



## An update on national insurance

In the Emergency Budget, the Chancellor unveiled plans to introduce a **Regional Employer National Insurance Contributions (NICs) Holiday for new businesses**. It is hoped the initiative will encourage new businesses to start up in areas of the country that have traditionally relied heavily on public sector employment.

Here we examine the scheme in more detail and consider the implications for businesses. We also look ahead to the forthcoming increase in national insurance rates, and consider strategies to help minimise your NICs liability.

### Regional Employer NICs holiday

#### What is the scheme?

The Regional Employer NICs Holiday scheme provides new businesses in certain areas of the country with a break from paying employer NICs in respect of the first 10 employees that they take on in the first year of business. The scheme, which was announced in the Emergency Budget on 22 June, was launched on 6 September 2010 and runs for three years, ending on 5 September 2013.

The scheme's voluntary nature means that the holiday is not applied automatically and new businesses wishing to take part must apply to do so.

The scheme is only open to businesses that meet certain conditions. To be eligible:

- a sole trader, partnership or company must start a **new business** in the period 22 June 2010 to 5 September 2013 inclusive;
- the principal place at which the new business is carried on when it is started is **not in an excluded region** (Greater London, the East and South East); and
- **qualifying employees** are engaged for the purposes of the new business.

#### What is a new business?

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Most businesses that are genuinely new will qualify, providing that the other criteria are met. However, anti-avoidance rules apply to prevent businesses that are not genuinely new reorganising to take advantage of the holiday. These rules act to exclude existing businesses taken over by someone else, and the transfer of part of an existing business to a new company from benefiting from the holiday.

### **Business location**

A new business can only apply to take part in the scheme if its principal place of business is in a designated area. The included countries and regions are:

- Northern Ireland
- Scotland
- Wales
- East Midlands
- North East
- North West
- South West
- West Midlands
- Yorkshire and Humber

The business must continue to operate in a designated area. If a business starts up in a designated region, but subsequently moves into an excluded region during either the initial period or the holiday period in relation to a qualifying employee, the benefit of the scheme ceases immediately.

### **Qualifying employees**

The scheme relieves employers of the need to pay employer NICs in respect of the first 10 qualifying employees (subject to the maximum saving per employee) employed during the first year of the business. In determining whether the limit of 10 has been reached, it is necessary to take account of all employees, including directors, and those who work part-time or who earn less than the secondary NIC threshold (£110 per week for 2010/11).

### **Did you Know...**

In 2011 the Government will introduce a new system for distributing National Insurance numbers, which will see the plastic National Insurance card replaced with a letter.

### **Possible savings**

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The scheme offers new businesses the opportunity to save up to £50,000 in employer NICs. There is no limit on the amount that can be paid to a qualifying employee under the scheme, although the relief available in respect of any one employee is capped at £5,000. For 2010/11 this means that an employer can obtain relief in full for the employer contributions that they pay in respect of qualifying employees earning £44,778 or less.

### **How to apply**

An application form is available on the HM Revenue and Customs' (HMRC) website ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)). When deciding when or whether to complete an application form, it should be noted that the legislation giving statutory effect to the scheme is not yet in force. However, businesses that choose to apply before the legislation has received Royal Assent should note that if the scheme does not become law or changes are made as the Bill passes through Parliament, the business would be liable to pay any NICs due. In the event that a business chooses to wait until the legislation is in place before applying, the business will be able to claim a refund of any employer NICs that it would have been eligible to deduct under the scheme.

### **How to operate the scheme**

Employers operating the Regional Employer NICs Holiday scheme will need to withhold the employer NICs that they would normally pay to HMRC in respect of the first 10 qualifying employees. The holiday period for each employee runs from the date on which the employee was taken on (which must be within the first year of business) for 12 months or, if earlier, until the end of the scheme (6 September 2013). However, the holiday period will end before the 12 months is up if the £5,000 limit per employee is reached earlier. If the employer recruits more than 10 employees at the same time, the employer is free to choose which employees are qualifying employees under the scheme. The more the employee is paid, the higher the potential NIC savings for the employer.

If the employee is a member of a contracted-out pension scheme, the employer can withhold the amount of NIC payable at the relevant not contracted out rate.

At the end of each month or quarter, the amount that the employer pays over to HMRC is the amount calculated in accordance with the normal rules, less the amount of employer NICs benefiting from the holiday. HMRC provides a record keeping form at [www.hmrc.gov.uk/forms/e89.pdf](http://www.hmrc.gov.uk/forms/e89.pdf). These records can be inspected by HMRC.

### **Case Study**

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Start Up Ltd set up in business in Manchester on 1 October 2010. It hired five employees on 5 October 2010, a further three employees on 4 January 2011 and a further four employees on 10 November 2011.

The business is a new business and it is not in an excluded area. It applies to join the Regional Employer NICs Holiday scheme. The initial period runs from 1 October 2010 to 30 September 2011. As only eight employees were taken on in this period the holiday applies in respect of all eight. The employees who started on 10 November 2011 joined outside the initial period and are therefore not within the scope of the scheme.

As regards to the employees who commenced work on 5 October 2010, the holiday period runs until 4 October 2011, unless the £5,000 employer NIC saving limit is reached before this date. Similarly, for the employees who joined on 4 January 2011, the holiday period runs until 3 January 2012, unless the £5,000 limit is reached before that date.

Further guidance on the scheme, including a postcode checker, can be found at [www.businesslink.gov.uk](http://www.businesslink.gov.uk).

## Future changes to NICs

NIC rates are due to rise from April 2011. A further 1% will apply to the rates applicable to employers, employees and the self-employed as shown in the table below.

	2010/11 rates		2011/12 rates	
	main	additional	main	additional
Class 1 (employee)	11%	1%	12%	2%
Class 1 (employer)	12.8%	no upper limit	13.8%	no upper limit
Class 1 A/B (employer)	12.8%	no upper limit	13.8%	no upper limit
Class 4 (self-employed)	8%	1%	9%	2%

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The level at which people start to pay NICs will increase by £570. Those paying the standard employee rate and earning below £20,000 will pay less NICs overall as a result.

The 1% rise in NIC rates will represent a significant increase in costs, especially for employers. If you have any questions or concerns about the forthcoming changes, please contact us.

## **Minimising NICs**

Clearly there is more need than ever to mitigate NICs. While strategies are limited, we can work with you on ideas for saving employer and/or employee NICs.

### **Dividends instead of salary/ bonus**

For limited companies you should consider paying dividends rather than salary/ bonus. Where directors are in receipt of a salary/ bonus from a company, the NIC cost may be such that part of the payment could be more cost effectively made as a dividend. There are special rules for some companies providing personal services.

The decision on whether to pay a dividend is complex because doing so may influence the value of the company's shares and therefore increase the liability to capital gains tax and inheritance tax. There is also a maximum amount that may be paid, based on the company's results.

### **Further strategies**

#### **You may also want to consider:**

- increasing the amount the employer contracts to contribute to company pension schemes
- share incentive plans (shares bought out of pre-tax and pre-NIC income)
- salary sacrifice arrangements in respect of tax-free benefits in kind, such as the provision of childcare
- giving employees other non-cash benefits in kind may reduce their NICs

#### **Actions unlikely to save NICs:**

- Round sum allowances – any profit element will attract NIC
- Employees' contributions to pension schemes.

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For further advice on minimising your tax liability, please contact us. We have expertise in all areas of running a business and would be delighted to assist you.

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