

# **Apprenticeships4England Summary of Draft Legislation followed by full draft report**

Draft regulations that cover how employers will calculate, report, and pay their Apprenticeship Levy liability have been issued by the UK tax authority, HM Revenue and Customs, for consultation.

The Apprenticeship Levy is to be introduced in the UK from April 2017 and will be set at 0.5 percent of an employer's payroll bill. Every employer will receive a GBP15,000 (USD19,500) allowance to offset against the levy, which means that businesses that pay less than GBP3m (USD3.9m) in remuneration (and are not subject to the connected employer rules) will not have to report or pay the Apprenticeship Levy.

The new draft regulations propose that employers will not have to report the levy if they have a total pay bill equal to, or less than GBP2.8m (USD3.6m) in the previous year or if they expect their pay bill to be less than GBP3m in the current year.

They also confirm that the GBP15,000 allowance will operate on a monthly basis, and will accumulate throughout the year, giving an allowance of GBP1,250 a month. Any unused allowance will be carried forward from one month to the next.

The consultation will close on November 14, 2016.

## **Introduction and background**

The Apprenticeship Levy was announced at Summer Budget 2015, and at Autumn Statement 2015 it was announced that it would come into effect in April 2017.

The primary legislation setting out the Apprenticeship Levy is contained in Part 6 of [Finance Act 2016](#) .

The Apprenticeship Levy will be a levy on employers operating in the UK to fund new apprenticeships. The levy will be charged at a rate of 0.5% of an employer's pay bill.

Employers will receive an annual allowance of £15,000 to offset against their levy payment and this means that employers not subject to the rules around connection will only pay the levy if their pay bill exceeds £3 million in a given year.

The rules on connected employers which have been included in the Apprenticeship Levy are drawn from those used in the Employment Allowance, with some modifications. The modifications to the connected rules introduced for the Apprenticeship Levy set out that, though a connected group is able to receive the same amount of allowance as a single

employer, that allowance can be split between the connected employers the way that those employers think is best, as long as the split doesn't mean that more than £15,000 is claimed.

Less than 2% of employers will have to pay the Apprenticeship Levy.

In England, control of apprenticeship funding will be put in the hands of employers through the Digital Apprenticeship Service. The Department of Business Innovation and Skills has published guidance [Apprenticeship levy: how it will work](#).

## **2. Purpose of draft regulations**

This initial package of draft Apprenticeship Levy regulations have been drawn up under the powers that are contained in the Finance Act 2016, specifically relating to calculation, payment and reporting of the Apprenticeship Levy including the operation of the £15,000 annual levy allowance. They also make it clear (draft regulation 147D(1)) that only where an employer has a levy liability, or expects to have a levy liability during the tax year, they will need to engage with reporting the Apprenticeship Levy to HM Revenue and Customs (HMRC). These are the areas in which the operation of the levy has received the most stakeholder interest.

These draft regulations will be relevant to employers who will have a liability to pay the Apprenticeship Levy, and anyone who runs payroll services for employers with a liability to pay. Employers not subject to the connected rules, with a pay bill of over £3 million will have to report and pay the apprenticeship levy. Employers with a pay bill of £2.8 million or less for the previous tax year or who believe their pay bill will be less than £3 million in the current year (unless they find otherwise) will not have to engage with the Apprenticeship Levy.

The £2.8 million pay bill test is to ensure that it is only employers who may find their pay bill increasing to over £3 million during the year who will have to engage with reporting the levy, as it is unlikely that an employer with a pay bill of less than that will find themselves over the £3 million threshold in the following tax year and therefore begin to accrue levy liability.

These draft regulations specify how the levy will be reported, through the Pay as You Earn (PAYE) process, along with Income Tax and National Insurance contributions.

The regulations confirm that the annual levy allowance will operate on a monthly cumulative basis, so the levy allowance will increase evenly throughout the year.

The intention is later in 2016 to make the full package of draft Apprenticeship Levy regulations available, which will cover other aspects such as assessment, repayment, recovery from third parties, records to be retained.

