Thursfields
Solicitors

What does the apprenticeship levy mean for your charity?

The government has set out its stall to use apprenticeships to upskill the UK workforce and improve the nation's productivity. It is anticipated that more than 1,000 charities are likely to be liable for the levy, costing the sector £70m.

Although it is called an "apprenticeship levy" its application is not dependent upon whether your charity employs apprentices or not. It applies to all employers. On the back of pension auto-enrolment and the National Living Wage, some employers consider this "training tax" a tax too far.

Others recognise the value and opportunities in training through apprenticeship programmes and identify a potential benefit for their organisation. However, there is concern that the start date of April 2017 does not give charities sufficient time to develop quality apprenticeships that can really benefit the sector, especially as there is no charity sector skills council to support such development.

We set out more of the detail below but, in essence, where an employer pays the levy the employer can access their contribution to pay for apprenticeship training by approved providers. There is a concern that, if charities are not able to provide apprenticeships, one impact of the levy will be that charity donations will be used to subsidise private sector employers' apprenticeships. The government is seeking views as to whether or not employers should be able to transfer 10 per cent of their levy funds to other organisations. There appears to be a strong case that a charity should be able to assign 100 per cent of its levy to another charity with similar purposes.

Who Will Pay?

Employers, in all sectors, are required to pay the levy, which is charged at 0.5% of an employer's annual pay bill (based on the total amount of earnings subject to Class 1 secondary NICs). There is an allowance of £15,000 per year to offset against any levy. In effect, an employer will only pay the levy if their pay bill exceeds £3 million in a given year. The levy will be collected by HMRC through the PAYE process. The government estimates that 2% of employers or 22,000 organisations will be affected by the new levy.

Companies and charities that are connected in a group structure will have one £15,000 allowance to share between the group. The government has said that it recognises some employers would like to fund apprenticeships for other employers, for example, those in their supply chain and so by 2018, it proposes to allow some transfer of funds between employers to support this.

All business that pay the levy will be able to access their contribution through an online digital apprenticeship service account and use it to pay for apprenticeship training by approved providers. The government will top up an employer's fund by 10% and the employer has 18 months in which to use or lose the funding. Many SMEs will be unaffected as their pay bills fall below the threshold. A recent CIPD policy report suggests that a proportion of all apprenticeship levy funds should be allocated to Local Enterprise Partnerships/Business Growth Hubs to enable them to better support SMEs to invest in apprenticeships.

No doubt, the intention is to encourage growth in the quality and quantity of apprenticeships on offer. But there is a concern that the bureaucracy and restrictions around the use of levy funds may encourage another response, namely training investment focussed around lower level and short-term apprenticeships.

What about employers who don't need to pay the levy?

Employers that do not pay the levy will be able to receive government funding towards the costs of apprenticeships through co-investment. They can still use the digital apprenticeship service to access and pay for apprenticeship training and assessment. The government has yet to confirm its level of co-investment – details are expected in October 2016. The government may waive the requirement upon an employer to co-invest for small employers (those with fewer than 50 employees) that train 16-18 year old apprentices or in other circumstances, for example, where the apprentice is a 19-24 year old care leaver.

What can employers do to prepare?

- The size of your organisation doesn't matter – it's the wage bill that counts, so organisations with a small workforce could still be affected if they carry a hefty wage bill due to employing highly skilled or specialised workers;

- Estimate and plan in advance for the financial cost of any levy – it could be significant;

- Review your organisational structure and resourcing to determine how your organisation might make best use of levy funds if it has to pay. The key requirements for an apprenticeship are:

    - the apprentice must be employed in a real job; they may be an existing employee or a new hire;

    - the apprentice must work towards achieving an approved apprenticeship standard or framework;

    - the training must last at least 12 months;

    - the apprentice must spend at least 20% of their time on off-the-job training.

For more details of the current proposals go to government guidance.

For advice and assistance on HR and employment law issues relating to charities contact Jenny Smith on 01905 677052 or email jsmith@thursfields.co.uk