

## Minimum Wage

This factsheet is designed to explain the National Minimum Wage, who it applies to and the rate at which it is paid.

The National Minimum Wage (NMW) was introduced by the Government back in 1999 and became effective from 1st April. Since the introduction of this all employers are required to pay their employees a rate of at least the NMW which is expressed as a national hourly rate, unless the employee is of compulsory school age. There are no variations by region, occupation, industry or employer size and employees cannot agree to accept a lower rate than the NMW.

The current NMW rates are shown below:

- £6.08 - The main rate for workers aged 21 and over;
- £4.98 - The 18-20 rate;
- £3.68 - The 16-17 rate for workers above school leaving age but under 18;
- £2.60 - The apprentice rate for apprentices under 19 or over 19 but in the 1st year of apprenticeship;

Based on the main rate of £6.08 per hour and a standard 37.5 hour week the annual salary would equate to £11,856. This would attract PAYE of £750, employee's NI of £512 and employer's NI of £603 but also attracts additional corporation tax relief of £994 compared to a salary of £7,488. The total net additional tax to be paid to HMRC equates to £871 (based on 2012/13 rates)

Clearly there would have to be good reasons why you would opt to pay an additional £871 in tax each year and this is where the director vs. Employee debate comes in.

If you are deciding on what rate to pay standard employees then you do not have a choice with regards to NMW, you have to pay at least the NMW in relation to that employee. However, if they are also a director then you may be able to pay a lower rate.

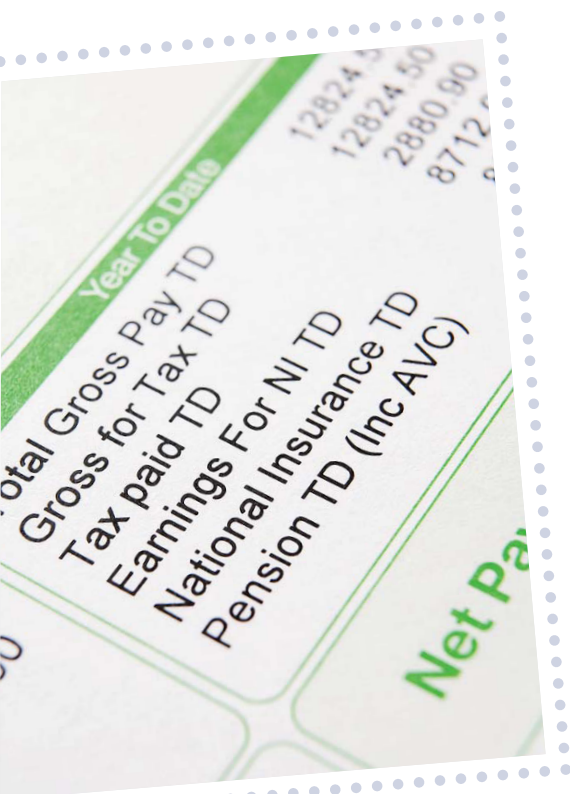
HMRC have recently updated their guidance on this and have stated that they would not seek to enforce NMW for directors of a company, unless there is an employment contract between the director and the company, if there was, the NMW would apply. Provided that there is no written employment contract, HMRC will not seek to assert that there is an unwritten or implied contract.

All of our clients are free to choose the rate they wish to have as a salary, apart from the tax savings; you may need to consider the following when setting your salary:

- 1) Do you make personal pension contributions? If so, you will only get tax relief up to the value of gross salary paid, this issue may however be solved by making pension contributions through the company;
- 2) Do you hold any insurance policies linked to the level of salary paid? (e.g. IR35 insurance) If so, you may need to pay yourself a salary above a certain level for the insurance to be valid.
- 3) You must earn in excess of £5,564 in 2012/13 to earn a qualifying year for state pensions.

The enforcement agency for the National Minimum Wage is HMRC. Inspectors can require access to records and interviews with the employer. Where an employer has not paid the NMW, HMRC may require the rate to be paid along with the previous underpayment. In the event of non-compliance, the employer may be served with a penalty notice imposing a fine of £12.16 per day per affected employee.

Fines for each offence are up to £5,000, with a minimum of £100.



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