

**Payroll Alliance's  
Response to  
HMRC's  
Consultation  
Document  
Payments,  
Repayments & Debt**

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## **Introduction**

In response to HMRC's consultation document entitled Payments, Repayments and Debt: the Next Stage regarding Modernising Powers, Deterrents and Safeguards, Payroll Alliance sent out a short survey asking employers for their opinions on HMRC's proposal to extend the end of year summary form P35.

## **The Survey**

We asked members of Payroll Alliance, IReeN (Online Filing User Group) and customers the following questions and targeted our survey specifically on the proposal to extend the P35 to include an additional 13 boxes.

We received 63 responses to the survey.

## **Conclusion**

The majority of the employers who responded to the survey operated one PAYE scheme and fell into the larger employer category of 250 or more people on the payroll. The respondents also included some bureaux and councils who operated their own payrolls and payrolls on behalf of schools and colleges, although some small employers did take part.

In addition, the majority of those who took part in the survey indicated that the payroll department completed the information and in many cases also authorised the P35, with 64% indicating that the additional information was readily available to them. Others commented that they expected their software provider to update their payroll software to enable it to provide this information, although they were concerned about the cost of providing this.

There were also comments about some software, which when amended retrospectively would automatically adjust the relevant period's cumulative totals and this would impact on the history of the amount of tax and National Insurance due in this period and may result in penalties.

There were also real concerns from payroll bureaux and agents that additional time spent preparing this information and gaining their clients permission to supply the data, which would raise their costs, and would have to be passed on to their clients.

Others expressed their objections to more burdens being placed on employers by HMRC. One respondent going so far as to comment: "A greater level of engagement, commitment and ability from HMRC members of staff would help HMRC achieve compliance".

## **Background**

### **P35 Consultation Questions**

HMRC has published a consultation document entitled "Meeting the Obligations to File Returns and Pay Tax on Time" which closes on 13 February 2009.

The document contains a number of proposals but the one that we are most concerned with is the proposal regarding in year PAYE payments and a new penalties regime.

Payroll Alliance recently attended a consultation workshop run by HMRC to further discuss the subject of late filing and payment penalties and interest for PAYE. We would welcome your feedback on the following points.

Employers are required to pay HMRC each month or quarter PAYE, Student Loans, and NICs less statutory payments. The payment date is normally 22nd for large employers (mandatory) and smaller employers who want to pay electronically. For those employers with less than 250 on the payroll they can pay on 19th via the bank etc or by cheque.

Interest is calculated as a percentage of the P35 tax and NI if an employer is late making the payment during the year more than twice.

However, some employers do not pay the full remittance due each period but pay money on account due to cash flow problems and the balance due later in the tax year. This is usually only discovered as a result of a compliance visit by HMRC.

As a result of this "practice", HMRC are losing thousands of pounds of revenue.

To assist compliance, HMRC want to introduce some further entries on to the Annual Year End P35 declaration. This would mean that employers would be required to complete 13 additional boxes on the form. Each entry should reflect the PAYE / NIC due for the tax period (not necessarily the amount paid), plus an additional box which will be available for adjustments to the final yearly total.

At the end of each tax year, HMRC will reconcile this information and identify any discrepancies, such as large fluctuations in the amounts paid, where a reasonable explanation is not forthcoming from the employer they will apply a penalty for non compliance.

Whilst Payroll Alliance completely supports the need for employers to be fully compliant, we urgently need your views as to whether this proposal would add an unreasonable burden on employers or not.

**Linda Pullan**  
**Head of Payroll Alliance**

## Survey Questions

We asked respondents a number of questions regarding the number of PAYE schemes they operated, the size of their payrolls, their internal processes, how much extra time would be needed to complete the new proposed P35 and whether they viewed this as an additional burden.

**Question: How many PAYE schemes do you operate on behalf of your company or clients (if you are a bureau or agent)?**

Number of PAYE Schemes	Number of respondents
1 PAYE Scheme	21
2 PAYE Schemes	2
3 PAYE Schemes	8
4 PAYE Schemes	2
5 PAYE Schemes	1
6 PAYE Schemes	3
7 PAYE Schemes	1
9 PAYE Schemes	1
15 PAYE Schemes	2 (1 respondent stated "15 and growing")
16 PAYE Schemes	2
17 PAYE Schemes	1
22 PAYE Schemes	1
24 PAYE Schemes	1
25 PAYE Schemes	3
30 PAYE Schemes	1
40 PAYE Schemes	1
41 PAYE Schemes	1
42 PAYE Schemes	1
45 PAYE Schemes	1
50 PAYE Schemes	2

