

## Employment Issues

In this section the things we will look at are:

- Payment of Wages.
- Students and Income Tax.
- National Insurance.
- Holidays and Holiday Pay.

### **Payment of Wages**

Your employer has a legal responsibility to pay you the wages you are due under your Contract of Employment or Statutory Employment Law. This section looks at situations where you believe you have not been paid fully for the work you have done, and explains what action you may consider taking to recover those wages.

### **National Minimum Wage (NMW)**

This is the legal minimum wage that most employers are obliged to pay. This includes part-time workers and employees on short term contracts, agency workers and casual staff. It applies to both home and international students.

Entitlement to the NMW does not apply to most voluntary workers, au pairs and nannies or to any work placement you are required to do as part of an undergraduate programme of study.

From 1 October 2008, the National Minimum Wage rates are as follows:

- 16 and 17 year olds £3.53
- 18 to 21 year olds £4.77
- 22 years and over £5.73

### **Non-Payment of Wages**

When an employer fails to pay you your wages in full, or refuses to pay for annual leave, you should initially try to resolve the problem with your employer directly, either in person or in writing (keep copies of all written correspondence). In some cases it may be appropriate for an advisor to contact your employer on your behalf. If your employer still refuses to pay, or claims they are unable to pay, there are other steps you can take.

### **Submitting A Grievance**

If informal attempts to resolve your wage dispute have failed, you should submit a written statement of grievance to your employer. This is simply a letter stating how much you think you are owed and asking for it to be paid to you. You need to include sufficient information to back up your claim such as copies of time sheets, wage slips and contract of employment. You must send this letter within three months from the date when the wages were due. If your employer disputes your claim, the correct procedure would be for them to request a meeting with you to try and resolve the dispute.

## Employment Tribunal

If the above procedure is unsuccessful, the Employment Tribunal is usually the next step. This is similar to a court and its purpose is to make decisions on a wide range of employment disputes, including non-payment of wages.

Normally a claim must be submitted to the Employment Tribunal within three months of the date your wages were due. This time limit can be extended by a further three months if you first follow the grievance procedure. It does not cost anything to make a claim via an Employment Tribunal.

When the Employment Tribunal receive your claim they refer it to ACAS who will try to negotiate between you and your employer. It is usual for wage disputes to be concluded at this stage without the need for a formal tribunal. If its not resolved at this stage a formal tribunal will decide the amount of wages you are owed.

In a very small number of cases the employer may not comply with the outcome of the tribunal, it will then be up to you not the tribunal to enforce the decision via court action.

## Court Action

An alternative to using an Employment Tribunal is to make a claim for breach of contract in the civil courts. This will usually be a 'small claim' in the County Court. This may be the best option for you if you have left it too late to make an Employment Tribunal claim as the time limit for County Court is six years rather than the three months of an Employment Tribunal.

The important thing to remember is that there will be a fee for making a claim this way. The fee will depend on the amount of wages you are claiming. If you are on a low income, i.e. just a Student Loan you may qualify for a discount or fee waiver. Further information can be found at [Her Majesty's Courts Service](#)

## Students and Income Tax

All students who are resident in the UK, regardless of age or nationality are required to pay Income Tax on earnings and other taxable income that exceed their personal allowance.

## Income Tax

Income Tax is paid on any income that you receive over a certain amount during a Tax Year. The tax year runs from 6th April one year to 5th April the following year. The most common forms of taxable income are:

- Earnings from employment.
- Profits from business.
- Job Seekers Allowance.
- Interest from savings.
- Rental income.

**Please Note:** Student Loans, Grants, Scholarships, Bursaries and Research Awards are not taxable.

## Personal Allowances

Each person is allowed an amount of income that is tax free. For April 2008 - April 2009 the Personal Allowance is £6,035 for people of ages up to 64. There are also some additional allowance such as Blind Persons Allowance. Your Personal Allowance is deducted from the total of your taxable income so you only pay tax on the income left over.

