***Delete this page and footnotes from finalised form***

|  |  |
| --- | --- |
| **Model Form No.**  | 7 |
| **Model Form Name:** | Model information sharing agreement (for the purposes of fulfilling the obligations imposed by the onshore intermediaries’ legislation (i.e. the ITEPA Regulations) |
| **Date:** | March 2015 |

**Background:**

From 6 April 2014, any temporary worker engaged through an employment intermediary is deemed to be employed for tax and NICs purposes unless the intermediary can demonstrate that the individual is not subject to (or to the right of) direction, supervision or control. To monitor compliance with this requirement, from 6 April 2015, HMRC requires employment intermediaries with the direct contractual relationship with the end client (the “Specified Intermediary”) to report on all workers not accounted for in their own Real Time Information (“RTI”) reports. This includes individuals working through other intermediaries such as umbrella companies, personal service companies, CIS intermediaries, partnerships, other corporate entities or acting as sole traders.

The reporting dates for 2015/16 are as follows:

|  |  |  |
| --- | --- | --- |
| **Reporting period** | **Report due** | **Deadline to amend a report** |
| 6 April to 5 July 2015 | 5 August 2015 | 5 November 2015 |
| 6 July to 5 October 2015 | 5 November 2015 | 5 February 2016 |
| 6 October to 5 January 2016 | 5 February 2016 | 5 May 2016 |
| 6 January to 5 April 2016 | 5 May 2016 | 5 August 2016 |

**Why have an information sharing agreement?**

The Specified Intermediary will be either an employment business or a vendor sitting between the client and the employment business. Any party acting as a second or third tier supplier will have to share specific details of those workers not accounted for in the RTI reports in order for the Specified Intermediary to be able to pass the information to HMRC. Some of the details required will constitute personal data for data protection purposes. All parties collecting personal data must comply with the Data Protection Act 1998 (“the DPA”) and the eight principles set out in the DPA. These relate to the collection, use and storage of data. In summary they are that personal data must:

* 1. be fairly and lawfully processed i.e. with consent or it is otherwise necessary for specific reasons;
	2. be processed for limited purposes;
	3. be adequate, relevant, and not excessive;
	4. be accurate and kept up to date;
	5. not be kept longer than is necessary;
	6. be processed in accordance with the individual’s rights;
	7. be processed securely; and
	8. not be transferred to countries that do not have adequate levels of protection.

Parties who pass personal details to another party may wish to enter into an information sharing agreement to set out (1) the data being shared, (2) the reasons for sharing the data, (3) how the data will be shared and (4) how long the data will be retained for. This form has been created to assist REC members in complying with both the ITEPA legislation and data protection requirements. However the form can be amended and used for any other information sharing purposes.

Further information on your data protection obligations is available from the [REC Legal Guide](https://www.rec.uk.com/legal-resources/legal-guide/data-protection). In addition the Information Commissioner’s Office has produced [a statutory code of practice on data sharing](https://ico.org.uk/for-organisations/guide-to-data-protection/data-sharing/).

Please note that the information sharing agreement does not cover all of the information the Specified Intermediary is required to report. This is because not all of the information required is personal data for DPA purposes. For full details of the reporting requirements please see the [relevant regulations](http://www.legislation.gov.uk/uksi/2015/171) and [HMRC guidance](https://www.gov.uk/government/publications/employment-intermediaries-reporting-requirements).

**[Insert the Company logo(s) if desired]**

**Information Sharing Agreement- Summary Sheet**

|  |  |
| --- | --- |
| **Title of Agreement** | **Information Sharing Agreement- information required under the intermediaries legislation**  |

|  |  |
| --- | --- |
| **Purpose** | To facilitate the sharing of information required by the Income Tax (Pay As You Earn) (Amendment No.2) Regulations 2015 between the organisations party to the agreement. |

|  |  |
| --- | --- |
| **Date agreement comes into force** |  |

|  |  |
| --- | --- |
| **Date of agreement review** |  |

|  |  |
| --- | --- |
| **Agreement drawn up by** | [Insert name of the organisation receiving the data] and [Insert name of the organisation sending the data] |

|  |  |
| --- | --- |
| **Location of agreement in force** | [Insert full address where record of agreement is being kept] |

**VERSION RECORD**

|  |  |  |  |
| --- | --- | --- | --- |
| **Version Number** | **Amendments Made** | **Date Amendments Made** | **Authorisation** |
| 1 |  |  |  |
|  |  |  |  |
|  |  |  |  |

Information Sharing Agreement

This Information Sharing Agreement (“ISA”) defines the arrangements for sharing information between [Insert name of the Receiving Party] (“the Receiving Party”) and [Insert name of the Sending Party] (“the Sending Party”) (together “the Parties”).

1. **Parties to the agreement:**

|  |  |
| --- | --- |
| [Insert full name and address of the Receiving Party] | [Insert full name and address of the Sending Party] |

1. **Why is the information being shared? [[1]](#footnote-1)**

|  |
| --- |
| The information is being shared in order for the Parties to comply with their obligations under the Income Tax (Pay As You Earn) (Amendment No.2) Regulations 2015 (“the Regulations”)  |

1. **What information is being shared?**

|  |
| --- |
| In relation to each worker supplied by [Insert name of the Sending Party] and for whom [Insert name of the Receiving Party] has a reporting obligation, the information being shared is as follows-**Worker details:*** Name (first and last names are mandatory, middle names are optional)
* Address and postcode
* National Insurance number (or date of birth and gender if no National Insurance no.)

