's behaviour'.

In this case, though the number of social media posts fell off dramatically during the period in question, the Tribunal held to the letter of the rules. And in its own words, the rules were 'all or nothing . . . An employee who was turning out 100 widgets a day would still be working if they only turned out three widgets a day.' The verdict was in HMRC's favour and meant that the business had to repay furlough monies of nearly £9,500.

The case is a reminder of the complexity of the furlough rules, and the possibility of quite unintentional error. For help reviewing past claims, or concerns about pandemic support received, do please contact us.



R&D SINGLE SCHEME UNCERTAINTY FOR COMPANIES

The government has now consulted on replacing the two existing Research and Development (R&D) schemes for tax relief with a single merged scheme. The result: uncertainty.

In its own words: ‘The government has not yet taken a decision on whether to merge and intends to keep open the option of doing so from 2024. A decision on whether to merge will be made at the next fiscal event.’

Flashing amber

Though the government hasn’t yet given the green light, there’s a lot of activity to suggest it’s at least on flashing amber. Draft legislation has been published and details of how the merged scheme might work are being consulted on.

It’s a challenging outcome for companies involved in R&D, because change, if it comes, could come soon. The aim is to replace the existing Research and Development Expenditure Credit (RDEC) and the small and medium-sized enterprise (SME) relief; and the new rules could apply for expenditure incurred on or after 1 April 2024. As many of those who replied to the recent government consultation pointed out, this is a very ambitious timeline.

What is likely to come next?

The merged scheme is set, broadly, to operate along the lines of the RDEC, rather than the existing SME scheme. The headline rate of tax relief is expected to be 20%, with relief given via an expenditure credit, based on a percentage of R&D costs, offset against the company’s tax liability. But there are variations from the current RDEC rules, notably as regards costs for subcontracted R&D work. These are subject to considerable restrictions with RDEC, but it’s anticipated that the new merged scheme will generally allow claims for such costs.

The draft legislation uses the more generous version of the PAYE/NICs payable credit cap which is included in the existing SME scheme. A restriction on some overseas expenditure, mostly ruling out relief for outsourced overseas R&D costs, has already been announced, and was originally intended to take effect from 1 April 2023. It now takes effect from 1 April 2024 and will also apply under the new merged scheme. Two other changes being kept under review are the introduction of a minimum expenditure threshold, and reform to the rules on qualifying indirect activities.

Not quite a single scheme

The provisions for additional relief for R&D-intensive loss-making SMEs (companies where qualifying R&D spending is 40% or more of total expenditure), which have applied for expenditure incurred on or after 1 April 2023, look set to stay. These rules will continue to sit alongside the merged scheme.

Be prepared

R&D is fairly fizzing with change at the moment. The past year has already seen major changes to the rules around claims procedure, which are only just starting to bed in. HMRC’s latest Annual Report and Accounts continues to flag up concerns about ‘unacceptable’ levels of error and fraud – particularly in the SME scheme, suggesting there is likely to be little let up in its increased compliance activity. Now, with the proposed merged scheme, it looks like off with the old, and on with the new - all over again. Rarely has it been more important to be on top of the R&D rules.

We should be only too pleased to help you review R&D claims and procedures, and take stock of the impact that the latest proposals might have on your business.

HMRC detective work means tax bill for eBay trader

Online sales: one of those areas where awareness of tax is often low.

On the one hand, someone with a day job and a sideline on eBay, who didn’t think he had any trading income. On the other hand, a bill for over £28,000 from HMRC. This was the dispute that recently came before the Tax Tribunal.

The taxpayer in question worked as a security officer. He hadn’t told HMRC he was trading and claimed that he was being harassed by the tax authority. His case rested on the argument that his eBay and PayPal accounts had been repeatedly hacked, and that many of the PayPal transactions under investigation were personal transactions, not trading transactions. HMRC looked at his various eBay names and his presence on another trading platform, noted what he offered for sale, and totted up 793 feedback entries in one twelve-month period alone. It investigated his

bank account, which showed payments from Amazon and PayPal, and payments to delivery companies, like Parcel Monkey; and it drew its own conclusions.

The Tribunal did not accept the taxpayer’s version of events. ‘The explanations . . . are not credible given the volume of transactions, the period over which they are recorded and the transfers involving his Barclays account.’ In fact, it considered that HMRC’s treatment was bordering on the generous. HMRC’s reading of the case won the day: online sales were held to amount to trading.

