NATIONAL INSURANCE CONTRIBUTIONS (RATE CEILINGS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the National Insurance Contributions (Rate Ceilings) Bill as introduced in the House of Commons on 14 July 2015 (Bill 54).

- These Explanatory Notes have been prepared by Her Majesty's Revenue and Customs in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

Table of Contents

Overview of the Bill

1 The National Insurance Contributions (Rate Ceilings) Bill provides that, for the duration of this Parliament, the rate of Class 1, Class 1A and Class 1B National Insurance contributions ("NICs") paid by employees, employers and third parties will not exceed the current rates and the Upper Earnings Limit ("UEL") should not exceed the Higher Rate Threshold for income tax.

Policy background

2 The Conservative Manifesto for the General Election in May 2015 included a commitment not to increase the rates of NICs, income tax or Value Added Tax ("VAT"). The Prime Minister made a commitment to legislate within 100 days after the General Election to rule out an increase in these rates. A programme Bill is required to deliver on this commitment for NICs.

3 This commitment was mentioned in the Queen's Speech on 27 May 2015: "Legislation will be introduced to ensure there are no rises in income tax rates, VAT or National Insurance for the next five years".

4 Since April 2009 the Upper Earnings Limit (the level of earnings up to which employees pay NICs at 12% and thereafter 2%) has been aligned with the point at which the higher rate of income tax is paid. This alignment has been made by convention. The Prime Minister also made a pledge not to increase the UEL above the higher rate threshold for tax for the duration of this Parliament and to legislate for that commitment.

5 For further information on the policy background to NICs, please see annex A.

Legal background

6 The Class 1 NICs rates and thresholds are set out in a combination of primary and secondary legislation. Class 1 contributions are paid by employers and employees on earnings. Employees pay primary Class 1 contributions on earnings between the Primary Threshold and the UEL at the main primary percentage of 12% and at the additional primary percentage which is 2% on earnings over the UEL. Section 8(2)(a) and (b) of the Social Security Contributions and Benefits Act 1992 ("SSCBA") and the Social Security and Contributions and Benefits (Northern Ireland) Act 1992 ("SSCB(NI)A") sets out these percentage rates. Employers pay secondary Class 1 contributions on earnings over the Secondary Threshold at the secondary percentage rate of 13.8%, this is set out in section 9(2) of the SSCBA and SSCB(NI)A. Regulation 10 of the Social Security (Contributions) Regulations 2001 (SI 2001/1004) specifies the Primary Threshold, the UEL and the Secondary Threshold that applies for the tax year.

7 Class 1A contributions are payable annually, by employers and third parties, on most taxable benefits in kind. Class 1A contributions are payable at a rate of 13.8% under section 10 of the SSCBA and SSCB(NI)A.

8 Class 1B contributions are payable annually, by employers on items which are dealt with under a PAYE Settlement Agreement ("PSA") for income tax. Class 1B contributions are payable at a rate of 13.8% on the value of items included in the PSA and on the total tax payable by the employer under the PSA under section 10A of the SSCBA and SSCB(NI)A.

9 Class 1A and 1B are linked to the secondary percentage by virtue of section 10(5) and 10A(6) of the SSCBA and SSCB(NI)A.

Territorial extent and application

10 The provisions of the Bill extend to England and Wales, Scotland and Northern Ireland. The subject-matter of the Bill does not fall within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.

Commentary on provisions of Bill

11 The Bill has three 3 substantive clauses which all apply to a tax year that begins after the day on which the Bill comes into force, but before the date of the first parliamentary general election after that day. Clause 3 applies to a tax year in which income tax is charged.

Clause 1: Main and additional primary percentage

12 Clause 1 provides that the main primary percentage shall not exceed 12 per cent and, that the additional primary percentage, shall not exceed 2 per cent. These are the current rates as set out in the SSCBA and SSCB(NI)A.

Clause 2: Secondary percentage

13 Clause 2 provides that the secondary percentage payable by employers shall not exceed 13.8 per cent. This is the current rate as set out in the SSCBA and SSCB(NI)A. By fixing the secondary percentage it also fixes the Class 1A and 1B contributions.

Clause 3: Upper Earnings Limit

14 Clause 3 links the UEL to the higher rate income tax threshold by setting out that it shall not exceed the weekly equivalent of the proposed higher rate threshold for that tax year. The "proposed higher rate threshold" is defined in subsection (3) as the sum of the basic rate limit for income tax for the tax year and the personal allowance for income tax for the tax year in the pre-budget proposals.

