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DELAYING TACTICS? AUTOMATIC ENROLMENT AND POSTPONEMENT

An employer's staging date represents the point they should have everything in place to comply with their automatic enrolment duties. Postponement doesn't delay an employer's staging date but it is a useful feature of the regulations which can benefit employers in a number of ways as they comply with their new duties.

The concept of waiting periods under workplace pension schemes is not new. Often employees will become eligible to join their employer's pension scheme after a set probationary period typically ranging from three to six months, although it can be longer.

Under automatic enrolment, postponement is a similar concept but

there are differences. Postponement does not alter the employer's staging date so it can't be used to buy additional time for an employer to comply with the new rules. The staging date is effectively the final step in the process where an employer must have everything in place.

Postponement allows employers to delay the assessment of their workers for a period of up to three months until a date known as the deferral date. However, unlike a traditional waiting period where scheme membership can be deferred, it's important to remember that any jobholders who are not active members of a qualifying scheme can choose to opt in during the postponement period and benefit from employer pension contributions. Entitled workers have the right to join a pension scheme during the postponement period.

Benefits of using a postponement period

There are a number of reasons employers should consider using postponement.

- Aligning enrolment dates with pay reference periods and avoiding calculating pension contributions on part period earnings.
- Avoiding the enrolment of temporary or short-term workers, or those with a spike in their earnings.
- Staggering the impact of staging by enrolling different groups of workers over a three month period.
- Using a postponement period to allow contractual joining to a scheme on a salary exchange basis.

Colin covers salary exchange and automatic enrolment in this edition, so I'll focus on the process itself along with some examples.

The process

Postponement can be used for a single worker, a group of workers or the entire workforce. The employer must issue the worker or workers with a postponement notice. This can only be used for a worker on certain dates.

1. The employer's staging date, for any workers employed on their staging date.
2. The first day of employment, for any worker starting employment after the employer's staging date.
3. The date a worker employed by them meets the criteria to be an eligible jobholder after the employer's staging date.

The postponement notice must be issued within one month of the date the employer wishes to use postponement. If the notice is not issued within this time frame, postponement cannot be applied.

The postponement notice

This informs the worker that automatic enrolment has been postponed along with the date they will be assessed to see if they are eligible for automatic enrolment (the deferral date). The postponement notice can also include other pieces of information an employer is required to communicate to their workforce such as the requirement to tell:

- A jobholder about their right to opt-in to an automatic enrolment scheme.
- An entitled worker about their right to join a pension scheme.
- A jobholder who is an active member of a qualifying pension scheme about the scheme.

There are four different types of postponement notice, with different levels of information:

Notice	Information
General notice A	Contains the information that must be provided to all the different categories of worker: <ul style="list-style-type: none"> • eligible jobholders • non-eligible jobholders • entitled workers • jobholders who are active members of a qualifying pension scheme.
General notice B	As per notice A but excluding information for jobholders who are active members of a qualifying pension scheme.
Tailored notice for a jobholder	Contains specific information for a jobholder who is not an active member of a qualifying scheme with that employer.
Tailored notice for an entitled worker	Contains specific information for an entitled worker who is not an active member of a qualifying scheme with their employer.

The employer can choose which type of postponement notices to issue, except where they are using postponement on the date a worker employed by them meets the criteria to be an eligible jobholder after the staging date. In this case the tailored notice for a jobholder must be used.

The deferral date

The employer can choose the deferral date to suit the reason for using postponement. For example, if postponement is being used to avoid calculating pension contributions on part-period earnings, the deferral date should coincide with the first day of a pay reference period.

If postponement is being used to avoid enrolling short-term workers or those with a one-off spike in their earnings, it may be more appropriate to set a deferral date for the full three months.

Case study

SmartCo have a pay reference period in line with the calendar month. They are keen to keep administration to a minimum and avoid having to calculate pension contributions on part-period earnings as this will involve manual adjustments to their payroll process. Their staging date was 1st February 2013. They pay their permanent staff on the last working day of each month for the hours worked during that month.

