

March 2013

Dear Colleague

A new tax year begins on April 6th 2013, and as usual there are many changes to allowances, thresholds, and the general regime. In the case of the film and TV industry, this year's changes are more significant than usual, and I would like to bring you up to date on what this means for our sector, as well as recapping some amendments to industry-specific tax rules which took effect last August.

BECTU's tax guide for freelancers will be revised after the March 20th Budget, and the new edition will be available at [www.bectu.org.uk/advice-resources/tax-guide](http://www.bectu.org.uk/advice-resources/tax-guide) by mid-April, for members only.

### **Tax-free flat-rate allowances**

Tax-free flat-rate allowances for meals and overnights, applicable only to PAYE employees, cannot be paid unless the employer has agreed a "dispensation" with HMRC. If no dispensation has been obtained, the payments should be recorded as taxable benefits, and declared to HMRC on each employee's P11D form at the end of the year.

If you are on PAYE, this could give rise to a tax liability, which may result in your personal allowance being reduced in the following year. It may be possible for you to recover some, or all, of this tax by making a Section 336 claim on the "Employment" page of your self-assessment form, which would need to be backed up by receipts for the expenditure incurred.

For employers who have dispensations, the "benchmark" rates for meals, set by HMRC each year, will be changed from April 6th as follows:

<b>MEAL RATES</b>	<b>Now</b>	<b>New rate from 6<sup>th</sup> April 2013</b>
Breakfast	£6	£5
Short day lunch (<10hrs)	£7	£5
Long day lunch (>10hrs)	£7	£10
Evening meal (post-20.00)	£12	£15

Note that the post-20.00 meal rate is intended for employees who have had to stay late after finishing their normal working day, and will take a meal before arriving home. It does not feature in the Pact agreement.

Benchmark payments for tax-free flat-rate payments for overnights will be scrapped from April 6<sup>th</sup>. However, employers who choose to do so are free to negotiate new tax-free rates as part of their discussion with HMRC about their dispensation. Otherwise reimbursement of accommodation costs can only be against receipts.

If you are self-employed for tax purposes (e.g. "Schedule D"), a definition covering many of BECTU's freelance members, you do not qualify for tax-free flat-rate expenses payments. Engagers are still free to make the payments, but you must declare them as earned income at the time of self-assessment. However, if you can provide receipts, and

can justify the expenditure according to HMRC's criteria, you can offset expenditure on meals and accommodation against tax as a legitimate business expense.

## **Self-employed accounting procedures**

From the 2013/14 tax year onwards, self-employed workers earning less than the VAT threshold of £77,000 (for 2013) will be allowed to report their income and outgoings using "cash-based accounting", rather than the more complicated accrual method. This means that your income can be booked at the time it is received, rather than when invoices are raised.

The change is intended to simplify book-keeping for the self-employed, and you may find that you no longer require the services of an accountant to complete your annual tax self-assessment.

If you expect to be in receipt of Universal Credit when it is introduced in October 2013 you will need to employ cash-based accounting when preparing the required monthly statement of income to validate the continuing payment of your benefits. However, given the existence of an assumed "Minimum Income Floor" for the self-employed under the Universal Credit system (a detail which BECTU lobbied against), many members may unfortunately find themselves disqualified from some benefits they have previously received.

## **Real Time Information**

From April 2013 all employers, no matter how small, who operate a PAYE system, will be required to report earnings and deductions at the time salaries are paid, using a variety of on-line connections with HMRC. This regime, called Real Time Information, replaces the current obligation for small employers to report their P.35 figures only every three months, with a 19 day period of grace.

Most software payroll packages are being updated to cope with this, and HMRC offers a free downloadable package called "Basic PAYE Tools" which will do the job. If you are operating as a small employer you should already have been notified about this by HMRC.

If you are a PAYE employee receiving benefits, you should note that the information provided to HMRC will, from October, be used to determine eligibility for Universal Credit, so any mistakes, or failures to comply, by your employer, could have a serious effect.

## **Changes to industry-specific tax guidance**

The film and TV industry's tax regime is covered by the HMRC's Film, Television, and Production Industry Guidance Notes. Appendix 1 of the notes lists grades which are automatically treated as self-employed for tax purposes, in some cases with conditions attached. The notes were altered last August as follows:

### **Lorimer Letters**

(which confirm self-employed status for individuals on short engagements who are not in Appendix 1 grades, but have nevertheless demonstrated to HMRC that their pattern of activity is self-employed) are now officially called "Special Letters of Authority", and will have expiry dates three years from the beginning of the month when they are issued. If

you have one of these, you will need to be mindful of your expiry date, since renewal Letters will not be back-dated by HMRC.

### **9-month rule**

This has been amended in two ways:

- If you work on a programme series, and a second series is commissioned, you will continue to be treated as self-employed even if this takes you over the 9-month maximum.
- If you are engaged on two consecutive one-off productions by the same engager, PAYE will be "considered" by the engager at the beginning of the second project. Self-employed status can be maintained if there is a break between the two, during which the individual seeks or secures other work.

In exceptional circumstances, special authority can be sought from HMRC to continue with self-employed status at the end of 9 months with the same engager.

### **New Appendix 1 grades**

The list of grades automatically regarded as self-employed has been extended to include: Archive researcher, Cameraperson, Costume Supervisor, Digital Set Designer, Foley Artist, Key Grip, Unit Manager, Wardrobe Supervisor, Wardrobe Stylist, Wire Person, Writer (excluding Reporter).

If you are in one of these grades, you should check Appendix 1 to see whether any conditions are attached to your self-employed status.

### **Budget 2013**

It's not clear if the budget on March 20<sup>th</sup> will bring further significant tax changes for the film and TV sector. The actual rates and thresholds for next year have already been set, and a proposed change in the so-called IR 35 rules, affecting anyone working through a personal service or umbrella company, has already been dropped. If anything major is announced we'll be in touch with you again to explain the effect.

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