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# Auto focus

## Meet the standards or risk the consequences

All businesses that accept credit or debit cards as a method of payment must comply with a new data security standard or risk facing punitive action.

The Payment Card Industry's (PCI) Data Security Standard is intended to protect cardholders' credit and debit card accounts and transaction information. PCI Data Security Standard is a framework that is now universal across all major payment card brands and businesses that do not comply may be subject to severe sanctions, ranging from fines, to losing the authority to take payments by card. Given most customers tend to pay by plastic rather than cash this revocation of privileges could present problems for your business.

### Security checklist

The standard addresses 12 key security areas, providing a consistent framework for securing and monitoring cardholder data. The following checklist will help you assess how compliant your business is with the standard.

1. Do you maintain a policy that addresses information security?
2. Have you checked you are not using vendor-supplied defaults for system passwords and other security parameters?
3. Do you protect your stored data?
4. Do you encrypt transmissions of cardholder data and sensitive information across public networks?
5. Do you use and regularly update antivirus software?
6. Are your systems and applications developed securely?
7. Do you restrict access to data on a need-to-know basis?
8. Do you assign a unique ID to each person with computer access?
9. Do you restrict physical access to cardholder data?
10. Do you track and monitor access to network resources and cardholder data?
11. Do you regularly test security systems and processes?
12. Have you installed and maintained a firewall configuration to protect your data?

### Validating your compliance

You need to validate your compliance on a regular basis. The validation requirements vary according to the number of card transactions processed annually. However, as a minimum, an accredited security firm must carry out a quarterly external network vulnerability scan. Most businesses in the automotive sector are also required to have an annual on-site security audit, although, in some cases, a self-assessment questionnaire may be enough.



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If you have any concerns or need further advice in connection with Payment Card Industry's Data Security Standard, contact: [Mark Child, Partner, Kingston Smith Consulting LLP at mchild@kscllp.co.uk](mailto:mchild@kscllp.co.uk).

# Employers beware!

**Recent developments in employment legislation will add to the complexities of running your business at a time when most are battling against the effects of the credit-crunch induced recession. The changes concern the clarification of the Working Time Regulations surrounding the right to accrue statutory holiday entitlement for the long-term sick and the pronouncement by the government to allow new fathers to take up to 6 months paternity leave.**

### Statutory holiday

It is now clear that employees on long-term sick leave continue to accrue statutory holiday. This does not apply to the additional contractual holiday entitlement offered on top of statutory holiday. Affected individuals may also be able to claim compensatory pay for any statutory holiday that they have accrued and not used as holiday leave from previous years when they leave employment.

Working Time Regulations state that in normal circumstances all employees working 5 days a week must have a minimum of 28 days (5.6 weeks) holiday including bank holidays per holiday year (pro-rata for part time employees). This applies in respect of holiday which can be accrued during long-term sick leave. In practice, 20 days of the statutory holiday can be taken during sickness absence, so in effect it is permissible to allow employees to take holiday during their absence. Only 8 days of the statutory holiday can be transferred to the following holiday year if permitted in the contract of employment.

Termination of employment is the only instance where a payment in lieu of statutory holiday can be made. So in practice employers must allow employees to take all the statutory holiday accrued in a holiday year irrespective of whether they are working or they are absent due to sickness. Recent case law indicates that all untaken holiday could be accumulated and claimed by an employee on termination. It may be necessary to review existing employment contract so that they clearly state that a payment in lieu of accrued but untaken holiday will only apply to the current holiday year.

### Paternity leave

The government is proposing to allow new fathers to take up to 6 months of paternity leave in addition to their current rights, on the basis that it will make it easier for parents to share the childcare responsibilities. Fathers will have the option of using all or some of the last 6 months of the mother's current 52-week maternity leave entitlement. If the mother decides to go back to work after 6 months, the new father will be able to take up to 6 months off. This will be described as 'Additional Paternity Leave'. Statutory maternity pay (SMP) presently lasts for 39 weeks, so if the mother returns to work after 26 weeks (6 months), this will enable the father to have 13 weeks of paid leave and 13 weeks of unpaid leave afterwards. It will be paid at the SMP rate - currently £124.88 per week (although there are proposals to extend SMP to 52 weeks).

