



CLASS 2 NATIONAL INSURANCE CONTRIBUTIONS

ICAEW welcomes the opportunity to comment on the draft secondary legislation *The Social Security (Miscellaneous Amendment) Regulations 2015* on the payment of Class 2 national insurance contributions published by HMRC on 16 January 2015.

This response of 27 February 2015 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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For more information, please contact ICAEW Tax Faculty: taxfac@icaew.com

icaew.com

INTRODUCTION

1. We welcome the opportunity to comment on the draft secondary legislation on the payment of Class 2 NIC published by HMRC on 16 January 2015.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. We responded in October 2013 in TAXREP 54/13 to HMRC's July 2013 consultation document *Simplifying national insurance processes for the self employed* and met HMRC on several occasions to discuss simplifications and how they might work in practice. Looking back, we have participated in earlier consultations, for example, responding in June 2008 in TAXREP 37/08 to HMRC's March 2008 consultation document.

COMMENTS

4. Regarding Reg 11 (new Reg 90ZA *Class 2 - maternity allowance*), we should welcome confirmation that:
 - HMRC will set up a mechanism to make it easy for people to pay Class 2 NIC early in order to qualify, and
 - this will include a simple means for such contributors who have profits below the small profits threshold (SPT) to notify HMRC that they wish to pay voluntarily.
5. In Regulation 8(1) (new Reg 87AA *Notification of commencement or cessation of self-employment or Class 3 contributions on or after 6th April 2015*) we should welcome clarification of the meaning of 'immediately' in new Reg 87AA(1), and, in new Reg 87AA(4), the circumstances in which and the extent to which HMRC will make 'immediately' less immediate.
6. Explanatory memorandum (EM) para 7.8 on Reg 8 contains a misprint – the second 'of' needs to be replaced with an 'or'.
7. EM para 11.3 refers to abolition of the small earnings exception (SEE). We welcome the removal of the need to apply for SEE, which is time consuming, especially for cases where deferral is in point as well.
8. Continuing with EM para 11.3, we should welcome clarification of the mechanism that will be put in place to enable those with no profits or profits below the SPT to have the option to pay Class 2 NIC on a voluntary basis in order to protect their contributory benefit entitlement (as provided for by new section 11(6) Social Security (Contributions and Benefits) Act 1992, recently replaced by the NIC Act 2015). We suggest that a box to tick on the self assessment return would be simplest.
9. We should also welcome clarification of how individuals abroad will pay voluntary Class 2 – will they still be able to do so after the end of the tax year?

PCB

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 via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).