## Pay As You Earn (PAYE)

Many students gain taxable income through earnings. PAYE allows your employer to calculate your tax and deduct any payable tax directly from your wages.

When you start a new job you might be given an emergency tax code until your employer is issued with the correct code for you. In order to speed up this process it is important to provide your P45 from your last employer as soon as possible. If you don't have a P45 you will need to complete a P46 and return it to your new employer as soon as possible, you may find that none of the boxes on the form apply, but you still need to sign it and return it.

Once the Inland Revenue receives a P46 from your employer they will send you a P91 requesting further information, you will need to provide them with your national insurance number and the last 2 years employment history.

## Cash In Hand Work

It is illegal to be employed in this manner. Individuals are required to inform the Inland Revenue of any earned income - even if you know it is below your Personal Allowance. Employers who pay cash in hand are employing you illegally as they will not have informed the Inland Revenue that you are working for them.

### Holiday Jobs

If you only work during the holiday periods i.e. Christmas, Easter and Summer and you estimate that your income over the tax year will be less than your Personal Allowance, you can ask your employer for a P38(S) form. Complete the form and return it to your employer. It will enable them to pay your wages without deducting any tax.

If you are working during term-time, i.e. evenings and weekends you will not be able to fill in the P38(S) form.

## Overpayment Of Tax

If you think you have paid too much tax in one tax year you can ask the Inland Revenue for a repayment. If you are still in employment you can claim your tax back at the end of the tax year. Do this by writing to the Inland Revenue with the P60 that your employer should automatically give you at the end of the tax year.

If you are no longer in employment you can claim tax back during the year by completing a P50 form. It is important to consider when to claim tax back and which sections of the form you need to complete. The Inland Revenue will not normally repay overpaid taxes unless it is requested.

If you do not plan to work again during the tax year, then you need to complete Part C of the P50. You will need to delete one of the statements in Part C, the one you should leave states that ***'I shall not be claiming Job Seekers Allowance or taxable Incapacity Benefit or taking up further employment before 6 April next'*** and then sign the form at the bottom – **do not sign Part B.**

If you are intending to work again during the tax year you will need to complete Part B of the P50 deleting the above statement and any other statements that are not applicable to you. As it is possible that you are going to work again during the tax year, your tax repayment will be calculated on your monthly Personal Allowance to date rather than your full Personal Allowance.

It is important to consider when to claim a tax repayment if you intend to work again during the tax year. If for example you have only worked for three months at the beginning of the tax year and you ask for a refund, then your taxable income will be based only on one quarter of your full personal allowance. The remainder of your tax allowance is divided up equally to build up over the remaining nine months of the tax year. This is because you make take up employment during this time.

If you are claiming a refund but do intend to work again during the tax year, you can do one of two things to get a complete repayment based on your full Personal Allowance.

- Claim a repayment at the end of the tax year.
- Claim a repayment at the point that your monthly build up of personal allowance exceeds your taxable income.

The Inland Revenue will not inform you if your repayment is based on only part of your Personal Allowance - if in doubt claim a further refund at the end of the year.

## **National Insurance**

### **National Insurance Numbers (NI Numbers)**

All British citizens are given an NI number at birth. They are normally sent out to you just before your 16th birthday. It is a legal requirement that your employer has your correct NI number. You can obtain your NI number from your local Social Security office if you have lost it.

It is your responsibility to make sure that the Inland Revenue and you employer have your correct NI number. If the Inland Revenue has the wrong NI number National Insurance credit will be building up with the wrong person. This is impossible to rectify unless you have kept very detailed income and employment records, and it could result in the loss of your benefit or pension rights.

International students who have a job, or have been offered a job, should apply for a NI number by contacting Job Centre Plus on 0854 600 0643.

### **National Insurance Contributions**

Your employer should deduct National Insurance Contributions for your wage in addition to Income Tax. They should also make additional contributions on your behalf.

Students are only credited with NI contributions if they are 16 - 18 years old. After this age you are not automatically credited unless you are in employment and earn over the lower earnings limit.

