



## NIC HOLIDAY FOR VETERANS

Issued 5 October 2020

ICAEW welcomes the opportunity to respond to the **Supporting veterans' transition to civilian life through employment** consultation published by HMRC on 21 July 2020.

Given the current economic situation it is unlikely that employers will take on any new staff even to avail themselves of this proposed relief, especially if they perceive that it is complicated

This response of 5 October 2020 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 186,500 chartered accountant members and students around the world. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

© ICAEW 2020

All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is appropriately attributed, replicated accurately and is not used in a misleading context;
- the source of the extract or document is acknowledged and the title and ICAEW reference number are quoted.

Where third-party copyright material has been identified application for permission must be made to the copyright holder.

For more information, please contact: [representations@icaew.com](mailto:representations@icaew.com)

## GENERAL COMMENTS

1. On the basis of the proposals in the condoc, we question whether the value of this relief to employers will outweigh the burden of administering it.
2. Owing to the short notice, employers will have to operate the relief manually, at least in the first year, which is likely to act as a disincentive to using it.
3. Also, the current economic climate makes it doubtful whether many employers will be taking on any new staff at all.
4. The options about prior employments are complex.
5. If the relief is to be taken forward, then we suggest that a much simpler system with possible rough edges would better encourage employers actively to recruit veterans.
6. We recommend that a simpler way to give the relief would be to give veterans a different NIC table letter (condoc para 5.5).
7. As to priority of relief where other secondary NIC reliefs are in point (for example for employees aged under 21, see condoc para 5.4), in the light of the confusion over the interaction between employment allowance and the NIC element of the coronavirus job retention scheme, it will be essential for HMRC to provide clear guidance on what employers need to do, especially in manual claims, and timely and unambiguous payroll software specifications for 2021/22 onwards to enable software automatically to prioritise claims.

## REPLIES TO CONSULTATION QUESTIONS

### Chapter 2 Policy intent

***Q1. Would a relief of this nature encourage you to employ your first or more veterans? Please explain.***

8. We agree with the guiding principles but having to administer the scheme manually, at least in the first year, being unable to claim until April 2022 for the first year, and a potentially complicated process to keep track of employments are likely to discourage many employers from actively recruiting veterans to avail themselves of the relief, quite apart from the current economic climate making it unlikely that many employers will be recruiting.

### Chapter 3 Qualifying veterans

#### Definition of armed forces

***Q2. Do you agree that, for this relief, the Government should follow the definition of HM Armed Forces found in Schedule 6 of SI 2001/1004, as set out above? If not, which definition would be preferable?***

9. We agree with this proposal as it will follow an established definition.

***Q3. Do you agree that the employment of Reservists should not qualify for this relief? If not, which approach would be preferable?***

10. We agree with this proposal, save that if a Reservist has been called up for active service, they should be treated as being within the definition of HM Armed Forces.

#### Period that a veteran is required to have served to qualify

***Q4. Do you agree that the Government should define the qualifying length of service to be considered a veteran as set out in the Armed Forces Covenant? If not, which approach would be preferable?***

11. We consider that one day is far too short.
12. We would suggest at least a year, unless the veteran has been invalidated out owing to having been injured on active service.

#### Restrictions on when a veteran left the forces

***Q5. Do you agree that making this relief available for all veterans, regardless of when they left HM Armed Forces is the correct approach? If not, what approach would be preferable?***

13. Yes, subject to the veteran being employed by the Armed Forces for at least a year, we agree with the government's proposed approach.

### Chapter 4 Qualifying civilian employment

#### Defining civilian employment

***Q6. Are the criteria of a qualifying 'civilian employment' clear? If not, what aspects require further clarification?***

14. The government will need to provide clear guidance so employers are not caught out where boundaries are grey, for example where a veteran has worked for a business providing non-combatant staff, services or subcontractors to the MoD.
15. Also, where the veteran is or has been a deemed employee under the off-payroll working rules, will this count as employed or self employed for the purposes of the proposed relief?
16. In addition, where the veteran claims to have been employed overseas, what evidence will the employer need to have seen to protect themselves if HMRC undertakes an audit some years later – will a self certification on the starter checklist by the veteran who is being taken on as a new employee suffice?
17. The main burden for the employer will be to ensure that they have sufficient evidence to verify the claim by a new employee to be a veteran and then their employment status during the year prior to being hired.
18. Will the government provide confirmation of a veteran's qualifying status?

