

Employment

The apprenticeship levy – what you need to know

From 6 April 2017, an apprenticeship levy applies to all UK employers in both the private and public sectors that have annual pay bills of more than £3 million, regardless of whether they employ apprentices or not, or whether they already pay into an existing industry levy scheme. Its purpose is to fund an increase in the number and quality of apprenticeships, with the aim of creating an additional three million apprenticeships by 2020, and allowing employers to choose and pay for the apprenticeship training they want.

New apprenticeship standard frameworks are being introduced, removing the age restrictions that have prevented adults and graduates from undertaking apprenticeships. In addition, apprenticeships will be available from level 3 (broadly equivalent to A level standard) up to level 7 (postgraduate level), with many standards being accredited as degree apprenticeships, so the scope is very wide.

Timeline

From 21 August to 2 October 2015, the Government consulted on the proposed introduction of the levy and, on 25 November 2015, published its response to the consultation. On 4 February 2016, the Government published the draft legislation introducing the apprenticeship levy and sought comments on it until 2 March 2016. In the March 2016 budget, the Government confirmed that employers will receive a Government top up equal to 10% of their monthly apprenticeship levy contributions, which will be available for them to spend on apprenticeship training. On 21 April 2016, the Department for Business Innovation and Skills announced the Government's intention to introduce an amendment to the apprenticeship levy provisions contained in the Finance Bill 2016. Each employer will receive an allowance of £15,000 to offset against their levy payment, and the amendment allows connected parties, eg companies in the same group, to split the £15,000 allowance between them and to notify HMRC of the amounts allocated to each before the start of the tax year.

Controversy

Despite the fact that fewer than 2% of employers will pay it, the levy has proved to be controversial. It applies to employers across the UK but the scheme will only operate in England, as skills policy is a devolved matter. The Government is working with the administrations in Scotland, Wales and Northern Ireland to see how this can be resolved and employers in those countries are advised to contact their national apprenticeship authorities for more information. The levy has also been criticised by employers' groups as a tax on employers – the Government response has been to say that all employers are required to make “an investment” in apprenticeships, and that they can benefit from this investment by training apprentices. In practice, those employers who train a large number of apprentices will get their money back; employers in sectors where apprentices are traditionally not used will be worse off.

How much will employers pay?

The levy is 0.5% of the pay bill, based on total (gross) employee earnings subject to Class 1 NICs, including salary and bonus but not benefits in kind. It will be collected monthly by HMRC through PAYE, with a £15,000 annual allowance offset against the levy. The Government will add a “top up” to the funds paid in, of 10% per month. Employers are prohibited from recovering the levy from employees, whether through a deduction from wages or any other means.

Example

Employer A has 250 employees
Each employee earns
£20,000 gross per year

Pay bill: $250 \times £20,000$
= £5,000,000

Levy sum: 0.5% of
£5,000,000 = £25,000

Less allowance: £25,000
- £15,000 = £10,000
Annual levy to pay is £10,000

Government top up:
10% of £10,000

Total available to spend: £11,000

How will employers spend the levy?

Each employer will have a Digital Apprenticeship Service account and employers can use the pot of money they pay into the levy to offset any training (which must be delivered by an approved provider) and assessment costs associated with an apprenticeship, up to a cap that will depend on the standard or framework that is being trained against. Some costs will not be funded by the levy, eg overheads, supervision costs and apprentices' wages. Unused funds and top ups will expire after 24 months. Up to 10% of the sum can be transferred to other employers, such as suppliers.

What next?

Further information is available online via www.gov.uk, which includes more information about funding and support.

Key contacts:



Karen Plumbley-Jones
Managing Associate
(Practice Development Lawyer)

T: +44 (0)1752 67 7903
E: karen.plumbley-jones@wbd-uk.com



Sarah James
Associate (Practice
Development Lawyer)

T: +44 (0)191 279 9286
E: sarah.james@wbd-uk.com

© Copyright 2018 Womble Bond Dickinson (UK) LLP. All rights reserved. This communication is provided for general information only and does not constitute legal, financial, or other professional advice so should not be relied on for any purposes. You should consult a suitably qualified lawyer or other relevant professional on a specific problem or matter. Womble Bond Dickinson (UK) LLP is authorised and regulated by the Solicitors Regulation Authority. “Womble Bond Dickinson”, the “law firm” or the “firm” refers to the network of member firms of Womble Bond Dickinson (International) Limited consisting of Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (US) LLP. Each of Womble Bond Dickinson (UK) LLP and Womble Bond Dickinson (US) LLP is a separate legal entity operating as an independent law firm. Womble Bond Dickinson (International) Limited does not practise law. Please see <https://www.womblebond Dickinson.com/uk/legal-notices> for further details.

