

EMPLOYMENT ALLOWANCE

New rules mean 1.25 million businesses and charities will be able to cut their National Insurance payments by up to £2,000.

The start of the new tax year in 2014 sees the launch of the Employment Allowance, which will enable 1.25 million businesses and charities to cut up to £2,000 from their employer Class 1 National Insurance Contribution (NICs).

According to statistics produced by the Treasury 450,000 businesses will be taken out of paying employer NICs altogether in 2014/15 and 35,000 charities will benefit by around £45 million in total. A business employing 10 adults on the national minimum wage will receive a tax cut of over 40% down to £2,870 from £4,870.

Who Can Claim?

The Employment Allowance can be claimed if:

- ❖ You are a business or charity that pays employer Class 1 NICs on your employees' or directors' earnings but
- ❖ If your company belongs to a group of companies or your charity is part of a charities structure, only one company or charity can claim the allowance. The allowance can only be claimed against one PAYE scheme. However, there are exemptions and some employers are excluded.

Who is Excluded?

The Employment Allowance cannot be claimed if:

- ❖ You employ someone for personal household or domestic work, such as a nanny, au pair, chauffeur, gardener or care support worker.
- ❖ You claim the allowance through a connected company or charity.
- ❖ You are a public authority, including local, district, town and parish councils.
- ❖ You carry out functions either wholly or mainly of a public nature, such as NHS services, General Practitioner services, the managing of housing stock owned by or for a local council, provide meals on wheels or refuse collection for a local council, prison services or collect debt for a government department.
- ❖ Personal and Managed Service – companies who pay contract fees instead of a wage or salary may not be able to claim the allowance, as it is not allowable for any deemed payments of employment income.

How to Claim

The Employment Allowance is only allowable against Class 1 NICs, not class 1A or Class 1B NICs.

Employers can use their own payroll software or use HMRC Basic PAYE tools to claim the allowance.

When a claim is made, employers must reduce their employer Class 1 NICs payments by an amount of Employment Allowance equal to the employer Class 1 NICs due, but not by more than £2,000 per year.

Two Examples:

1. If an employer pays her employees monthly and her total Class 1 NICs liability is £200 per month, the full allowance will be used by month 10 in the tax year (£200 x 10 = £2,000). She will then have to pay her employers Class 1 NICs liability for months 11 and 12 as normal.
2. If an employer pays his employees monthly and his total Class 1 NICs liability is £3,000 per month, the full allowance will be used in month 1 and the balance of £1,000 will have to be paid to HMRC. The employer will then have to pay his employers Class 1 NICs as normal for the rest of the year.

Claim Time Limits

An employer does not have to claim the Employment Allowance at the start of the tax year.

An employer may have a business based on seasonal fluctuations and may decide to use the allowance during the quieter trading months of the year to help with cash flow.

So an employer may decide not to claim the allowance between April and August, but claim from September onwards.

If an employer fails to use the Employment Allowance by the end of the tax year, HMRC will use the balance against any PAYE debt or liabilities in the following tax year.

If the employer does not have any existing PAYE debt or liabilities the balance can be claimed as a repayment. A claim does not have to be made in the tax year itself.

An employer can claim up to four years after the end of the tax year in which the allowance applies. In practice, an employer wishing to claim the Employment Allowance for 2014/15 ending on 5 April 2015, must claim by 5 April 2019. HMRC will set any Employment Allowance award off against any future or existing liabilities unless a repayment is requested.

Record Keeping

An employer must keep any records relating to the claim for a minimum period of three years after the end of the tax year in which the Employment Allowance was claimed.

The records must show:

- ❖ Why the employer was entitled to claim the allowance
- ❖ How much of the allowance was used or in some circumstances repaid
- ❖ What liabilities the allowance covered.

SCOTTISH GOVERNMENT SUPPORTS PROMPT PAYMENT

The first payment has been made under an innovative scheme designed to speed up payments to contractors working on public sector construction projects in Scotland. Project Bank Accounts (PBAs) have been introduced after the Scottish Government published a review which called for payment terms through the construction supply chain to be improved.

PBAs were just one recommendation of the *Review of Public Procurement in Construction* and they are currently being trialed on a number of projects including NHS and transport. Other recommendations of the review that are likely to benefit Specialist Contractors include:

- Contractual terms between client and main contractor should consistently outline fair payment terms for supply chain participants
- Maximising opportunities for contracting authorities to collaborate and share best practice, particularly in the local government and social housing sectors
- Better co-ordination of construction spending between projects and programmes
- A Chief Construction Adviser (CCA) to be appointed to the Scottish Government to challenge both the public sector and industry on pace and progress.

SHARED PARENTAL LEAVE – HOW WILL IT WORK?

The Government has published draft regulations which would govern its proposed new system of shared parental leave and pay. This week, we give an overview of how the system is expected to work, addressing some of the key questions employers are likely to have.