## 2.1 Example

Where an employer has an annual levy allowance of £15,000 and applies this to a single PAYE scheme, this would mean an allowance of £1,250 a month. Any unused allowance will be carried over from one month to the next. If the levy liability in month 1 is £1,000 the employer won't pay the levy and the allowance in month 2 will be £1,500 (the levy allowance for month 2 being £1,250 + any unused allowance from month 1 (£250) = £1,500 total levy allowance for month 2).

If there is unused allowance in a month, it will be carried as a credit into the subsequent months, as shown above. At the end of the tax year, if the levy has been overpaid, the employer can use the overpayment to offset against their PAYE liabilities.

The draft regulations also provide that where an employer has multiple PAYE schemes and doesn't use the full £15,000 allowance, they will be able to offset the unused amount against another one of their schemes once the tax year has ended.

## 3. Technical consultation on the draft regulations

The purpose of the draft regulations is to set out how employers or payroll operators will calculate, report, and pay their levy liability. We have already set out that employers will use the existing PAYE system to report their levy liability, and so it is proposed that these draft regulations will be inserted into the current Income Tax (Pay As You Earn) regulations 2003.

The draft regulations are set out in Annex A.

In particular, they:

- set out that an employer is required to assess their annual pay bill amount for the previous and current tax year to decide if they are liable for the levy
- make provision for the due date of the Apprenticeship Levy to be by the 19th (or 22nd if you report electronically) of the following month
- place a requirement on employers to notify HMRC of the levy which is to be paid and make provision for the information which should be included in this return - the employer will use the Employers Payment Summary (EPS) to report their Apprenticeship Levy liability due to date and also the amount of annual levy

allowance the employer may allocate to multiple PAYE references

- set out how to calculate the monthly levy allowance on a cumulative basis, in order to calculate levy liability - they also set out how to calculate levy liability both in the first month of the tax year, and in subsequent months
- allow both single and employers who are part of a group (company unit or Charity unit, which has apportioned the £15,000 annual levy allowance across the unit) to apportion the annual levy allowance between multiple PAYE schemes
- make provision for recovery of overpaid levy by the employer

HMRC have UK-wide responsibility for Apprenticeship Levy collection, and the Apprenticeship Levy regulations will be made by HMRC Commissioners. The regulations will apply in England, Wales, Scotland, and Northern Ireland.

### **3.1 Questions for consultation**

Question 1: Do the regulations as drafted achieve their objectives as set out above?

Question 2: Do these draft regulations produce any unintended consequences?

## **4. The consultation process: how to respond**

This consultation is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development.

Stage 1 - Setting out objectives and identifying options.

Stage 2 - Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 - Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 - Reviewing and evaluating the change.

This consultation is taking place during stage 3 of the process. The purpose of the consultation is to seek views on draft regulations in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended consequences.

### **4.1 How to respond**

Responses should be sent by 14 November 2016. Any comments should be sent to [lowri.barber@hmrc.gsi.gov.uk](mailto:lowri.barber@hmrc.gsi.gov.uk). All responses will be acknowledged, but it won't be

possible to give substantive replies to individual representations.

When responding please say if you're a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

## **4.2Next steps**

Responses to this technical consultation will be reviewed and the draft regulations will be revised as appropriate before they are laid before Parliament. Guidance on how employers will report and pay their levy liability will be made available on GOV.UK later in the year.

## **4.3Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we can't give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HMRC.

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## **4.4Consultation principles**

This consultation is being run in accordance with the government's consultation principles. The consultation principles are available on the [Cabinet Office website](#).

If you have any comments or complaints about the consultation process please contact:

John Pay

Consultation Coordinator

Budget Team

HM Revenue and Customs

100 Parliament Street

London

SW1A 2BQ

Email: <mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk>

Please don't send responses to the consultation to this address.

This technical consultation seeks comments on the first set of draft regulations for the Apprenticeship Levy.

## Documents

[Draft legislation: regulations for the calculation, payment and recovery of Apprenticeship Levy](#)

HTML

[Annex A](#)

PDF, 126KB, 6 pages

If you use assistive technology (eg a screen reader) and need a version of this document in a more accessible format, please email [different.format@hmrc.gsi.gov.uk](mailto:different.format@hmrc.gsi.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.