

# **Technical consultation on draft secondary legislation for the zero-rate of Class 1 employer National Insurance contributions (NICs) for apprentices under 25**

## **Introduction**

1. At Autumn Statement 2014 the Chancellor announced that the government will abolish employer Class 1 National Insurance for apprentices under the age of 25 on earnings below the Upper Earnings Limit (UEL) from April 2016.
2. The government is committed to ensuring more people can access high quality apprenticeships. Apprenticeships offer young people an alternative to university as a path into skilled employment. Over the next 5 years the government will deliver 3 million more apprenticeships in England and ensure they deliver the skills employers need.
3. Around 180,000 employers currently offer apprenticeships in the UK. The policy is intended to support employers to provide more high quality apprenticeships to young people in the UK, by removing the requirement that they pay secondary Class 1 NICs on earnings up to the UEL, for those employees. This should also support youth employment by making it more attractive for employers to recruit apprentices who are under the age of 25.

## **Who should read this?**

4. The definition of 'apprentice' for the zero-rate of employer Class 1 NICs, will be of interest to employers, employer advisers, payroll agencies and training providers involved in the delivery of apprenticeship training.

## **National Insurance Contributions Act 2015**

5. The National Insurance Contributions Act 2015 (Act) introduced the zero-rate of employer Class 1 NICs below an Upper Secondary Threshold (which will be the same as the UEL for the tax year starting 6 April 2016) for employed earners, aged under 25, who are engaged as apprentices. The Act can be found at: <http://www.legislation.gov.uk/ukpga/2015/5/contents/enacted>
6. The Act amended the Social Security Contributions and Benefits Act 1992 (SSCBA). Section 9B of the SSCBA, and its Northern Ireland equivalent, introduces the concept of a 'relevant apprentice' (subsection 2(b)) and provides 2 criteria, which must be met. The earner must be under the age of 25 and must be employed, in the employment, as an apprentice. Section 9B(9) SSCBA provides that the Treasury may make regulations to prescribe the meaning of 'apprentice' in subsection 2(b).

## Technical consultation on draft regulations

7. The purpose of the regulations is to define the meaning of 'relevant apprentice' using the power in section 9B (9) of the SSCBA and its Northern Ireland equivalent. This definition will be used to determine which apprentices under the age of 25 qualify for the zero-rate of employer Class 1 NICs. The definition of apprentices will:
  - a. Include: government recognised apprenticeships in the UK ie those which follow government arrangements/approved frameworks. This includes frameworks or standards recognised by the Skills Funding Agency in England as well as apprenticeship frameworks approved by the Welsh, Scottish and Northern Ireland governments.
  - b. Exclude: apprenticeships which do not follow government approved frameworks, also known as common law, apprenticeships; and
  - c. Require that a 'relevant apprentice' is one that will have a written agreement, specifying the government recognised apprentice framework/standard, with a start and expected completion date. This will be an agreement, between the training provider, apprentice and employer and will be the evidence the employer needs to retain when applying the zero-rate of employer Class 1 NICs for an apprentice under 25.
8. It is intended that where an employee is considered an apprentice for National Minimum Wage purposes, they will also be considered a 'relevant apprentice' for the zero-rate of employer Class 1 NICs for apprentices under 25, except where the apprentice is not following a government approved apprenticeship framework or standard, eg common law apprenticeships.
9. This policy applies to Great Britain and Northern Ireland. While apprenticeship policy is a devolved matter, HM Treasury and HM Revenue and Customs have UK-wide responsibility for NICs policy. In defining the meaning of 'apprentice' for the purposes of these regulations, we have discussed the matter with those responsible for apprenticeship policy in the 4 nations and sought their input.
10. The consultation invites interested parties to comment on the definition of 'relevant apprentice' as provided in the draft regulations. We are particularly interested in this approach's impact regarding administration and compliance for employers. Any comments on the draft regulations should be sent to:  
[consultation.nic@hmrc.gsi.gov.uk](mailto:consultation.nic@hmrc.gsi.gov.uk)
11. The draft regulations are published at:  
<https://www.gov.uk/government/collections/hm-revenue-and-customs-draft-legislation>

12. The consultation will run for 8 weeks commencing on 24 July 2015 and ending on 18 September 2015.

### **Next steps**

13. Responses to this technical consultation will be reviewed and the draft regulations will be revised as appropriate before they are laid before Parliament.

14. Guidance for employers on the definition of an apprentice for the purposes of the zero-rate of employer Class 1 NICs and more detailed guidance on how to apply the zero-rate to the earnings of a 'relevant apprentice' through the payroll from 6 April 2016 will be available in January 2016.

If you would like to have this document in Welsh or alternate formats including large print, audio and braille, please let us know and we will provide a copy.