



ICAEW REPRESENTATION 64/16

TAX REPRESENTATION

‘NO RETURN OF CLASS 1A NIC’ DECLARATION IN HMRC’S BASIC PAYE TOOLS

Text of representation submitted to HM Revenue & Customs on 30 March 2016

This representation was 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.

Contents

Text of representation

Ten Tenets for a Better Tax System

Appendix 1

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TEXT OF REPRESENTATION

We are concerned that the 'No return of Class 1A NIC' declaration has been removed from HMRC's Basic PAYE Tools (BPT) final FPS/EPS return process. If HMRC needs the 'No return of Class 1A NIC' declaration to be completed, we recommend that HMRC needs to make employers aware by way of a publicity campaign, and in the longer term we suggest that it be reinstated in BPT.

Having the 'No return of Class 1A NIC' declaration within BPT in the past has meant that employers have been able to complete it time-efficiently as part of the final FPS/EPS return process.

In view of this removal, please confirm that HMRC does not expect employers to spend time completing the separate 'No return of Class 1A NIC' declaration, or, if HMRC does expect employers to complete the separate declaration despite having removed it from BPT, please would you:

- (i) explain why HMRC needs the declaration to be completed (eg is it a legal obligation, or is it to ensure that HMRC doesn't assume a penalty might be due for not filing P9D/P11D, like when a full payment submission non-filing penalty might be assumed to be due when a nil payment employer payment summary has not been filed, and is it necessary only where Class 1A NIC was due for past years?),
- (ii) clarify why the 'No return of Class 1A NIC' declaration has been removed from BPT,
- (iii) include a prominent message within the final FPS/EPS section of BPT and have a publicity campaign to remind employers to complete the 'No return of Class 1A NIC' declaration at <https://www.gov.uk/government/publications/payee-no-return-of-class-1a-national-insurance-contributions>.

We acknowledge that the February 2016 Employer Bulletin carried an article telling employers that they can either submit a nil return or complete the online 'No return of Class 1A NIC' but many employers are likely to have disregarded this instruction, partly because in February they would have assumed that they would be able to continue using BPT to submit the declaration and partly because the article says 'can' rather than 'must'.

We look forward to hearing from you that if HMRC needs the 'No return of Class 1A NIC' declaration to be completed, even if it is not a statutory obligation, it will be reinstated in BPT in the longer term with a publicity campaign in the meantime.

We propose to publish this request as it is of concern to our members, including those in practice who do not use BPT for client payrolls but have clients who do their own payrolls using BPT.

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>).