

# Finance



## Migrant tax made easy

### Andrew Hookway advises on fulfilling tax requirements for migrant workers

Any employer looking to take on migrant workers has more than their fair share of administrative hoops to jump through. But neither the legal nor the tax requirements are insurmountable as long as you have proper procedures in place and a checklist to work with.

#### Employee's eligibility to work in the UK

Be sure to check the employee's eligibility to work in the UK. Employers can face criminal penalties if employing anyone ineligible to work in the UK. British citizens, Swiss nationals and nationals of a country in the European Economic Area (EEA) do not need permission from the Home Office to work in the UK.

Employers should visit [www.workingintheuk.gov.uk](http://www.workingintheuk.gov.uk) for useful guidance on who needs a work permit. There is a very useful online toolkit on the site to assist employers who are intending to employ migrant workers.

#### Tax compliant

Migrant workers will need to be registered with HM Revenue & Customs (HMRC) and to have obtained a National Insurance number. The employee will usually have to go in person to their local Job Centre Plus office to obtain a National Insurance number (your local office can be found by going to [www.jobcentreplus.gov.uk](http://www.jobcentreplus.gov.uk)).

The employer will require the employee to complete a 'Form P46 PAYE Notice of New Employee', which then needs to be filed by the employer with HMRC to enable deduction of PAYE tax from the employee's wages.

The employer will need to apply for a tax code for the employee to ensure that the correct amount of tax is deducted each month. If no tax code is available for the first month then the employer will need to operate an emergency tax code for that payment.

#### Short-term workers and tax

Employers need to be aware that migrant workers, who may only be intending to stay and work in the UK for a short period of time, still need to come on to the PAYE system, unless the period they remain in the UK is less than 60 days. The problem for the employee is that they are likely to be paying tax in the UK and in their own country at the same time, so may experience personal cash flow issues and have the administrative burden of handling two tax systems, as outlined below.

If the employee has not been in the UK for more than 183 days, they may not have any UK tax liability. This is a complex issue as the employer still faces obligations to deduct PAYE and National Insurance from the employee's wages and employers should seek further professional advice on this point.

#### Paying contributions outside the UK

Some migrant workers might choose to continue paying National Insurance or social security contributions in their home jurisdiction rather than in the UK. Most European

jurisdictions allow this initially for a 12-month period, with the possibility of extending the period. The obvious benefit to the employee is that the contributions may be lower in their own country than in the UK. The employee must contact HMRC's office in Newcastle upon Tyne to obtain permission. This does create a possible problem for the employer as they will have to pay the relevant contributions to the foreign jurisdiction, and dealing with a foreign government department may prove challenging.

#### Avoiding double taxation

The employee could be resident for tax purposes in both their home country and the UK and to file tax returns in both jurisdictions. Commonly, in such circumstances the employee would not have to pay tax twice, but the tax deducted in the UK would be available to offset against any tax liability in their home country. The employee is not afforded the opportunity to choose which is their 'home' country (obviously opting for the country with the lower rate of tax) but has to rely on the tax treaty between the UK and the other country to determine where they are resident for tax.

There is always a risk element to taking on employees. First, employers will often wait to see whether the new employee will deliver on initial expectations and be an asset to the business. Second, employers have never before had such a wide marketplace in which to find suitable staff, but this can also bring its own problems. However, this should not be the case, as migrant workers can be a real asset to a business.

Employers that are well organised, with procedures and systems in place to check eligibility to work and tax compliance, can benefit from this new labour force and in turn gain an advantage over competitors.

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