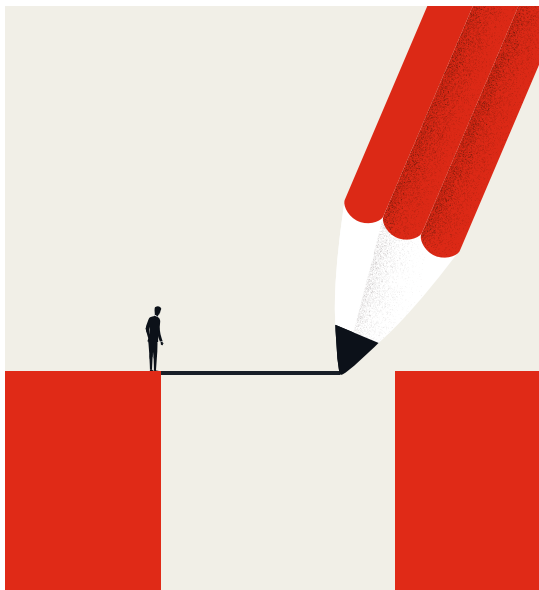
The case shows HMRC’s capability when it comes to trawling data in pursuit of transactions it thinks are taxable. With new rules set to apply from 1 January 2024, giving the tax authority greater access to information on the income of those using digital platforms to sell goods and services, HMRC looks set to turn digital detective more often.



Paying voluntary National Insurance contributions

It's all about plugging holes in your National Insurance record. And that in turn, is about making sure there are enough years of National Insurance contributions (NICs), or National Insurance credits, to get the full State Pension.

Gaps in the contributions record can occur for all sorts of reasons. They can happen, for example, if you are self-employed, but have not paid contributions because of small profits; or are employed with low earnings; are unemployed and didn't claim benefits; or have been living or working outside the UK.



It is possible to make voluntary contributions to fill in gaps in the record, though time limits and eligibility requirements apply. Usually, you can only pay for gaps in the National Insurance record for the past six years. But as part of the transitional arrangements introduced alongside the new State Pension, there is a more generous deadline, applying for certain specific tax years.

For the tax years from April 2006 to April 2017, the deadline for contributions is 5 April 2025. This is a further extension: the government's original intention had been to allow contributions only until 31 July 2023. The provision particularly impacts men born after 5 April 1951, or women born after 5 April 1953, for whom retirement planning will be on the horizon. The new deadline gives them more time to decide whether voluntary contributions will be of benefit, and allow them to access State Pension entitlements. But it could also benefit anyone looking to make good a gap in the contributions record for the past six years.

Voluntary contributions don't always increase the State Pension, so it's important to check the position before making a decision. You can find out how to check your NI record, get a State Pension forecast, decide if making a voluntary contribution is worthwhile, and make a payment on gov.uk. You can also check your NI record through your Personal Tax Account.

Child Benefit - watch the sting in the tail

If you or your partner get Child Benefit, keep the High Income Child Benefit charge (HICBC) in mind.

High income for these purposes is lower than you might think. The charge applies if you, or your partner, individually have income more than £50,000, and

- you or your partner get Child Benefit, or
- someone else gets Child Benefit for a child living with you, and they contribute at least an equal amount towards the child's upkeep.

The charge applies regardless of whether the child living with you is your child, or not. Note, too, that for the HICBC, partner doesn't just mean spouse or civil partner, but includes someone you live with as if you were married.

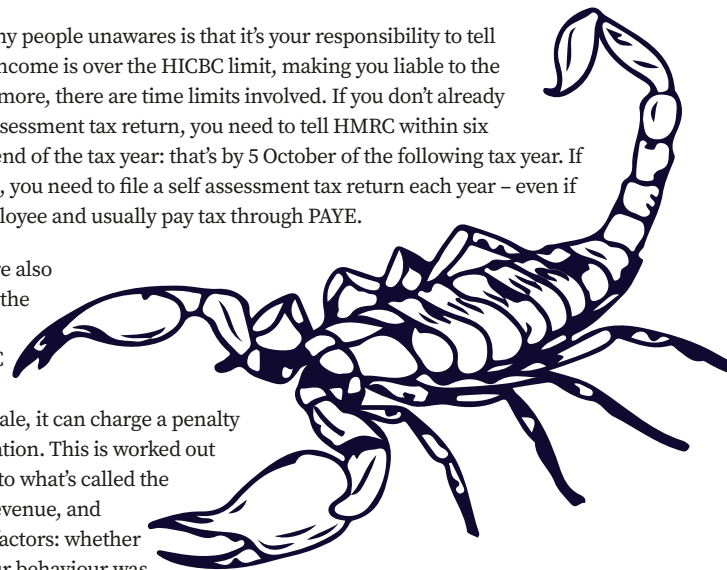
The threshold to watch is what's called 'adjusted net income'. This is taxable income after deducting Gift Aid payments and pension contributions, but including interest from savings and dividends. If both you, and your partner, have income over the £50,000 threshold, the one with the higher income is responsible for paying HICBC.

