AUTOMATIC ENROLMENT FACTSHEET 1

PAY REFERENCE PERIODS

It's important employers fully understand their duties as part of automatic enrolment. To assist with this, Scottish Widows has produced a range of fact sheets covering some of the key technical aspects of the regulations. Further details may be found on the Pension Regulator's website:
http://www.thepensionregulator.gov.uk/employers/tools/employer-duties.aspx

All employers must carry out an assessment to determine if they have "workers" under the automatic enrolment legislation (broadly speaking UK-based employees). If they do, they must assess their age and earnings in order to determine what their obligations are towards these individuals. This assessment is a three stage process, as follows:

a) Identity the pay reference period,

b) Identity what is paid in the pay reference period,

c) Compare what is paid with the earnings trigger for the period.

In this factsheet we focus on step A.

WHAT IS A PAY REFERENCE PERIOD?

It is the period of time over which earnings and contributions are measured for automatic enrolment purposes.

This period is used to determine what a worker earns and, therefore, what the employer's duties are in respect of that individual, and whether the minimum contributions required by law have been paid by the employer in respect of its workforce.

Originally, the pay reference period was the period of time by reference to which staff were paid their regular wage or salary. An employee, for example, paid on the 21st of each month in respect of the work done from the first to the last day of that month would have a pay reference period of a calendar month.

Following consultation in 2013, the legislation was amended to allow for an alternative pay reference period linked to the tax calendar, which may be more familiar to payroll operators. The pay reference period under this definition would be either a tax week, tax month or some multiple of these periods e.g. two tax weeks / two tax months etc.

Employers can choose which one of the different types of pay reference period is suitable, can switch between the two and can use different bases for different workers.

Now we look in detail at the two different types of pay reference period.

USING THE PERIOD BY REFERENCE TO WHICH STAFF ARE PAID

In this case, the pay reference period is simply the period of time over which staff earn their wage or salary. An employer, for example, that pays their staff based on the work done from Sunday to Saturday each week will have a weekly pay reference period running from Sunday to Saturday.

If staff are paid based on the work done over the course of a two or four week period or a month, this period will be their pay reference period. Periods of less than one week, however, are not allowed for under this definition.

It should be noted that the pay reference period under this definition is not the pay interval, although often the two will coincide. A worker, for example, paid on the 27th of each month for the work done from the first to the last day of the month, will have a pay reference period covering the calendar month rather than the period between pay dates.

An important point regarding pay reference periods is that it does not matter if the payment of wages / salary is in arrears, the employer is simply identifying the general period to which payments relate.

Examples

John is paid on the 11th day of each month based on hours worked from the 15th day of the previous month to the 14th day of the month of payment.

His pay reference period is one month starting from the 15th day of each month.

Andrea is paid every Tuesday based on hours submitted for the previous week running from Monday to Sunday.

Her pay reference period is one week starting from Monday each week.

Michael earns a £40,000 annual salary and is paid on 29th of each month. His contract determines that each payment is made in respect of each calendar month.

His pay reference period is one month starting from the first day of each month.

USING TAX WEEKS OR MONTHS

Tax weeks or tax months may be more suitable than the original definition. When using this definition, the first step is for the employer to determine the length of the pay reference period. This is simply the interval between pay dates. It must be stressed though that this is an exercise limited to defining how long the pay reference period is, not when it starts or ends – that is determined by the tax calendar.

An employer that pays staff weekly will have a pay reference period that lasts for a week. If the interval between pay dates is some other multiple of weeks, then that will set the length of the pay reference period. The same applies for monthly, bi-monthly pay intervals etc. The tax calendar definition of pay reference periods cannot set the length of the pay reference period as less than one week. Therefore, if the pay interval is less than one week under this definition, the pay reference period will last for one week.

It is the usual interval between payment dates that the employer must consider, disregarding any shifts away from this date because of bank holidays, weekends, brought forward payment dates and errors or missed payments. For example, an employer that normally pays staff on the 27th of each month, but brings forward December's pay to the 20th will have a pay reference period lasting for one month, even though the intervals between pay dates are not always exactly one month.

In some instances, the actual date of payment will vary from month to month, for example where the last working day of the month is used, this doesn't change the usual interval between pay dates which will remain as a month.

When the employer has determined the length of the pay reference period, they can then work out the start and end dates. If the pay reference period is a week or a month long, then each period will start on the first day of the tax week or month. These are detailed in the Pensions Regulator's Detailed Guidance 3: Appendix A **http://www.thepensionsregulator.gov.uk/docs/dg-3-appendix-a.pdf**

A similar principle applies where the length of the pay interval is a multiple of weeks or months, e.g. fortnightly or bi-monthly; each pay reference period starting on the first day of every other tax week or month etc.

Examples

Joanne is paid on the last working date of each month for the work done in each calendar month.

As the interval between pay dates is normally one month, the pay reference period will be the tax month.

Brian is paid every other Thursday for the work done in the 14 days ending on the next Saturday.

As the interval between pay dates is normally two weeks, the pay reference period will be two consecutive tax weeks in accordance with the tax week calendar that starts on 6 April each year.

Considerations at the end of the tax year

Employers operating a tax week (or multiple of) will have to consider the position at the end of the tax year. Years that are not leap years consist of 52 weeks and one day; leap years have an extra day. The effect of this is that the final pay reference period of the tax year will overlap the first pay reference period of the next tax year. In most cases there will not be a payment of earnings during the final day (or two days in leap years) that ends the year, and where this applies the final pay reference period of the tax year is ended early the day before the start of the next tax year.

WHAT NEXT?

Once an employer has worked out when the pay reference period begins and ends, they must assess what qualifying earnings are actually paid or ought to be paid during the period in which the assessment date falls. This figure should then be compared with the earnings trigger for the period and if necessary the lower limit of the qualifying earnings band. These further aspects of the assessment are not looked at in detail here. For more information please see factsheet 9.

OTHER ASPECTS OF PAY REFERENCE PERIODS

Since October 2012, zero hours contract workers have featured prominently in automatic enrolment discussions. Particularly when considering the assessment of earnings. The technical changes to the automatic enrolment legislation from November 2013 provided some clarity on this category of worker.

An employer using a tax based pay reference period that employs zero hours contract workers without a regular interval between pay dates can define the length of the pay reference period as a week and can use the tax week calendar. If there is a regular interval between pay dates of at least a week the employer can use that to define the length of the pay reference period e.g. a week, fortnight, month etc.

Personal service contractors are regarded as workers under the automatic enrolment rules, however they are unlikely to be paid through the employer's payroll. This doesn't change how the employer decides what the pay reference period is. If they decide to use the tax calendar, the length of the pay reference period will be determined by the usual interval between pay dates (or a week if longer) with the pay reference period starting with the appropriate tax week or month. If the period is defined as the period by reference to which staff are paid, that period will set the pay reference period.

4-4-5 week pay cycles were addressed directly by the technical legislative changes. If such a pay cycle has a monthly pay interval, this allows the employer to set the pay reference period as the tax month, hugely simplifying the assessment process.

Every care has been taken to ensure that this information is correct and in accordance with our understanding of the law and HM Revenue & Customs practice, which may change. However, independent confirmation should be obtained before acting or refraining from acting in reliance upon the information given.

Scottish Widows plc. Registered in Scotland No. 199549. Registered Office in the United Kingdom at 69 Morrison Street, Edinburgh EH3 8YF. Telephone: 0131 655 6000.

Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Financial Services Register number 191517.

53650 02/15

SCOTTISH WIDOWS