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The apprenticeship levy

Inside

Introduction

The Government is committed to boosting productivity by increasing the quantity and quality of apprenticeships - it aims to create three million apprenticeships by 2020 and introduce new apprenticeship standards. To help to fund this initiative, the apprenticeship levy was introduced on 6 April 2017. Employers with a wage bill of more than £3 million now pay an annual levy of 0.5%.

This Inbrief provides an overview of how the apprenticeship levy works and what it means in practice for employers.

Who has to pay?

The levy applies across all sectors to all employers in the United Kingdom with a gross wage bill in excess of £3 million. For "connected" companies, the levy is payable if the aggregate wage bill exceeds £3 million. Broadly speaking, companies are "connected" if one has control over the other or if both companies are under the control of the same person.

How much is the levy?

The levy is charged at a rate of 0.5% of an employer's total gross UK wage bill (excluding benefits in kind). This is the total amount of all employees' earnings (including wages, commission and bonuses) subject to Class 1 secondary National Insurance contributions, but ignoring the employer National Insurance contribution thresholds. For example, this includes the earnings of employees under the age of 21 and apprentices under the age of 25, even though no employer National Insurance contributions are payable on those earnings.

Are any reliefs available?

Each employer that pays the levy is entitled to a £15,000 allowance per tax year to offset it so that, providing an employer uses its apprenticeship allowance, the levy is in effect only payable on wages in excess of £3 million. However, employers that operate more than one payroll can only claim one allowance and "connected" companies are only be entitled to one allowance – it is up to those companies to decide how to apportion it.

In addition, the levy payment is deductible for corporate tax purposes.

How is the levy administered?

In terms of administration, the apprenticeship levy is effectively a tax. Employers pay and report the levy to HMRC on a monthly basis under pay-as-you-earn (PAYE) real-time information, alongside PAYE payments and National Insurance contributions.

Employers need to keep such records as HMRC specifies in respect of the levy for a certain period of time and complete returns in respect of the levy. Employers that fail to do so will be liable to a penalty of up to £3,000 per tax year.

Are there any anti-avoidance provisions?

There are comprehensive anti-avoidance measures designed to catch arrangements which attempt to circumvent the levy. Any arrangements designed to reduce the total wage bill below £3 million are likely to be caught (e.g. deferring payment of wages or bonuses from one tax year to another or encouraging employees to work through personal services companies). Further, employers cannot reduce wages (whether of apprentices or other staff) to pay for the levy.

Ensuring it works in practice

While the apprenticeships levy applies to employers across the UK, the levy is administered nationally as a devolved policy, with different arrangements in place for England, Scotland, Wales and Northern Ireland.

For England, the key practical points are as follows:

- The levy is paid into a central pot, accessed by employers in England via an online portal known as the Digital Apprenticeship Service ("DAS").
- A 10% Government top-up to monthly levy contributions is available for levy-paying employers to spend on apprenticeship training or assessment.
- Employers access the fund created by the levy and the 10% top-up in the form of online vouchers to use via the online portal to pay for accredited apprenticeship training programmes. A levy paying employer who wishes to spend more on apprenticeship training than is available in their account can do so. They will only need to make a 10% contribution towards this additional training, with the remaining tab being picked up by the Treasury.
- Employers that have not paid the levy due to a smaller pay bill will also be able to access the fund via the online portal. 90% of this is funded by the Treasury, with the employer only having to "co-invest" 10% of the training cost (although the Treasury will fund 100% of the apprenticeship training cost for employers with fewer than 50 employees who employ certain types of apprentices).

- Levy paying employers have available to them, in full, the amount that they paid into the fund for use on apprenticeship training and assessment. However, the vouchers to access those funds are only available for 2 years. If not used in that time, the amount will go towards the funds for employers that do not pay the levy and the top-ups referred to above. Credit in the account will be used on a "first in first out" basis.
- The DAS can also be used to select an apprenticeship framework or standard, choose training provider(s) and post apprenticeship vacancies. Levy-paying employers can further use it to manage payments to payment providers.
- The levy does not affect funding for apprenticeships that began prior to 1 May 2017, which should be funded and run in accordance with the terms and conditions originally put in place in respect of those apprenticeships.

What standards apply and how are they monitored?

In implementing the new system in England, the Government has taken a standards-based approach to ensuring the quality of apprenticeships. The previous apprenticeship frameworks were criticised as not being sufficiently rigorous or responsive to employers' needs. To tackle this, the development of around 500 clearer, more concise, standards is being led by a group of "trailblazer" employers. This provides a selection of approved training providers for each type of apprenticeship and funding is available only for these approved providers. Apprenticeships are becoming available up to the highest level, with universities working with employers to deliver "degree apprenticeships" in professions such as law, software development and accountancy. Higher-level apprenticeships (degree level and postgraduate study) and apprenticeships for school leavers (aged 16 to 18) are likely to be eligible for increased funding.

As of 18 January 2018, there were 220 standards approved for delivery and employers are already recruiting apprentices onto those standards.

Recognising that the standards-based approach is a significant change, the Government will not withdraw the framework apprenticeships until 2020. By then it expects employers and providers to have completed the transition to standards.

The Government has also made provision for an Institute for Apprenticeships (the "IfA"). This is a new, independent body led by employers and business leaders to regulate the quality of apprenticeships. The IfA works closely with apprenticeship providers to ensure that what is delivered is what is needed by employers.

In another bid to safeguard the quality of apprenticeship training programmes, it is an offence for a training provider to call a course an "apprenticeship" if it does not comply with the requirements of a statutory apprenticeship.

What does the levy mean for employers?

Some key implications are highlighted below:

- Increased costs for large employers
  Employers are prohibited from recovering the levy from employees (by deduction from wages or otherwise). Combined with the introduction of the National Living Wage, the levy has increased costs, especially for large employers, although this may have been offset to a limited extent by the National Insurance contribution exemption for apprentices under age 25.
- **Sector impact**
  Certain sectors, such as construction and engineering, also pay a separate industry-level training levy. For instance, the Construction Industry Training Board (CIBT) Levy is used to support construction employers with the costs of having an apprentice, including wages, travel and tools. The apprenticeship levy and the CITB Levy and engineering training levy operate alongside each other.
- **Potentially limited benefit for some employers**
  If employers are to receive any benefit from paying the levy, they will need to employ apprentices and ensure that their apprenticeship scheme satisfies Government standards. It cannot be used to pay salaries or staff costs – or to fund existing in-house training for non-apprentices. Many employers that are liable to pay the levy have no or limited apprenticeship programmes and so may struggle to spend an amount equivalent to the levy in the specified way. This means that there is likely to be money left over at the end of the two-year spending window which can be accessed by others through the central fund.
- **Disproportionate impact on "temping" agencies**
  Temporary employment agencies have a pay bill which can cover many thousands of (high turnover) temporary agency staff placed in other businesses, whereas an agency's core business consists only of a much smaller number of staff. Temporary employment agencies are therefore liable to pay a disproportionately large apprenticeship levy compared to the number of apprentices they would be likely to train for their own purposes.

Next steps

- Employers should continually review their pay bill to work out if the business will need to pay the levy. If so, the business will need to budget for this extra cost, for any years in which the gross wage bills is likely to exceed £3 million.
- Keep under review how to get the best out of the apprenticeship fund (especially if a levy paying employer). Review the structure of any learning development programmes - can more training and development be delivered through apprenticeships? Remember that apprenticeships are not just for young people.
- Register for the online Digital Apprenticeship Service, even if not currently a levy paying employer.
- Keep an eye on the growing number of accredited training providers to consider relevant providers for your business.

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