We'll look at three employees to see how postponement can benefit SmartCo.

- Morag, age 35, starts employment with SmartCo on 22nd March on an annual salary of £30,000.
- Hamish age 40, starts employment on the same day on an annual salary of £18,000.
- Dougal is an existing employee who reaches age 22 on 15th March. His earnings are £24,000 per annum.

Without postponement

Both Morag and Hamish will need to be assessed on 22nd March.

Morag's earnings during the period 22nd March to 31st March will be £821 which is above the earnings trigger for automatic enrolment. Morag is therefore an eligible jobholder and will need to be automatically enrolled. SmartCo will need to calculate Morag's pension contributions based on her earnings during the period 22nd March to 31st March, with subsequent calculations based on her full monthly earnings of £2,500.

Hamish, on the other hand, will earn £493 during the same period which is below the earnings trigger. He is therefore a non-eligible jobholder and his employer will need to provide him with information about the right to opt-in to an automatic enrolment scheme. SmartCo will need to re-assess him on 1st April. At this point he will be an eligible jobholder and will need to be automatically enrolled.

Dougal must be assessed on 15th March when he reaches age 22. His earnings during the pay reference period 1st March to 31st March mean he is an eligible jobholder and will need to be automatically enrolled. SmartCo will need to base his pension contributions on his earnings for the period 15th March to 31st March.

With postponement

SmartCo could use postponement to smooth out the joining process and avoid part-period calculations. They issue postponement notices to Morag, Hamish and Dougal informing them that automatic enrolment has been postponed until 1st April. They can use a general notice for both Morag and Hamish, but for Dougal a tailored notice for a jobholder will need to be used.

The notices will explain that they have a right to opt-in to an automatic enrolment scheme. None of them exercise their right to opt in and SmartCo assess them 1st April. All are eligible jobholders and SmartCo proceed with automatically enrolling them, with the first contribution based on their full earnings during the pay reference period 1st April to 30th April.

By using postponement SmartCo have avoided having to calculate contributions on part-period earnings for Morag. As Morag and Hamish started employment on 22nd March, they have also avoided having to deduct contributions for the period 22nd March to 30th April from their April salaries.

Any jobholders who are not active members of a qualifying scheme can choose to opt in during the postponement period.

Other aspects

Exemption for defined benefit (DB) schemes

Employers who are using a defined benefit (DB) or hybrid scheme as their automatic enrolment scheme can choose to postpone automatic enrolment during the transitional period for workers who are jobholders on their staging date. Subject to certain conditions being met, this means the employer could delay automatic enrolment for these jobholders until 1st October 2017.

In December 2012 the DWP announced that a loophole which allowed a cash balance scheme to be classed as a DB scheme (even though it does not provide salary-related benefits) will be closed. An amendment to the Pensions Act 2008 will ensure that this exemption will only apply to employers operating DB schemes or hybrid schemes which offer the better of DB or defined contribution (DC) benefits.

TUPE transfers

When a worker changes employer as a result of a TUPE transfer, the new employer is responsible for complying with the automatic enrolment duties for that worker as well as any pension scheme requirements under TUPE.

Any transferred employees who were already in a pension scheme will need to be placed in a TUPE compliant scheme immediately following transfer, even if the employer is using postponement for automatic enrolment. If the TUPE compliant scheme is not a qualifying workplace pension scheme, the employer will need to use a different qualifying scheme to meet their automatic enrolment duties.

For further information on TUPE transfers you can refer to the following article:

www.scottishwidows.co.uk/Extranet/Literature/Doc/FP0268

SUMMARY

Postponement offers employers a degree of flexibility when implementing their automatic enrolment scheme. Although it could be used in a similar way to a traditional waiting period, it will probably be most useful where employers want to tie in automatic enrolment with their existing payroll processes or avoid having to enrol short-term workers.