The HICBC claws back Child Benefit at a rate of 1% for every £100 of income between £50,000 and £60,000. By the time income reaches £60,000, all Child Benefit payment is effectively lost. You can disclaim the actual Child Benefit payments, so you don't pay the charge.

The danger zone

What takes many people unawares is that it's your responsibility to tell HMRC if your income is over the HICBC limit, making you liable to the charge. What's more, there are time limits involved. If you don't already submit a self assessment tax return, you need to tell HMRC within six months of the end of the tax year: that's by 5 October of the following tax year. If liable to HICBC, you need to file a self assessment tax return each year – even if you are an employee and usually pay tax through PAYE.

Many people are also taken aback by the fact that if you don't tell HMRC within the relevant timescale, it can charge a penalty for non-notification. This is worked out with reference to what's called the potential lost revenue, and hinges on two factors: whether it considers your behaviour was deliberate or not; and whether it gets the information because it has 'prompted' you, or you provided it voluntarily.



Where couples keep their financial affairs separate, the stakes can increase. It's not unusual to find that someone is faced with a demand for HICBC for a run of years, plus failure to notify penalties, when they weren't even aware that their partner was claiming Child Benefit. This happened to taxpayer, Mr Ashe, who got a 'nudge' letter from HMRC, telling him to check whether he ought to pay the charge - eight years after he had started living with his partner. He simply hadn't known that his partner claimed for her two children. In Mr Ashe's case, HMRC raised an assessment for more than £4,000 for HICBC, and just over £300 in penalties. Fortunately, on this occasion, all the penalties were ultimately cancelled.

Working with you

The HICBC is set to impact more couples than ever before, as wages rise with inflation, while the HICBC income limit remains fixed. Please do contact us if you have any concerns in this area.

GDPR right of access: new guidance

Under the General Data Protection Regulation (GDPR), individuals have the right to a copy of the personal data that your organisation holds about them. This is often known as a subject access request (SAR). The Information Commissioner's Office (ICO) has recently issued new guidance for businesses and employers about how SARs should be dealt with.

The law

Employers must respond to a SAR from a worker without delay, and within one month from receiving the request. If it's a complex issue, you might be able to extend this for up to two months. But if you don't respond within the right timeframe, or at all, there's the possibility of fines or reprimand from the ICO.

In the ICO's own words: "The right of individuals to access information that organisations hold on them is one that is vital for transparency and is enshrined in law. What we're seeing now is that many employers are misunderstanding the nature of subject access requests, or underestimating the importance of responding to requests."

Getting it right

In practice, though, what does compliance look like? It might sound straightforward, but reality doesn't always fit text-book scenarios.

To help your staff recognise a request, they need to know that SARs can be made in all sorts of ways: there's no formal procedure needed. Contact can be verbal, in writing – even via social media. Questions as simple as 'what information do you hold on me?' or 'can I have a copy of the notes from my last appraisal?' count as SARs and need an appropriate response. There's no necessity even to use the words 'subject access request' – it's up to your organisation to identify that this is what is being made.

It's important, too, that staff know how to respond and who to pass the request to. A valid request can be made by means of contact with any part of your organisation: it doesn't have to be addressed to a specific person. But the employer's side of the equation is different, and the ICO does expect you to have a designated person, team and email address to deal with SARs.

With more than 15,000 complaints in this area made to the ICO last year, it's important that businesses and employers get it right. Further details can be found on the ICO website.

What is extended producer responsibility for packaging?

As part of the government's pledge to eliminate avoidable waste, and recycle a greater proportion of municipal waste, the rules on recycling responsibilities are changing. Extended producer responsibility for packaging (EPR) is part of this.



EPR aims to make manufacturers and importers more responsible for the environmental impact of their products. There are a range of reporting requirements, as well as fees that push the cost of recycling packaging onto organisations in the UK that import or supply packaging. The rules have wide reach, impacting materials that the Plastic Packaging Tax, for instance, doesn't.