The government hopes the proposal will become law this April and applied to children born after 3 April 2011. If this is the case, then from this autumn, employers may be asked to approve additional paternity leave for next year. The father will not be able to take advantage of the additional leave until the mother has completed at least 6 months of maternity leave.

At present, as the 2-week paternity leave is paid at the same rate as maternity pay, uptake is minimal (less than 20,000 fathers annually) with the majority of fathers preferring to take 2 weeks of paid holiday leave. However, we envisage a scenario where mothers on higher salaries than fathers will choose to go back to work sooner rather than later and let the father and his employer take the strain!



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There must be a real risk that dealerships could find themselves disproportionately affected by this change in legislation if the sector's recovery remains slow. How many of the predominantly young and male vehicle sales workforce might choose to take the paternity leave option rather than slog through a time of continued low commission earnings throughout 2011?

If you would like further information or if you have any concerns on the topics mentioned above, please contact:

[Heather Matheson, Managing Director, HR Insight Limited](#) at [hmatheson@hrinsight.co.uk](mailto:hmatheson@hrinsight.co.uk)

## Hello Darling!

**The new super higher rate of 50% came into force on 6 April for those with incomes over £150,000. So what can be done to avoid or mitigate this? Remember that for income in the band from £100,000 to about £113,000 the marginal rate is 60% with the loss of personal allowances.**

There are opportunities for all businesses including those in the automotive industry to reduce some of the additional tax burden on their directors and higher paid employees, as follows:

- Implement a salary sacrifice scheme - employees may give up gross salary in exchange for contributions to a personal pension scheme. There can be substantial savings for both employer and employee. The employer will save national insurance contributions, currently 12.8% of the value of the salary sacrificed. Likewise, the employee is likely to save national insurance, depending on income levels; employees paying higher rate tax will receive additional tax relief at the highest rate of tax. There are limits on the higher rate tax savings available which have been imposed by the government's anti forestalling provisions. Nevertheless a salary sacrifice arrangement is definitely worth investigating by most businesses.

- Take a dividend rather than salary – on the basis that an employee/shareholder's income is above the 50% tax threshold and that the employer pays the full rate of corporation tax (currently 28%), the comparable marginal tax rates during 2010/11 are 56.56% for salaries and 54% for dividends. For 2011/12, under the same circumstances, this becomes 57.19% for salaries and 54% for dividends. A reasonable saving to be made!

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- Convert income to capital – with a capital gains tax rate (CGT) of just 18% this is even more attractive with income tax at 50% but still a substantial saving at the 40% rate. Just how long the 18% CGT rate might last is perhaps a matter for speculation. In the meantime, investments that provide a return through capital growth rather than income may be attractive. In the owner managed business context, it may be worth considering retaining profits within the business at corporate tax rates of 21% or 28%, to realise subsequently through sale or liquidation.

In addition to the above, individuals should consider the following tax planning opportunities to mitigate the effect of the new higher rate tax:

- Postpone income to later years – with little likelihood of lower tax rates in the near future this may only be feasible if income is likely to be lower in later years (e.g. perhaps through retirement) or can be deferred for some considerable length of time.

- Look at allowable deductions from income – taxable income may be reduced below the £150,000 (or £113,000) threshold by e.g. gift aid payments, pension contributions (although these have a host of problems of their own with the new restrictions on higher rate relief). Ensure you make claims, where possible for all relevant expenses e.g. use of home. You may be able to rearrange borrowings not eligible for interest relief so that the loan is for a qualifying purpose (e.g. for financing loans or share capital in "own" business).

- Make use of tax free investments – investing in ISAs (current limit of £10,200 pa which can grow to substantial amounts over a period of time), some National Savings products (e.g. Savings Certificates or Premium Bonds) or Investment Bonds (where income/gains are not taxed if left within the bond wrapper).

- Consider other tax favoured forms of investment – when investing in Enterprise Investment Schemes (EIS) or Venture Capital Trusts (VCTs) the risk and investment potential need to be considered as well as the tax benefits.