**Engagement details:*** Intermediary type [[2]](#footnote-2) and Companies House registration no. where a limited company
* Start date of engagement
* End date of engagement (where known)

**And, where applicable:*** Unique tax reference no. (where a self-employed contractor, partnership or limited liability partnership did not operate PAYE)
* Amount paid for the worker’s services and the currency in which services were paid for (where the intermediary is a self-employed contractor, partnership, limited liability partnership, limited company or non-UK engagement) (only £sterling or Euros are acceptable)
* Whether VAT was charged [[3]](#footnote-3)
 |

1. **What is the legal justification for sharing?**

|  |
| --- |
| The information is being shared in order to comply with the Regulations.The Parties do not require the explicit consent of each individual supplied to work for an end user client because this information is required to comply with the reporting requirements under the Regulations. [[4]](#footnote-4) |

1. **How will the information be shared?**

|  |
| --- |
| The information will be shared by [insert method of transferring information to reporting party- e.g. hard copy, electronically].[The security measures that apply to the information are as follows: [insert security measures- e.g. protective marking, encryption].][The following methods of sharing information are not acceptable: [insert unacceptable methods of sharing information].]Information that is shared should be labelled with the name of its originator, so that obligations around withdrawal of consent, updating to maintain accurate records and reporting any breaches can be fulfilled. |

1. **How will the information be stored?**

|  |
| --- |
| [Insert method of storing the information- e.g. secure server - include any security measures] |

1. **Who will handle the information?**

|  |
| --- |
| For the Receiving Party: [Insert name(s) and job title(s) of information handler(s)]For the Sending Party: [Insert name(s) and job title(s) of information handler(s)]Only appropriate and properly authorised persons will have access to the information. The information shared should not be disclosed to any third party except for HMRC. |

1. **How long will the information be kept?**

|  |
| --- |
| The information will be kept for [the statutory minimum of three] **OR** [insert length of time the information will be kept if longer than the statutory minimum] years from the end of the tax year. [[5]](#footnote-5) |

1. **How will the information be used, retained and destroyed?**

|  |
| --- |
| The Parties to this agreement undertake that the information shared under the agreement will only be used for the specific purpose for which it was shared, in line with this agreement. It must not be shared for any other purpose outside of this agreement.In each case, the originating organisation remains the primary information owner and record keeper for the information that is shared.The following destruction process will be used when the information is no longer required:* [paper]
* [electronic]
 |

1. **What date will the information be shared? The initial date must be later than the date of the signatures below and should give an indication of subsequent dates for regular sharing.**

|  |
| --- |
| The information will be shared [x days] **OR** [x weeks] before the reporting deadline as set by HMRC [[6]](#footnote-6). Subsequently, the information will be shared every 3 months in order to meet the deadline set by HMRC (e.g. one month after the end of every tax quarter). |

1. **What are the names, roles and contact details of any members of staff who will make sure that the required information is shared at the appropriate time and are responsible for accuracy?**

|  |
| --- |
| For the Receiving Party: [Insert name(s), role(s) and contact details]For the Sending Party: [Insert name(s), role(s) and contact details]Before sharing, those named above will check that the information being shared is accurate and up to date to the best of their knowledge.If a complaint is received about the accuracy of personal information which affects the information, updated information will be communicated by the names listed above before the report replacement deadline as set by HMRC (four months after the end of every tax quarter). |

1. **When will this agreement be reviewed and by whom?**

|  |
| --- |
| This ISA will be reviewed [x] months after its launch and every [x] months thereafter. The person responsible for initiating this process is [insert name]. If this person departs their role, an alternative person must be nominated as soon as possible.If a significant change takes place which means that the agreement becomes an unreliable reference point, then the agreement will be updated as necessary and replace the older version. |

This agreement must be formally approved and signed by both parties before any information sharing takes place. Both parties will ensure that the ISA and any associated documents are known and understood by all staff involved in the process.

**Originating organisation**

Name of organisation: ……………………………………….

Name: ………………………………………………………………..

Position: …………………………………………………………….

Signature: …………………………………… Date: ……………

**Partner organisation**

Name of organisation: ……………………………………….

Name: ………………………………………………………………..

Position: ……………………………………………………………..

Signature: …………………………………… Date: ……………

1. REC have produced a factsheet on the reporting requirement which is available [here](https://www.rec.uk.com/legal-resources/legal-guide/PAYE-and-NICs). This factsheet is based on [HMRC guidance on the reporting requirements](https://www.gov.uk/government/publications/employment-intermediaries-reporting-requirements) and the [software requirements](https://www.gov.uk/government/publications/employment-intermediaries-support-for-software-developers). [↑](#footnote-ref-1)
2. See the [software requirements](https://www.gov.uk/government/publications/employment-intermediaries-support-for-software-developers) for details of intermediary types. [↑](#footnote-ref-2)
3. Not personal data for the purposes of the DPA but the Specified Intermediary must report it so we have kept it in this agreement to serve as a prompt. [↑](#footnote-ref-3)
4. However businesses may still want to alert individuals that their data is being passed to one or more third parties. [↑](#footnote-ref-4)
5. The ITEPA legislation requires that the Specified Intermediary keeps non-PAYE records for not less than 3 years after the end of the tax year to which they relate. [↑](#footnote-ref-5)
6. See the reporting dates for 2015/16 set out in the guidance note at the front of this document. The reporting party will have to have this information in sufficient time to process it and prepare the report. [↑](#footnote-ref-6)