65 PAYE Schemes	1
90 PAYE Schemes	1
120 PAYE Schemes	1
130 PAYE Schemes	1
250 PAYE Schemes	1
300 PAYE Schemes	1
1050 PAYE Schemes	1

**Question: Who completes and signs your P35 annual declaration (for example the Finance Director)?**

P35 signed by	% of respondents	Number of respondents
Member of staff	6.5%	4
Completed by payroll and signed by senior member of staff	22.6%	14
Completed and signed by payroll	43.5%	27
Completed by payroll and signed by client	19.4%	12
Completed and signed by client	3.2%	2
Other	4.8%	3
<b>Total number of responses</b>		<b>62</b>

Additional comments to this question were as follows:

1. External organisation's P35s signed by the client
2. Submitted online - so not physically signed
3. Payroll okay it then ADP submit if for us electronically
4. Completed by payroll and signed by senior member of staff
5. Returned electronically
6. Completed by Payroll signed by Finance Director
7. Group Payroll Manager

**Question: What is the size of each PAYE scheme you operate?**

<b>Size of each PAYE Scheme</b>	<b>% of respondents</b>	<b>Number of respondents</b>
10,000 +	27%	17
1,000 to 9,999	30.2%	19
250 to 999	39.7%	25
150 to 249	20.6%	13
51 to 149	25.4%	16
50 or less	38.1%	24

Additional comments from respondents regarding size of their payrolls:

1. Ranges from 1 to 900
2. The City Council's PAYE scheme covers over 55,000 employees. We also run payrolls for 15 external organisations ranging from less than 50 employees to around 700
3. 3 references in the 10,000 or more. We have various numbers in the smaller 4 categories as we pay many foundation schools and colleges.
4. 2 schemes of 10,000 or more. 1 scheme of 50 or less. 1 scheme of 51 to 149; 1 scheme of 1000 to 9999.
5. 10,000 or more = 2; 51 to 149 = 8 1,000 to 9,999 = 3; 50 or less = 11; 250 to 999 = 5; 150 to 249 = 12.
6. 15 schemes in 'under 50' employees category.
7. Three schemes with 250 to 999 employees; one with 10,000 or more. In addition to the above, we have 40+ PAYE schemes with less than 50 employees.
8. Scheme 1 = 390; Scheme 2 =25; Scheme 3 = 1
9. On size of pension payrolls:
  1. Monthly Pensions = 3000
  2. Quarterly Pensions - 700
  3. Four weekly pensions - 200

On the size of corporation employee payrolls

1. Monthly Payroll - 4500
2. Weekly payroll - 500
3. Periodic payroll – 500

On the size of the Police Payroll:

Police - 900

10. 1 scheme with over 10,000; 2 schemes with 1-9999; 3 schemes with 250-999; 2 schemes with 150-249; 2 schemes with 51-149. The remainder 50 or less employees

11. Two schemes with over 1,000 & one under 50.

12. Clients vary between 1 employee to 250 employees

13. We run 6 different PAYE schemes

14. 2 schemes with 50 or less; 3 schemes with 51-149

15. Small number on a different reference number for some ex-pats from USA based in the UK.

16. Most of the clients are 5,000 or more

17. Schemes range from 9,000 employees to under 10

18. Our 23 external client payrolls range from 250 to 2000 employees

**Question: Is the required additional information readily available to complete the additional 13 boxes on the P35?**

Answer	% of respondents	Number of respondents
Yes	64.5%	40
No	24.2%	15
Don't know	11.3%	7
<b>Total number of respondents</b>		<b>62</b>

**Question: do you envisage that any further time and cost would be involved in the completion of these additional 13 in year payment boxes? If so, what would this be?**

<b>Answer</b>	<b>% of respondents</b>	<b>Number of respondents</b>
One hour for each P35	61.3%	38
Two hours for each P35	22.6%	14
Other	16.1%	10

Additional comments:

1. Up to a day a month - running and compiling all the reports to get the monthly 'due' amounts and then entering this data onto the P35s
2. Also initial development costs by our software provider.
3. Average
4. I would hope that the P32 PAYE monthly information would be adapted into payroll software and readily available for the P35.
5. Dependent upon client size and third party payroll software provider - but allow two hours to ensure penalty avoidance.
6. Less than one hour for each company.
7. Unknown as we are not in control of what the client pays to HMRC each month (Bureau).
8. No, I cannot see it taking more than 15-30 minutes to provide this additional information
9. As the information is readily available (we reconcile each month end and make payments in full), it wouldn't cause much additional work.
10. As I update a spreadsheet monthly probably take 30 minutes to input to P35.
11. Less than one hour, no extra time for most of our clients.
12. Less than one hour - we have the information readily available and use it each for each payment

