

AAT RESPONSE TO HMRC CONSULTATION DOCUMENT ON “INTERNATIONALLY MOBILE EMPLOYEES (IMES) AND EARNINGS RELATED SECURITIES (ERS)”

1 EXECUTIVE SUMMARY

- 1.1 The Association of Accounting Technicians (AAT) welcomes the opportunity to respond to this HMRC consultation on the key issue of “Internationally Mobile Employees (IMEs) and Earnings Related Securities (ERS)” (condoc).
- 1.2 This consultation introduces a proposed legislative change to align the income tax and NICs treatment as far as possible. However, due to international social security treaties and agreements, a full alignment of income tax and NIC rules would create a risk of double charging for some internationally mobile employees (1.3 below).
- 1.3 The proposed measure looks to ensure that any ERS income which is attributable to days when the individual was not in the UK social security system will be disregarded and not subject to a NICs liability. This is intended to introduce greater simplicity, and produces the best fit with international social security treaties which will mitigate the risk of a social security double charge.
- 1.4 AAT acknowledges that the proposed draft NIC legislation will, if adopted, have administrative impacts on employers, their payroll departments and share scheme administrators (Summary of Impacts, condoc).
- 1.5 AAT is concerned that, if adopted, the draft legislation will have a disproportionate administrative impact on small scale employers, who nonetheless employ IMEs and who may wish to award ERS (2.9 below).
- 1.6 Whilst AAT welcomes any form of simplification, it has commented many times that it is concerned that employers are increasingly being asked to perform tax-related administrative tasks that they are ill-prepared to deal with.
- 1.7 In principle, AAT supports the OTS’ goal of simplification of tax administration. However, the proposal to align the income tax and NICs treatment as far as possible will increase the administrative burden on businesses (2.6, 2.8 & 2.9 below).

2 RESPONSE TO CONSULTATION QUESTIONS

Question 1

What would be the impact of the proposed change for businesses and individuals, in terms of

- one-off; or
 - on-going
- NICs or administrative costs/savings?

- 2.1 AAT supports measures to relieve a potential double charge to NICs.
- 2.2 However, AAT is concerned that, while many relevant employers will naturally be large scale employers, in an increasingly mobile-employment world smaller scale employers will inevitably be required to deal with the issue of internationally mobile employees but, will lack the technical in-house skills.
- 2.3 AAT members work in a wide range of professional environments and many of those will be payroll specialists. Some members will deal with share schemes.

- 2.4 Members will be well trained and will have done professional examinations and/or Continuing Professional Development in this important area of tax compliance, and may already be operating modified payrolls for incoming employees seconded to a UK business.
- 2.5 For NIC purposes, modified payrolls will need staff to make an estimate of NICs and then adjust them later. These are commonly encountered where say inbound employees coming into the UK are tax equalised and the employer can apply to operate a modified payroll under an Employment Procedures (EP) Appendix 6 and 7A¹.
- 2.6 AAT is concerned that if the proposed changes are taken forward they will lead to yet another increase in the administrative burden faced by employers of IMEs. The increased burden will be both ongoing, through the imposition of a regulatory requirement for employers to fulfil additional compliance requirements, and one-off. Employers will inevitably incur one-off training costs in up-skilling employees to ensure that they are sufficiently well versed to ensure to meet the requirements imposed on them under the new regulatory discipline.
- 2.7 AAT recommends HMRC provide help and guidance to help employers of IMEs to mitigate the increase in administration they are likely to face and to ensure that they are in a position to meet the proposed April 2015 deadline.

Question 2

Businesses would need to track IMEs movement during the period between grant and vest, in different social security schemes, in order to assess liability to UK NICs from earned ERS income. What would the impacts on business be?

- 2.8 AAT is concerned that, if implemented, a requirement to track IME movements in order to assess an IME's liability to UK NICs represents yet another administrative burden on employers.
- 2.9 It is AAT's considered view that the key impact of the draft legislation, if adopted, will be an increase administrative time and costs (see 2.6, above). Whilst it is likely that the increase in burden for a large scale employer is likely to be nominal, it is envisaged that the increased administrative burden will be borne disproportionately by small scale employers.
- 2.10 As previously stated in 2.7 (above), AAT recommends HMRC provide help and guidance to help employers of IMEs to mitigate the increase in administration they are likely to face and to ensure that they are in a position to meet the proposed April 2015 deadline.

¹ <http://www.hmrc.gov.uk/manuals/pommanual/pay28015.htm>

Question 3

Is the lead-in period before any new rules take effect, sufficient to allow businesses to understand and implement the changes?

- 2.11 AAT considers large scale employers, with their access to a greater level of in-house resource, will not experience any problem in meeting the proposed April 2015 timeframe.
- 2.12 However, AAT is concerned that small scale employers often without access to sophisticated in-house skills to deal with the administrative rigours arising out of the proposals will be left having to bear the cost of buying in the key skills on an as-and-when-required basis.
- 2.13 As previously stated in 2.7 (above), AAT recommends HMRC provide help and guidance to help employers of IMEs to mitigate the increase in administration they are likely to face and to ensure that they are in a position to meet the proposed April 2015 deadline.

Question 4

The draft regulations can be found at Annex B. Do you feel they achieve the aim? If not, why not?

- 2.14 AAT has not reviewed the draft legislation from a legal perspective and on that basis we decline to respond to question 4.

3 CONCLUSION

- 3.1 AAT supports the OTS' goal of simplification of tax administration.
- 3.2 AAT is concerned that the proposal to align the income tax and NICs treatment as far as possible will increase the administrative burden on businesses (2.6, 2.8, 2.9 above).
- 3.3 As previously stated in 1.5 and 2.9 (above), AAT is concerned that, if adopted, the draft legislation will have a disproportionate administrative impact on smaller scale employers, who nonetheless employ IMEs and who may wish to award ERS .
- 3.4 As previously stated in 2.7 (above), AAT recommends that HMRC provide help and guidance to help employers of IMEs to mitigate the increase in administration they are likely to face and to ensure that they are in a position to meet the proposed April 2015 deadline.

4 ABOUT AAT

- 4.1 AAT has over 49,800 full and fellow members and 80,000 student and affiliate members worldwide. Of the full and fellow members, there are 4,100 Members in Practice (MIPs) who provide accountancy and taxation services to individuals, not-for-profit organisations and the full range of business types (figures correct as at 30 Sept 2014).

- 4.2 AAT is a registered charity whose objects 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.
- 4.3 In pursuance of those objects AAT provides a membership body. We have drafted our response on behalf of our membership.
- 4.4 AAT members work in a wide range of professional environments and many of those will be payroll specialists. Some members will deal with share schemes. Members will be well trained and will have done professional examinations and/or Continuing Professional Development in this important area of tax compliance, and may already be operating modified payrolls for incoming employees seconded to a UK business

5 FURTHER ENGAGEMENT

If you have any questions or would like to consult further on this issue then please contact AAT at:

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