- Equalise incomes - in most cases investment assets can pass between spouses tax free. If there is an imbalance in income between spouses, try to ensure that investment assets which generate income are held by the spouse with the lower marginal tax rate. Any such equalisation does not have to be between spouses, it may for example be worth considering passing assets to other family members with lower rates of tax. However, there are then likely to be CGT and Inheritance Tax consequences and where assets are transferred by parents to minor children income (but not capital gains) will still be taxed on the parents.

If you would like to discuss the potential opportunities for you to save tax then please contact:

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Kingston Smith LLP.



# About Kingston Smith's automotive team

Kingston Smith is a top 20 firm of Chartered Accountants, with 61 partners and 500 staff spanning seven offices across London and the South East.

Our automotive team currently acts for a variety of businesses involved in the sector including franchised dealers, independent garages, bodyshops and after market businesses as well as suppliers and manufacturers of parts and ancillary automotive products.

Our experienced team understands the issues and challenges being faced by businesses in the automotive sector including maximising profitability, improving cash flow, forecasting and working capital management.

We also act for the Retail Motor Industry, RMI, the trade association representing the interests of companies operating in the retail motor industry.

We provide specialist support which in these difficult times will help you meet your challenges.

More information about Kingston Smith and our services can be found at: [www.kingstonsmith.co.uk/automotive](http://www.kingstonsmith.co.uk/automotive)

## Contact us

**If you would like to discuss any of the matters arising in this edition or how we can help you, please contact one of the Kingston Smith Partners by email or on 020 7566 4000.**

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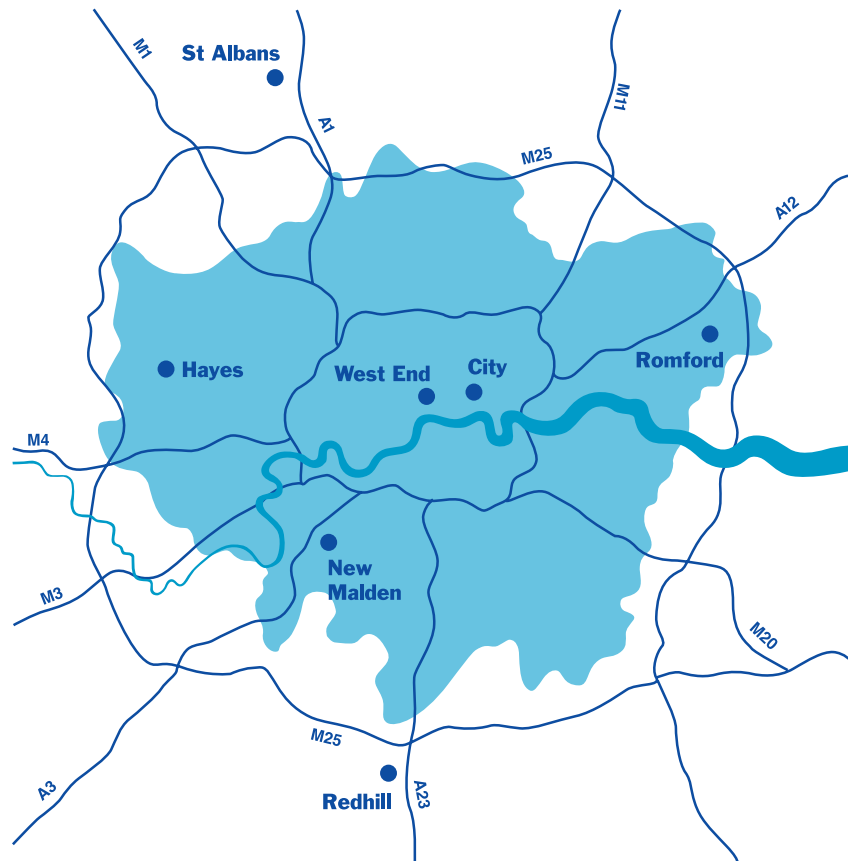
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