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National Insurance

National insurance contributions (NICs) are essentially a tax on earned income. The NICs regime divides income into different classes: Class 1 contributions are payable on earnings from employment, while the profits of the self- employed are liable to Class 2 and 4 contributions.

National insurance is often overlooked yet it is the largest source of government revenue after income tax.

We highlight below the areas you need to consider and identify some of the potential problems. Please contact us for further specific advice.

Scope of NICs

Employees

Employees are liable to pay Class 1 NIC on their earnings. In addition a further secondary contribution is due from the employer.

For 2015/16 employee contributions are only due when earnings exceed a 'primary threshold' of £155 per week. The amount payable is 12% of the earnings above £155 up to earnings of £815 a week. In addition there is a further 2% charge on weekly earnings above £815.

Secondary contributions are due from the employer of 13.8% of earnings above the 'secondary threshold' of £156 per week for 2015/16. There is no upper limit on the employer's payments.

Employer NIC for the under 21s

From 6 April 2015 employer NIC for those under the age of 21 are reduced from the normal rate of 13.8% to 0%. For the 0% rate to apply the employee will need to be under 21 when the earnings are paid.

This exemption will not apply to earnings above the Upper Secondary Threshold (UST) in a pay period. The UST is a new term for this new NIC exemption. It is set at the same amount as the Upper Earnings Limit, which is the amount at which employees' NIC fall from 12% to 2%.

The weekly UST is £815 for 2015/16 which is equivalent to £42,385 per annum. Employers will be liable to 13.8% NIC beyond this limit. The employee will still be liable to pay employee NIC.

Employer NIC for apprentices under 25

The government will abolish employer NIC up to the UST for apprentices aged under 25. This will come into effect from 6 April 2016 and clarification of an apprentice for this purpose is expected to be issued.

Benefits in kind

Employers providing benefits such as company cars for employees have a further NIC liability under Class 1A. Contributions are payable on the amount charged to income tax as a taxable benefit.

Most benefits are subject to employer's NI. The current rate of Class 1A is the same as the employer's secondary contribution rate of 13.8% for benefits provided.

The self-employed

NICs are due from the self-employed as follows:

- flat rate contribution (Class 2)
- variable amount based on the taxable profits of the business (Class 4).

From 6 April 2015 liability to pay Class 2 NIC will arise at the end of each year rather than the previous collection by direct debit.

The amount of Class 2 NIC due will still be calculated based on the number of weeks of self-employment in the year and calculated at a rate of £2.80 per week for 2015/ 16 but will be determined when the individual completes their self assessment return.

It will therefore be paid alongside their income tax and Class 4 NIC. For those who wish to spread the cost of their Class 2 NIC, HMRC will retain a facility for them to make regular payments throughout the year. The current six monthly billing system will cease from 6 April 2015.

Those with profits below a threshold will no longer have to apply in advance for an exemption from paying Class 2 NIC. Instead they will have the option to pay Class 2 NIC voluntarily at the end of the year so that they may protect their benefit rights.

The government has announced that Class 2 NIC will be abolished and will reform Class 4 NIC to include a contributory benefit test. Consultation on these matters will take place later in 2015.

For 2015/16 Class 4 is payable at 9% on profits between £8,060 and £42,385. In addition there is a further 2% on profits above £42,385.

Voluntary contributions

Flat rate voluntary contributions are payable under Class 3 of £14.10 per week for 2015/16. They give an entitlement to basic retirement pension and may be paid by someone not liable for other contributions in order to maintain a full NICs record.

Class 3A Voluntary National Insurance

From October 2015 a new class of voluntary NIC (Class 3A) will be introduced that gives those who reach State Pension age before 6 April 2016 an opportunity to boost their Additional State Pension.

The government expects that Class 3A will give pensioners an option to top up their pension in a way that will protect them from inflation and offer protection to surviving spouses. In particular, it could help women, and those who have been self-employed, who tend to have low Additional Pension entitlement.

The top up will be available to those who reach State Pension Age before 6 April 2016 including those who have already started to draw their state pension.