### **Holidays and Holiday Pay**

Most people in employment including part-time and fixed-term contract workers, are entitled to paid annual leave. This includes students who work during term-time and/or

vacations. Unfortunately, many students do not receive holiday pay because they are unaware they should get it. The information below explains the normal entitlement to paid holidays and explains how to go about enforcing those rights if you encounter problems.

## **Legal Entitlement**

Under the 'Working Time Regulations 1998' the majority of employees have a legal entitlement to paid annual leave. An employer must offer a minimum of four weeks paid holiday a year (pro rata for part-time workers). From 1st October 2007, the entitlement increased to 4.8 weeks per year. Some employers provide more generous entitlement e.g. basic holidays plus bank holidays.

The Working Time Regulations apply from the day you start work, so you do not have to work for an employer for a minimum length of time before qualifying for paid annual leave. The regulations determine how you accrue annual leave, depending on your length of employment during your first year of employment.

Some employers include holiday pay in the hourly, weekly or monthly salary so that they do not pay wages during time taken as holiday. This method of holiday pay puts responsibility on the employee to set aside a portion of their regular pay to cover holiday periods.

## **How Is It Calculated**

Paid annual leave is based on the hours you normally work each week. For example, if you normally work 15 hours per week your holiday pay entitlement would work out to be 60 hours per year, i.e. 15 hours x 4 weeks.

If you have worked for an employer for less than 12 months, your annual leave entitlement accrues on a monthly basis at a rate of 1/12th of the total entitlement per month of service.

## **Check Your Entitlement**

Although an employer must offer paid annual leave, they are not required to ensure that you take advantage of it. It is important to check your entitlement as unused leave cannot usually be carried over from one year to the next so you might lose out!!

If your job lasts for a month or longer, your employer is legally required to provide you with a written statement of the main terms and conditions of employment within two months of you starting work. This should clearly explain your entitlement to paid annual leave. If it does not, you should ask your employer to clarify this for you, preferably in writing. Even if your employer fails to give you a written statement, you will be entitled to the statutory four weeks paid annual leave (or the part-time equivalent).

## **How Do I Take Paid Holiday?**

Your contract might explain your employer's procedure for requesting annual leave, or any restrictions on when it can/can not be taken. You should ask for time off well in advance, giving notice of at least twice the amount of time you wish to take off. Your employer should not refuse reasonable requests for holidays.

If you leave your job before using all your holiday entitlement, you should normally receive payment in lieu of the number of days not used.

## Common Issues

You might experience any of the following problems relating to your right to paid annual leave:

- Your employer may deny you have the entitlement to paid holidays.
- Your employer may refuse your requests for annual leave.
- Your employer may refuse to pay you for time taken as annual leave, or accrued annual leave when your employment ends.
- Your employer may make deductions from your wages for holidays taken instead of paying for them.

A failure by your employer to honour your entitlement to statutory annual leave is a breach of their responsibility under employment legislation. You should initially try to resolve the matter with your employer directly, either in person or in writing (keep a copy of all correspondence), by explaining what your statutory entitlement is, and referring to your terms and conditions of employment.

## Submitting a Grievance

If informal attempts to resolve your complaint have failed you should submit a written statement of grievance to your employer. This is simply a letter explaining that you believe that you are entitled to paid annual leave or holiday pay. This letter must be sent within three months of the incident you are complaining about. You may be asked to attend a meeting to try to resolve your dispute.

## Employment Tribunal

If the grievance procedure is unsuccessful, the Employment Tribunal is usually the next step in trying to resolve a dispute. An Employment Tribunal is similar to a court. Its purpose is to make decisions on a wide range of employment issues, including holiday entitlement. Normally a claim must be submitted to the Employment Tribunal within three months of the date of the incident you are complaining about, however, this can be extended by a further three months in order for you to complete the grievance procedure first. It doesn't cost anything to make an Employment Tribunal claim.

When your claim is received by the Employment Tribunal, the case is referred to ACAS, who will try to negotiate a resolution between you and your employer. Many disputes are resolved at this point without having to have a formal tribunal.