

Council, 27 March 2014

Tax status of HCPC Council Members

Executive summary and recommendations

Current position

At present, Council members have three options as to how the HCPC pays daily attendance fees. They are as follows.

1. The HCPC deducts tax and National Insurance (NI) contributions and pays the Council member directly.
2. The HCPC pays the Council member's employer, who deducts tax and NI contributions.
3. The HCPC pays the Council member directly, without the deduction of tax or NI, providing he/she is registered as self employed for tax purposes. The Council member agrees to assume the liability for tax and NI.

This is the system put in place a few years ago following advice from Baker Tilly, our former tax advisers.

Updated position

We are now advised by Mazars, our Internal Auditors and tax advisers, that with the evolution of tax law and interpretation, Council members are 'office holders' of a 'constituted body' and as such the daily attendance fee must be paid through PAYE and be subject to tax and NI deductions at source.

The advice provides that payment of Council members' daily attendance fee to employers (option 2 above) can continue.

Partners, as self-employed contractors who undertake more occasional task-based work for the HCPC, are not 'office holders'. They can therefore continue to be paid their fees without tax or NI deducted.

Conclusion

The Council is asked to note that with effect from the new tax year starting 6 April 2014, Council members' daily attendance fees will be paid under options 1 or 2 only. Option 3 does not comply with tax law so cannot continue.

The collection of tax through the PAYE system does not alter the position that Council members are not employees of HCPC.

The same arrangements will apply to the Independent member of the Audit Committee.

Resource implications

- Minimal. In future the Secretariat will provide the Finance Department with information about the number of days Council members have attended each month for payment the following month. Council members will no longer need to submit invoices for attendance fees.
- Expense claims would continue to be processed as now.

Financial implications

- Affected Council members will suffer an adverse cash flow effect, since tax and NI will be deducted from each payment of fees, rather than paid over to HM Revenue and Customs 10 months after the end of the tax year.
- The financial implications for HCPC are minimal but HCPC will incur employer's NI contribution costs at 13.8% on the fees of Council and Committee members being paid under option 1.

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