**Question: Do you believe the change to the P35 will cause a burden to employers?**

<b>Answer</b>	<b>% of respondents</b>	<b>Number of respondents</b>
Yes	68.3%	43
No	23.8%	15
Don't know	7.9%	5
<b>Total number of respondents</b>		<b>63</b>

**Question: Do you have any other risks, barriers or concerns about this proposal?**

<b>Answer</b>	<b>% of respondents</b>	<b>Number of respondents</b>
Yes	28.3%	17
No	46.7%	28
Don't know	25%	15
<b>Total number of respondents</b>		<b>60</b>

**Additional comments:**

1. The City Council (and I'm sure many other private and public sector organisations) always pays over the full amounts due to HMRC. I think the risk to HMRC of losing revenue is with smaller employers who may have cash flow problems. The additional work involved with this proposal will impact on all employers even though there may be only a few "offending"
2. If HMRC records do not balance at year-end, not sure if additional data per month will help.
3. Payroll software would need to be updated. Would then be concerned when retrospective adjustments are made that they don't impact on the extraction of monthly figures used for the P35 breakdown. Also concerned that software developers costs would be passed on to employers.
4. I just object to the HMRC getting more powers to impose penalties.

5. Yes, more big brother stuff and unnecessary burden on small businesses and their advisors.

1. Re late payments - the Revenue will be aware anyway during the year of payment dates and can calculate interest with that as a starting point.
2. Underpayments - except in cases of fraud or default the P35 will disclose any balance unpaid post 19th April.
3. 3. Most businesses within 6 or 7 years will have some form of HMRC inspection whether VAT, PAYE or tax enquiry which are now designed to review lack of compliance in areas of tax other than the notional purpose of the inspection. Accordingly, picking up genuine defaulters can hardly be that difficult for them.

6. HMRC already imposes a burden on employers in making these payment/deductions. The HMRC should have adequate internal procedures to monitor their needs.

7. When running a payroll on behalf of a client, permission has to be obtained before any data is submitted to HMRC. This is very time consuming at payroll year-end and the new proposals will effectively mean that we will have to run this 12 times a year. In the case of a client where the procedure takes 1 hour, the additional cost to them will be 12 fold so there is a minimum increase of £900.00 a year to the client's costs. In the case of a smaller payroll this would be too expensive and could lead to companies that don't have the proper resources trying to do this for themselves.

8. This appears to be yet another stick to beat employers with whilst HMRC carry on as inefficient as ever

9. I think HMRC are only looking at ways to penalise the employer. The constant changes are causing us problems because our software provider is having problems keeping up with them. Things that worked in the past now don't work every time a new change is updated. The payroll is becoming bogged down with legislation and we constantly have to get patches to sort out the bugs in the system. This has also cause more and more testing, which no longer finds everything. We are constantly adjusting payslips where things have gone wrong. There are less people in payroll and more in HR, which has a high turnover. This leads to more errors to find. At this rate, HMRC would have passed all their work onto us and will have nothing to do. Nothing is given a chance to work before it changes again. Things that were good ideas in the beginning soon turn into albatrosses around the employer's neck. There are also too many penalties for this, that and the other, the employer is not a cash machine to be targeted every

time HMRC is short of money, so stop using them as one. Why should the employer accept these changes that help HMRC, while been beaten over the head with penalties. HMRC should be rewarding the employer for doing all the extra work.

10. We continue to do more and more for HMRC and the pressures on those less experienced members of our profession may prove even more telling.

11. The additional cost will be too much for the very small employers to bear. They already operate on tight margins and consider the payroll burden too onerous.

12. HMRC getting the industry to do their job, yet again with no pay - but with penalties or should I say another stealth tax. This is added work on Client and Bureaux to provide data, which is already available to the revenue from P35 information submitted at year-end. (i.e. they already know what should have been paid versus what was actually paid). NONE of my clients abuse their monthly payroll tax payments in this way - how big is this problem? Are we all going to have to perform additional tasks just so HMRC can chase a 5% effect?

13. Explaining the change to clients

14. Much more costly in time for a bureaux who will have to pass on the cost to employer to complete the additional questions. Clients are mostly in control of what they pay over to HMRC we only advise them by way of P32 and would have to collate all this info needed either on a monthly basis or yearly.

