

## Payroll

### Redundancy Payments

An employee who has been employed for at least two years and is dismissed because of redundancy is entitled to a statutory redundancy payment.

Any service before the employee's 18th birthday is discounted, and redundancy payments are not made to those who have reached age 65 (both men and women) or the company's normal retirement age where this is lower than 65 and non-discriminatory.

A redundancy situation can also arise where an employee is laid off or kept on short time.

Redundancy is defined by the Act as a dismissal attributable wholly or mainly to the fact that the:

- (a) employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him or her, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed, or
- (b) requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place they were so employed, have ceased or diminished, or are expected to cease or diminish.

Redundancy, therefore, can occur where:

- (a) The whole business closes down, or is expected to close down
- (b) The business closes down in a particular place, or is expected to close down:
  - i. a factory closes
  - ii. an office closes
  - iii. a company ceases to trade in a particular area
- (c) Requirements of the business for employees to carry out work of a particular kind cease or diminish:
  - i. the requirements diminish because the business diminishes
  - ii. the requirements diminish because productivity increases, eg by the purchase of new machinery
  - iii. The requirements diminish because the work is done in another way, eg it is put out to contract.

Where redundancy is based on a reduction of requirements for employees for work of a particular kind, it must be shown that it is the **nature** of the work that has changed rather than the standard that the employer expects the employee to meet.

A statutory redundancy payment is due only where the employee is dismissed (as compared with resignation). For this purpose, an employee volunteering for redundancy is dismissed. If the employee leaves before the redundancy date by agreement, payment remains due.

Statutory redundancy pay is calculated as the total of:

- for each complete year of service between 18 and 21, ½ a week's pay
- for each complete year of service between 22 and 40, 1 week's pay
- for each complete year of service between 41 and 65, 1 ½ week's pay

Please note

- service longer than 20 years does not count
- A "week's pay" is the amount due under the employment contract on the date that the minimum notice of termination was or should have been given. The minimum is 1 week per year of service up to a maximum of 12 weeks.
- A week's pay cannot exceed a specified figure (£310 from 1 February 2007). This limit is updated annually
- Reckonable service is limited to the last 20 years before redundancy. The maximum payment under the scheme (from 1 February 2007) is therefore £9300.

Redundancy payments are not taxed for PAYE or National Insurance on the first £30,000. Any unpaid wages, bonuses and occupational pensions are still taxable, except that the pensions are not liable to National Insurance.

<http://www.hmrc.gov.uk/manuals/eimanual/EIM13760.htm>

Where a business which is ceasing to trade makes extra payments in excess of the statutory redundancy payment (or to any other obligatory payment) which (but for permanent closure of the business) would be allowable as a deduction in computing profits or gains under Schedule D, the added payment will be allowable as a deduction provided its not more than three times the amount of statutory redundancy pay.

When a statutory redundancy payment is made after trade etc ceases, it is treated as though it were made on the last day on which the trade or business was carried on.

Redundancy payments made by a business which is continuing to trade are eligible for tax relief in the normal way.

The DTI has just launched a new redundancy pay calculator to reflect changes in the legislation for age discrimination, and this can be found at

<http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page33683.html>