Organisations affected by EPR must report packaging data, beginning from this year, 2023. In due course, EPR for packaging fees will apply. These were due to start in October 2024, but have now been delayed

until October 2025. Any fees due under previous regulations continue to apply in the interim. The new EPR fees will vary depending on the materials reported, and at present there is no further detail. The waste management fee will vary depending on how easily packaging can be recycled.

Who is affected?

EPR applies to all UK organisations importing or supplying packaging that:

- are businesses, subsidiaries or groups (not charities)
- have annual turnover of £1 million or more, based on the most recent annual accounts
- were responsible for more than 25 tonnes of packaging in 2022, and
- carry out any of the packaging activities.

'Carrying out packaging activities' is widely defined, and includes supplying empty packaging; and hiring out or loaning reusable packaging, such as wooden pallets for transporting goods.

What you need to do

The rules mean your organisation may need to:

- collect and report data on the packaging you supply or import
- pay a waste management fee
- pay scheme administrator costs
- pay a charge to the environmental regulator
- get packaging waste recycling notes or packaging waste export recycling notes
- report information about which nation in the UK packaging is supplied in and discarded in (nation data).

The exact responsibilities vary depending on the size of the organisation (defined according to specific rules), how much packaging is supplied, and which nation of the UK is involved. You can find out more and check your obligations on gov.uk.

Company News

Strengthening Our Portfolio with New Acquisitions

We are pleased to share some exciting news with you. In our ongoing commitment to enhance the range of services we offer and to further strengthen our position in the market, Dains Accountants has recently completed two significant acquisitions.

PSTAX and S3TAX

In August, we announced the acquisition of PSTAX and S3TAX, renowned specialists in VAT and Employment tax for the public sector and not-for-profit organisations. PSTAX, which celebrated its 20th anniversary this year, has expressed enthusiasm about joining the Dains group. Peter Gladdish, the founder of PSTAX, remarked, “Having been established for 20 years, PSTAX is delighted to join forces with Dains as we continue to grow our market share across the UK.

With Dains’ support, we will be able to provide a broader service to our clients and connect to an incredible network of advisors across the group.”

HSKSG

In September, we further expanded our reach by acquiring HSKSG, one of the most respected accountancy firms in the East Midlands. This acquisition is a testament to our ambition of becoming one of the Top 30 firms in the UK. Colin Peacock, Managing Director of HSKSG, shared his perspective, “By joining the Dains Group, our ability to deliver an even broader range of services is enhanced, and we look forward to joining the Dains team on this incredibly exciting journey.”

Whilst these acquisitions mark a significant milestone in our journey, we want to reassure clients that our core values remain unchanged. Our commitment to providing first-rate services, maintaining transparent relationships, and ensuring the satisfaction of our clients remains our top priority.

In the words of Richard McNeilly, our CEO, “*Our ethos is absolutely consistent, where we support clients and help them deliver long-term success.*”

Acquisitions are strategic moves to enhance the breadth and depth of our services. It's still business as usual at Dains, and we remain as dedicated as ever to serving the needs of our amazing clients.



Further information:

<https://www.dains.com/whats-happening-now/2023/dains-acquires-pstax>

<https://www.dains.com/whats-happening-now/2023/dains-and-hsks-greenhalgh-join-forces>

National Insurance Refund Potential

In the ever-evolving tax landscape, businesses must be aware of potential opportunities that can benefit both the company and its employees. One such opportunity lies in the realm of National Insurance Contributions (NICs). If your business provides car allowances and pays mileage allowances at a rate less than 45p per mile, there's a significant chance you could be eligible for a refund on NICs.

The Opportunity at a Glance

If you qualify in previous years, you will have a refund claim, which could be substantial.

Even if you didn't qualify in the past, you can structure your affairs to qualify going forwards, each time you pay your employees.

In either case, it's a win-win situation for both the company and employees, as both benefit.

A Glimpse into Potential Refunds

To provide a clearer picture of how this refund might benefit your business, consider the following example:

Employee	Employer NICs refund
1	£1,552
50	£77,600
100	£155,200
200	£310,400

How Dains Can Assist

At Dains Accountants, our commitment is to ensure that businesses navigate the complexities of finance with ease and confidence. Our team of experts is equipped to determine the feasibility of your NICs refund claim and will meticulously structure it to maximise your chances of repayment from HMRC.

If you're keen to explore this opportunity, we're here to guide you every step of the way. Whether you're already associated with us or are new to Dains, our [Employment Tax Specialists](#) are ready to assist.

While the intricacies of the UK tax system can sometimes be overwhelming, opportunities like the NICs refund can offer significant financial relief. Don't let such chances slip by. Reach out to Dains today and let us help you make the most of it.