15 "Pre-budget proposals" is defined as meaning the government's fiscal proposals for a tax year, which are contained in a command paper laid before Parliament by the Chancellor of the Exchequer. It is intended that this will be the Chancellor's autumn statement.

16 As the UEL is a weekly figure the higher rate threshold for income tax has to be converted into a weekly amount, this is done by dividing the threshold by 52 and rounding up or down to the nearest pound.

Commencement

17 Clause 5 of the Bill provides that it comes into force on the day it receives Royal Assent.

Financial implications of the Bill

18 The Bill has no impact on public expenditure.

Parliamentary approval for financial costs or for charges imposed

19 No financial resolution is required for any provision of the Bill.

Compatibility with the European Convention on Human Rights

20 The Chancellor of the Exchequer, Mr George Osborne MP, has made the following statement regarding Human Rights:

"In my view the provisions of the National Insurance Contributions (Rate Ceilings) Bill are compatible with the Convention Rights".

Related documents

21 The following documents are relevant to the [Bill/Act] and can be read at the stated locations:

- The Tax Information and Impact Note will be available in due course at the following address:

  https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

- The Government's pledge to lock rates of taxes and NICs is detailed on page 27 of the 2015 Conservative Manifesto:

  https://www.conservatives.com/manifesto

Annex A - Overview of National Insurance

The National Insurance Scheme was first established in 1911 and expanded in the late 1940s to provide funds for a more comprehensive and inclusive range of contributory benefits and to provide assistance with the funding for a new National Health Service.

Receipts from contributions are paid into the National Insurance Fund ("NIF") which is separate from all other revenue raised by national taxes. The NIF is used exclusively to pay for contributory benefits and operates on a pay as you go basis: broadly speaking, this year's contributions pay for this year's benefits.

Briefly, the scheme consists of a number of benefits financed by NICs payable by earners, employers and others. Employees pay NICs on their earnings, employers pay NICs on the earnings they pay to their employees and the self-employed pay flat rate NICs and NICs on their profits and gains.

An earner can be either an employed earner or a self-employed earner. An employed earner is a person who is gainfully employed in Great Britain or Northern Ireland either under a contract of service, or in an office (including elective office) with earnings. A self-employed earner is a person who is gainfully employed in Great Britain or Northern Ireland otherwise than as an employed earner. Provision is made within the scheme to allow those who are not compulsorily covered to protect their entitlement to state retirement pension and bereavement benefits by means of voluntary NICs payments.

NICs are currently divided into seven classes:

Class 1 contributions, which are paid by both employees and employers on the employee's earnings, are payable at 12% and 2% by employees and 13.8% by employers.

Class 1A contributions are payable annually, by employers and third parties, on most taxable benefits in kind. Class 1A contributions are payable at a rate of 13.8%.

Class 1B contributions are payable annually, by employers on items which are dealt with under a PAYE Settlement Agreement ("PSA") for income tax. Class 1B contributions are payable at a rate of 13.8% on the value of items included in the PSA and on the total tax payable by the employer under the PSA.

Class 2 contributions are paid by the self-employed at a flat rate of £2.80 per week for the 2015-16 tax year if their annual earnings from self-employment are at or above the Small Profits Threshold (currently £5,965). From April 2015 Class 2 contributions are collected through Self-Assessment for most self-employed individuals. An individual whose earnings from self-employment are below the Small Profits Threshold can pay Class 2 contributions voluntarily.

Class 3 contributions are payable at a flate weekly rate of £14.10 for the 2015-16 tax year by people who are not otherwise liable to pay Class 1/Class 2 contributions, to protect entitlement to State Pension.

Class 4 contributions are paid annually by the self-employed on profits chargeable to tax as trading income. Class 4 NICs are payable at a rate of 9% on profits between a lower and upper profits threshold and 2% on profits above the upper threshold.

Class 3A was introduced in the Pensions Act 2014. It will be payable on a voluntary basis for a limited period (12 October 2015 to 5 April 2017) by those who reach state pension age before 6 April 2016.

Annex B - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion required?**	**Extends to Scotland?**	**Legislative Consent Motion required?**	**Extends to Northern Ireland?**	**Legislative Consent Motion required?**
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	No	Yes	No
Clause 3	Yes	Yes	No	Yes	No	Yes	No
Clause 4	Yes	Yes	No	Yes	No	Yes	No
Clause 5	Yes	Yes	No	Yes	No	Yes	No

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