

Employment tribunal holds that an employee was not liable for PAYE under-deductions

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Employment tribunal holds that an employee was not liable for PAYE under-deductions

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The employment tribunal has held that an employee was not liable for PAYE under-deductions because their employer had not taken reasonable care in complying with the PAYE Regulations. Instead the employer had delegated the matter to a payroll agent without liaising with them or making enquiries of them.

The PAYE Regulations provide that where an under-deduction is made, HMRC may, at the employer's request, direct that the under-deductions are recovered from the employee where the employer has taken reasonable care and the under-deduction was in good faith.

In this case, under-deductions had been made from Mr Sparrey because his P45 did not state his income from his previous employer. However, Mr Sparrey had provided his employer, Adra Match, with payslips from his previous employer which had not been sent to Adra Match's payroll agent. The payroll agent had not made an enquiry in this respect. HMRC corresponded with Adra Match and directed that the under-deductions be recovered from Mr Sparrey.

Mr Sparrey appealed against HMRC's direction and the employment tribunal allowed his appeal. It held that it was not reasonable for Adra Match to have handed over all payroll matters to its agent without enquiring about them or liaising with them and given that Adra Match had information about Mr Sparrey's previous pay position, its agents would have, had they enquired.

Sparrey v HMRC [2014] UKFTT 823

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