To give you an understanding of how this might work, please see below a refund example:

Assumptions:

- Car allowance £350 per month (if car allowance is paid, the value has little impact)
- Employee does 7,500 business miles per year.
- Reimbursed 20 pence per mile.
- Claim made for the maximum six-year period.

Furthermore, your employees may also be eligible for a refund of their employee NICs.

Contact us on 0800 298 3899 for more information

Changes by HMRC to Allow Off-Payroll (IR35) Tax Offset

In a significant development that promises to bring relief to many businesses, HMRC has confirmed that it will allow current off-payroll working (IR35) audits, compliance checks, and disclosures to benefit from the proposed offset changes planned to be introduced in April 2024. This update comes as a breath of fresh air for engagers who have been grappling with the complexities of the IR35 regulations.

A Welcome Change

Angela Ferguson, Director and Head of Employment Taxes at PSTAX, part of the Dains Group of Companies shared this critical update on LinkedIn last month, stating, "Hot off the press... I have just been informed by HMRC that they are going to let current off-payroll working (IR35) audits/compliance checks/disclosures benefit from the proposed offset changes set to be introduced in April 2024."

This means that engagers, who were previously unable to benefit from the offset of tax that a worker paid through their Personal Service Company (PSC), will now have this option available, aligning it with the offset available for sole traders. It is a significant step towards reducing the financial burden on employers facing substantial backdated tax bills for workers found to be inside of IR35.

Conditions Apply

It is important to note that this relief comes with certain conditions. HMRC is offering clients the chance to pause their compliance check if their case meets specific criteria. The employer can then benefit from the proposed offset changes coming in from April 2024, potentially applying to errors going back to April 2017.

Expert Insights

James Hunt, Employment Taxes Senior Manager at Dains said, "Great to see a more practical approach now being taken, but impacted businesses who engage contractors who provide personal services through an intermediary still need to have appropriate processes in place to ensure they manage their compliance risks and requirements appropriately."

With the recent integration of PSTAX into the Dains Group of companies in August 2023, Dains reinforces its commitment to offering insights and tailored solutions in the employment tax landscape. The collaboration with PSTAX is set to foster a synergy that leverages the strengths of both entities, enhancing the depth of knowledge and expertise available to clients.

Key Takeaway

Our key takeaway is that for now you should be collecting the information you need to send to HMRC to benefit from using the offset if it's introduced as planned from April 2024.

Contact us on 0800 298 3899 for more information

Demystifying R&D Tax Relief Claims

Join Our Upcoming Webinar!

In the ever-evolving landscape of Research & Development Tax Relief Claims, staying informed is not just beneficial—it's essential. With HMRC ramping up their scrutiny and new rules coming into play, businesses need to be on their toes more than ever.

Webinar Details:

Date: 14th November

Time: 12.00 pm – 1.00 pm

Presenters:

- Ann Bibby and our new Taxation Technical Engineer of Dains Accountants
- Co-presenter Q&A: Colin Peacock from HSKSG

Why Should You Attend?

Understanding the New Landscape: R&D claims used to have a straightforward timeline—30 days for small businesses and 6 months for larger ones. But times have changed. Dive deep into the new timelines and what they mean for your business.

- **Busting Myths:** Many businesses operate under the misconception that once their claim is approved and they've received the funds, they're clear of an enquiry. We'll debunk this myth and many others, ensuring you're not caught off guard.
- **The Rise in Fraudulent Claims:** With HMRC uncovering £1.13 billion in fraudulent claims, it's clear that the stakes have never been higher. Learn about the increased level of scrutiny and how to ensure your claims are watertight.

- **Navigating the New Rules:** Since August 2023, new rules have been put in place to combat fraudulent claims. We'll walk you through these changes and what they mean for your future claims.
- **Real-life Case Studies:** Hear about real businesses' experiences.

Who Is This Webinar For?

Whether you're a small startup or a large corporation, if you're involved in finance or involved in the R&D claim for your business, this webinar is for you.

Theme: Myth or Momentum? Fact or Fiction? Myth or Innovation?

In today's fast-paced business world, staying informed is the key to staying ahead. Don't miss out on this opportunity to ensure your business is fully equipped to handle the changes in R&D Tax Relief Claims.

[Book Now](#)

We hope to see you there, ready to engage, learn, and share experiences. Together, we can navigate the complexities of R&D tax relief claims and ensure a brighter, more informed future for all businesses.



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