National Insurance - Employment Allowance

The Employment Allowance of up to £2,000 per year was introduced from 6 April 2014 and is available to many employers and can be offset against their employer Class 1 National Insurance Contributions (NIC) liability.

There are some exceptions for employer Class 1 liabilities including liabilities arising from:

- a person who is employed (wholly or partly) for purposes connected with the employer's personal, family or household affairs
- the carrying out of functions either wholly or mainly of a public nature (unless charitable status applies), for example NHS services and General Practitioner services
- employer contributions deemed to arise under IR35 for personal service companies.

From April 2015 the availability of the allowance is extended to those employing care and support workers. Please contact us if this may be relevant to you as there are specific conditions which must be satisfied.

There are also rules to limit the employment allowance to a total of £2,000 where there are 'connected' employers. For example, two companies are connected with each other if one company controls the other company.

The allowance is limited to the employer Class 1 NIC liability if that is less than £2,000.

The allowance is claimed as part of the normal payroll process. The employer's payment of PAYE and NIC is reduced each month to the extent it includes an employer Class 1 NIC liability until the £2,000 limit has been reached.

Changes to the availability and amount of the Employment Allowance

The government announced in the Summer Budget that from April 2016 the Employment Allowance will increase from £2,000 to £3,000 a year. Also in order to ensure that the Employment Allowance is focussed on businesses and charities that support employment, from April 2016, companies where the director is the sole employee will no longer be able to claim the Employment Allowance

Potential problems

Time of payment of contributions

Class 1 contributions are payable at the same time as PAYE ie monthly. Class 1A contributions are not due until 19 July (22nd for cleared electronic payment) after the tax year in which the benefits were provided.

It is therefore important to distinguish between earnings and benefits.

Earnings

Class 1 earnings will not always be the same as those for income tax. Earnings for NI purposes include:

- salaries and wages
- bonuses, commissions and fees
- holiday pay
- certain termination payments.

Problems may be encountered in relation to the treatment of:

- expense payments
- benefits.

Expense payments will generally be outside the scope of NI where they are specific payments in relation to identifiable business expenses. Round sum allowances give rise to a NI liability.

In general benefits are not liable to Class 1 NICs. There are however some important exceptions including:

- most vouchers
- stocks and shares
- other assets which can be readily converted into cash
- the payment of an employee's liability by an employer.

Directors

Directors are employees and must pay Class 1 NICs. However directorships can give rise to specific NIC problems. For example:

- directors may have more than one directorship
- fees and bonuses are subject to NICs when they are voted or paid whichever is the earlier
- directors' loan accounts where overdrawn can give rise to a NIC liability.

We can advise on the position in any specific circumstances.

Employed or self-employed

The NICs liability for an employee is higher than for a self-employed individual with profits of an equivalent amount. Hence there is an incentive to claim to be self-employed rather than employed.

Are you employed or self-employed? How can you tell? In practice it can be a complex area and there may be some situations where the answer is not clear.

In general terms the existence of the following factors would tend to suggest employment rather than self- employment:

- the 'employer' is obliged to offer work and the 'employee' is obliged to accept it
- a 'master/servant' relationship exists
- the job performed is an integral part of the business
- there is no financial risk for the 'employee'.

It is important to seek professional advice at an early stage and in any case prior to obtaining a written ruling from HMRC.

If HMRC discover that someone has been wrongly treated as self-employed, they will re-categorise them as employed and are likely to seek to recover arrears of contributions from the employer.

Enforcement

HMRC carry out compliance visits in an attempt to identify and collect arrears of NICs. They may ask to see the records supporting any payments made.

HMRC have the power to collect any additional NICs that may be due for both current and prior years. Any arrears may be subject to interest and penalties.

Please contact us for advice on NICs compliance and ways to minimise the effect of a HMRC visit.

How we can help

Whether you are an employer or employee, employed or self-employed, awareness of NICs matters is vital.

HMRC have wide enforcement powers and anti-avoidance legislation available to them. Consequently it is important to ensure that professional advice is sought so that all compliance matters are properly dealt with.

We would be delighted to advise on any compliance matters relevant to your own circumstances so please contact us.

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