Background

In 2012, the Government announced its intention to introduce a new system of shared parental leave which will allow parents more flexibility to choose how they share childcare responsibilities in the first year after a child's birth. This was legislated for in the Children and Families Act 2014, which has now received Royal Assent. This month, the Government published complex draft regulations which would govern the system when it comes into force.

What's the rationale behind the new system?

The Government has said it wants to move away from the "outdated" concept that

childcare is primarily a women's issue; it wants to encourage women who want to return to work to return to the workplace earlier by sharing their leave entitlement with their partners.

When will the new system be introduced?

The Government intends that the new regulations will come into force in **October 2014** with the new system of shared parental leave and pay being made available to parents of babies due (or matched / placed for adoption) on or after 5 April 2015.

How can leave be shared?

Employed mothers will continue to be entitled to 52 weeks' maternity leave including a period of compulsory maternity leave. After this point, shared parental leave can be "activated" once the mother has served a notice to end her maternity leave. The proposed system would then allow both parents to share up to a maximum of 50 weeks leave, taken at the same time or separately. The minimum period of shared parental leave is one week.

What will be the rate of Shared Parental Pay?

Parents will be able to share up to 37 weeks of statutory Shared Parental Pay (SPP) which can be shared between parents. The rate of pay of SPP is not yet clear. For example, the regulations are silent as to whether employers who pay enhanced maternity pay will be required to pay SPP at an enhanced rate as well. There is an argument that mothers enjoy a 'special status' as a result of having given birth. This is drawn out in recent case law concerning maternity rights and pay for mothers of children through surrogacy arrangements. In ***CD v ST*** the Court of Justice of the European Union (CJEU) has held that Member States are not required

to provide for maternity leave and pay for mothers of children through surrogacy arrangements. The Court distinguished mothers through surrogacy from those who have given birth. This could lend support to the argument that fathers need not be paid the same as mothers on maternity leave (on the basis of mothers' 'special status'). This would seem to follow the Government's line on this issue, although legal views are mixed. However, there is clearly a potential for sex discrimination to be argued should employers choose this route; and potentially much more significant is the potential damage to employee relations, and the employer's reputation as an employer of choice.

Who will be eligible?

Shared parental leave will be available to employees (provided the mother has ended her maternity leave/ pay) with 26 weeks continuous employment at the "relevant date". The relevant date is the end of the 15th week before the expected week of childbirth (EWC).

The system will also be available to adopters and intended parents under a surrogacy arrangement as well as foster parents, on a similar basis.

What notice will parents be required to give?

The employee will be required to notify the employer in writing of their intention to take a period, or periods, of shared parental leave not less than 8 weeks before the start date of leave requested. Parents will be able to make up to three notifications/ changes to their plans to share leave with their partner provided sufficient notice (8 weeks) is given each time.

What rights will parents have during leave / on return?

The regulations contain provisions on terms and conditions during leave, rights in relation to redundancy and rights for employees returning to work following parental leave as well as protection from detriment and dismissal which are largely similar to the current provisions in relation to maternity / paternity / adoption leave.

What else is changing under the new legislation?

The Children and Families Act 2014 also introduces changes to the existing adoption leave and pay regime and employees (including the mother's husband/ civil partner/ partner, the father or parent of the child and intended parents under surrogacy arrangements) will also be entitled to take unpaid time off to attend up to two ante-natal appointments with a pregnant woman. Provision is also made for paid and unpaid time off work for adopters to attend meetings in advance of a child being placed with them for adoption.

What's next?

The Government's consultation on the draft regulations closed on Tuesday 18 March 2014. We will keep you informed of further developments.

What does this mean for employers?

This is a very significant change which has considerable implications in terms of workforce planning, particularly given the complexity of the draft regulations and a number of unanswered questions (such as the position in relation to enhanced pay). Employers need to prepare for the introduction of this system and consider how policies and approaches might need to be reviewed in light of the reforms and their intended approach.

Monthly Bulletin of Indices

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC
2003	631	632	632	635	635	632	664	667	667	667	667	667
2004	667	667	666	666	667	667	709	709	710	710	711	712
2005	711	713	713	713	713	714	769	769	769	768	769	770
2006	769	770	770	769	769	769	793	794	793	793	793	793
2007	793	795	795	795	795	795	824	825	825	825	826	826
2008	826	827	827	831	831	832	874	874	874	873	873	874
2009	874	875	874	874	875	875	875	875	875	876	876	876
2010	876	878	878	878	879	879	879	879	879	879	880	880
2011	880	885	885	885	888	889	898	898	909	908	908	911
2012	910	911	913	912	910	912	912	914	915	915	924	924
2013	939	940	943	942	941	938	937	937	938	937	937	937*
2014	941	941	942	941*	941*	941*						

*Provisional