

Partnerships: Disguised Employment

Who is likely to be affected?

Members of a Limited Liability Partnership (LLP) who meet certain criteria to be set out in secondary legislation.

General description of the measure

The measure disapplies a part of the Limited Liability Partnership Act 2000 (LLPA) which may otherwise prevent certain members of an LLP being categorised by secondary legislation as employees of the LLP for the purpose of National Insurance Contributions (NICs).

Policy objective

The objective is to achieve a fairer system, ensuring that those who should pay tax and NICs as employer and employee do not avoid this responsibility by disguising the nature of the employer/employee relationship behind a LLP. It ensures a level playing field between employers.

Background to the measure

HMRC published a consultation document on 20 May 2013 with proposals for addressing the disguising of the employer/employee relationship through membership of a LLP (Partnerships: A review of two aspects of the tax rules).

Detailed proposal

Operative date

The measure will have effect from 6 April 2014.

Current law

Currently members of Limited Liability Partnerships are, in effect, treated as self employed (sections 863 ITTOIA and section 15 (3A) Social Security Contributions and Benefits Act 1992)

Proposed revisions

Secondary legislation will provide for the re-categorisation of certain members of LLPs in defined circumstances as employees.

Summary of impacts

This table represents the Government's current understanding of the impact of this measure. This information will be updated to take into account responses to this consultation and a revised table will be published as part of the Tax Information and Impact Note alongside draft legislation in the autumn.

Exchequer	2013-14	2014-15	2015-16	2016-17	2017-18
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impact (£m)	0	+125	+365	+300	+285
	<p>These figures are set out in Table 2.1 of Budget 2013 and have been certified by the Office for Budget Responsibility.</p> <p>The cost figures represent the estimated total yield across the whole of the proposed package of reforms. It is important to note that the element covered here (NICs) is only one part of the total package the estimates refer to. Separate costs for this element are not currently available.</p>				
Economic impact	<p>The broader economic impact is expected to be negligible.</p> <p>The legislation will result in some LLPs grouped in certain industry sectors where this behaviour has been most prevalent paying increased amounts of NICs.</p>				
Impact on individuals and households	<p>Except where indicated above, the Government does not expect the impact on individuals to be significant and there is no impact on households given the scope of this measure (see above).</p>				
Equalities impacts	<p>No impacts on any protected equality groups are expected from these options for the reason set out in the box above.</p>				
Impact on business including civil society organisations	<p>This measure is expected to have a negligible impact on businesses and civil society organisations. It will affect LLPs who use membership status to disguise employment. This is expected to be a minority of partnership structures. There will be negligible one off costs of change as professions and businesses which may include the third sector organisations need to understand the new rules and communicate them to their scheme members.</p>				
Operational impact (£m) (HMRC or other)	<p>HMRC expects to apply the existing processes for the change proposals and options, and the operational impact would not be significant. A few public sector organisations using the partnership model may be affected and they would also incur costs of change like private sector organisations.</p>				
Other impacts	<p>Some small businesses may be affected by this measure, but the majority of the tax yield is expected to derive from large professional partnerships. The existing evidence suggests that the majority of partnership, irrespective of size, will not be affected.</p>				

Monitoring and evaluation

This policy may be kept under review through communication with taxpayer groups affected by the measure.

Further advice

If you have any questions about this change, please contact Richard Rogers on 020 7147 2625 (email: richard.rogers@hmrc.gsi.gov.uk).

Declaration

David Gauke MP, the Exchequer Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.