15. The client would need to supply list of amounts paid including CIS , unless we prepare bookkeeping. Therefore errors could occur

16. Very occasionally we may discover an error in one month brought forward from a previous month - I don't like the prospect that we may have to pay a financial penalty for this.

17. Gathering required information from different employers in a consistent format.

**Question: By what other means could HMRC achieve compliance regarding late or incorrect in-year payments?**

Answer	% of respondents	Number of respondents
Monthly returns made by employers	71.2%	42
More compliance checks	18.6%	11
Other	10.2%	6
<b>Total number of respondents</b>		<b>59</b>

**Additional comments:**

1. Monthly submissions should be close to 1/12th of P35 figures. If this is more or less than 8.33% plus tolerance of say 1% then HMRC should request explanation and audit if not satisfied. When making monthly submission a comment box could be made available to highlight abnormal payments. The above may not work for seasonal employers.

2. As above already.

3. Why do HMRC need to do this? If a company pay their PAYE etc and it agrees to the P35 that should be enough.

4. How would they know it's incorrect unless the employer tells them? If the employer makes monthly returns, as well as 13 extra questions at the end of the year on the P35, then what is the point of producing P14s that are no longer read? If the employer makes monthly returns then they shouldn't have to do P14s, just complete the P35 to show the totals. Some employer may not have enough time since they have different payrolls, which have a quick turnover. HMRC should start cancelling a few of the old systems before increase the workload with new ones. HMRC should be looking at ways to streamline the payroll system not bogging it down.

5. Quarterly returns may be better

6. Surely HMRC know what the typical value of an employer's monthly return will be and they could conduct their own validations in-house. Any large discrepancies - say a fluctuation of 10% or more - could be investigated. Initially, a written enquiry could be issued and then, if the employer's explanation does not stack up, a more formal investigation.

7. To submit a monthly return would be more time consuming than the 13 boxes on the P35 at the end of the year. This is currently done for CIS on a monthly return and there are costs involved to clients. If this were to be done for PAYE there would be additional costs. For CIS returns as an agent I have to obtain our clients signature before submitting the return. Thus there is processing, posting/emailing, then submitting. This process can take a few days or so to complete!! Can HMRC target the worst Offenders!!!!

8. Why do they need to ask for additional information that they have managed without for the last xx years. Is this another way to fill the coffers with additional penalties and interest? If so, in the current economic climate it is hardly constructive.

9. The data already exists - it just needs HMRC to adjust their software to reconcile the monthly returns and payments.

10. From my experience: Much time and effort is wasted by both HMRC staff and employers' payroll teams as a result of HMRC disregarding information sent to them - not to mention internal errors within HMRC and an intermittently lackadaisical approach to their resolution. A greater level of engagement, commitment and ability from HMRC members of staff would help HMRC achieve compliance. And actually reading the information that we all send to them. I have experienced numerous issues where we have provided supplementary information to HMRC (which was disregarded), as a result of erroneous re-allocation of monthly payments. This has occurred on more than one occasion and sadly, I have seen little evidence that the majority of HMRC employees are prepared to put an appropriate amount of effort in to resolve an issue that was original created their end (as one example). There is also little connectivity within HMRC between local collection offices and the main Accounts Offices at Cumbernauld, Shipley, etc, and it is not uncommon for employers to be given conflicting information on which office (Local to main Accounts Office), employers should deal with in the event of an issue. On another issue, both the local and Cumbernauld offices told me that I should be speaking to the other one. Often, we have been left with the sensation that there is a genuine sense of disinterest among certain HMRC employees - probably on account of some issues fitting into the 'too difficult' bucket, which might result in them having to remain at their desk beyond 15:30 on a given afternoon. I have, however, been fortunate to deal with some individuals at HMRC who are committed to making a difference and are able to provide good / appropriate advice, although it is unfortunate that these individuals appear to be in the minority at present. I would add the service provided has improved over the last 20 years, but there is still some way to go.

HMRC need to focus more on operating like a professional organisation in recruiting more talented individuals to perform the work required. This undoubtedly will reduce the burden on employers and improve the quality of information held within the HMRC databases. If they do not, I foresee employers having to submit the P35 form in Ladybird "Peter & Jane" style.

11. Due to the extra work involved would it not be better to enable employers to input this information online via the HMRC website

12. Our payroll bureau supplies a print of the figures that need to be paid to the HMRC. This must be a common practice. If so this could be remitted to the HMRC on a monthly basis and would tie-in with the payments.

13. As per the CIS monthly returns that seem to work really well

14. Quarterly returns made by employers rather than monthly.