

5 October 2016

Ms Ruth Hopkinson
 HMRC
 Employment Income Policy Team Room 1E/08
 100 Parliament Street
 London
 SW1A 2BQ
 email: employmentincome.policy@hmrc.gsi.gov.uk

Dear Ms Hopkinson

Association of Accounting Technicians response to the HMRC’s “Simplification of the tax and National Insurance treatment of termination payments - consultation on draft legislation”

The Association of Accounting Technicians (AAT) is grateful for the opportunity to comment on HMRC’s consultation on “Simplification of the tax and National Insurance treatment of termination payments - consultation on draft legislation”, which was published on 10 August 2016.

AAT is submitting this response on behalf of our membership and for the wider public benefit in terms of achieving the sound and effective administration of taxes.

AAT has focussed on the operational elements of the proposals and the practicalities in implementing the measures as outlined in the response¹ given to the previous consultation.

AAT has reviewed the legislation from the perspective of AAT as a professional accountancy body and not undertaken a legal review. From this perspective the draft legislation appears to work as intended.

However, there is concern that the legislation does not meet the government’s objectives detailed in paragraph 2 of the consultation document whereby:

- the rules to be applied by employers, for example those contained in section 402D may actually prove to be more complex than the rule it is to replace and therefore does not meet the design objective of being simple
- there may be a perception that these proposals are unfair and the reasons for this are detailed in the next three paragraphs.

AAT stated in paragraph 2.6 of the above mentioned response that, “*the proposals set out in the condoc, which appear to be a wholesale change to both principles and details, are not necessary*” and in paragraph 3.4 that “*the proposal to classify all PILONs² as earnings simply leads to a windfall tax for the government without tackling the real issue of notice periods and the contractual rights and expectations of employees*”.

AAT notes that the draft legislation is pressing ahead with the original proposals and changing the rules from April 2018 such that PILON will become subject to both employees and employers’ National Insurance contributions and that other compensation payments (e.g. car and termination payment, where these exceed the £30,000 threshold) will become subject to employers National Insurance contribution.

¹ [AAT response to Simplification of tax on termination payments - August 2015](#)

² PILON is short for ‘Pay in lieu of notice’

AAT is concerned that by pressing ahead with the proposal the perception of the tax system may be adversely affected because:

- PILONs will be treated as 'earnings' for the purpose of National Insurance and therefore subject to both employees and employers' National Insurance, which will adversely affect employees during a time when they may be feeling particularly vulnerable.
- AAT can see a number of circumstances where employees, whose employment is best terminated immediately, find themselves having to work their notice period as a consequence of the employer seeking to obtain value for the additional cost of National Insurance contribution.
- Termination payments to employees are likely to be reduced by employers who are mindful that they will have to pay employers' National Insurance on those payments, which will adversely affect employees during a time when they may be particularly vulnerable.
- Employees are often not aware that payments of PILON are taken into consideration when assessment of state benefit entitlement is made post-employment and may now perceive that they have been 'hit twice' with the new income tax and employee national insurance contributions charges.
- This may come on top of their former employer reducing the overall value of the termination payment in an effort to limit the effects of the new tax treatment.
- There may be the public perception that these changes were only introduced in order to increase the tax yield.

About AAT

AAT is a professional accountancy body with approximately 50,000 full and fellow members and 80,000 student and affiliate members worldwide. Of the full and fellow members, there are over 4,200 licensed accountants who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types.

AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

If you have any queries or require any further information, please do not hesitate to contact our Technical Consultation Manager, Aleem Islan, at consultation@aat.org.uk

Yours sincerely



Adam Harper
Director of Strategy and Professional Standards
t: +44 (0)20 7397 3075 e: adam.harper@aat.org.uk