***Q7. Do you agree with the Government's approach to defining 'civilian employment'? If not, which approach would be preferable?***

19. Please see answer to Q6.

#### Relief up to the Upper Secondary Threshold

***Q8. Do you agree that this relief should not apply to salaries above the UST? If not, what approach would be preferable?***

20. Yes, we agree with the government's proposal, as this is consistent with other NIC reliefs.

#### Employments that start before 6 April 2021

***Q9. Do you agree that this relief should also apply to employments that start before 6 April 2021? If not, which approach would be preferable?***

21. Yes, because otherwise it will encourage employers to delay the start dates for new employments until after 6 April 2021. Indeed, it would be better to apply the relief from the date of any announcement of the relief being introduced. Given that employers will have manually to calculate the first claim, starting the relief from the date of the announcement would not create a materially greater burden on employers.

## Defining the 12 month qualifying relief

### ***Q10. Do you agree that these conditions should apply? If not, what approach would be preferable?***

22. We are content with this approach. We recommend that the armed forces should explain clearly the terms of this new relief to those who leave, to ensure that veterans do not inadvertently take the 'wrong' job.
23. Having said that, there are probably jobs which might be ineligible for the NIC holiday, eg non-combatant jobs for the MoD, for which a veteran would be the ideal employee, and it may distort the market if veterans are discouraged from taking those jobs.

### ***Q11. Do you agree that option 1 will achieve the policy intent? If not, what approach would be more aligned with the policy intent?***

24. HMRC will have the start and end dates of veterans' previous employments (including the date of leaving the armed forces) on its NPS, as employers have to notify the start and end dates to HMRC in PAYE RTI submissions. Will HMRC provide this information to subsequent employers on request? If not, what evidence will HMRC expect the employer to obtain (and presumably retain) to verify the start date(s) and end date(s) of previous employment(s)?
25. Option 2 will be more complex than Option 1 employers to operate.
26. Option 3 indeed has the advantage of simplicity.

### ***Q12. Are there other approaches the Government should consider? Please explain.***

27. Given the current economic outlook, perhaps rather than veterans' and freeport exemptions, a general relief for all employer NIC would be more appropriate.

## Multiple qualifying 12 months qualifying periods

### ***Q13. Do you agree that an individual should only be eligible for this relief once in their lifetime? If not, what approach would be preferable?***

28. If the veteran had to serve in the armed forces for a minimum continuous period of twelve months before being eligible for the new relief (see our answer to Q4), then we see no reason for a veteran to be eligible for the relief only once during their lifetime.

## Chapter 5: Implementation and record-keeping requirements

### April 2022 onwards (and April 2021 to March 2022)

### ***Q14. Given that a payroll solution is not possible by April 2021, do you agree with this two-stage approach to claim this relief?***

29. As it is too late to expect payroll software developers to produce an IT solution, a two-stage solution is the only practical option. The advantage of a manual claim process for the first year is that it will be possible to backdate claims if the relief is able to be claimed from the date that the introduction of the relief is announced, which will enable it to be introduced more quickly and discourage employers from delaying employment start dates for veterans.
30. In future, when introducing tax and/or national insurance changes, Ministers should allow for the time for software changes to be made.

### ***Q15. Do you agree that the process of claiming this relief is simple and straightforward? If not, what alternative approach would be preferable?***

31. Please see answers to foregoing questions.

## Record keeping

***Q16. Are there any other documents an employer could obtain to demonstrate a veteran's eligibility?***

- 32. We recommend that HMRC should provide confirmation of the veteran's eligibility on request.
- 33. HMRC must provide very clear guidance on what employers must do, especially in respect of manual claims, what records they must retain and for how long. At the very least, for manual claims HMRC, will need to provide a proforma claim form, which can be saved during completion.
- 34. The obligations outlined need to be made mandatory.

***Q17. Would the requirement to maintain records that demonstrate the employee's eligibility discourage you from claiming this relief? Please explain.***

- 35. Please see answers to previous questions.

***Q18. Would completing an additional section as part of the PAYE Starter Checklist discourage you from claiming this relief? Please explain.***

- 36. We agree that the starter checklist should be used for this purpose. We wrote to HMRC PDC on 17 July 2020 about the starter checklist, suggesting inter alia that completion by employees should be made mandatory, as this would help employers to ensure that their new employees complete it.

***Q19. Is there anything else that can be done to minimise the administrative burdens associated with this relief?***

- 37. Please see answers to other questions.

## Reviewing the relief

***Q20. Do you agree with the Government's preferred approach to include a three-year sunset clause for the purposes of monitoring and reviewing the effectiveness of this relief? If not, which approach would be preferable?***

- 38. We agree with the proposal to include a three-year sunset clause.
- 39. Indeed, we believe that all tax charging and relief legislation should have sunset clauses to ensure that they are subject to a statutory post-implementation review to ascertain whether the policy intent has been met.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).