

SPORTING TESTIMONIAL PAYMENTS: DRAFT CLAUSES 2016

EXPLANATORY NOTES

Policy background

- 1 As part of the 2015 Autumn Statement, the Government announced that it would be simplifying the income tax and National Insurance treatment of payments derived from sporting testimonials. These changes can be summarised as follows:
- 2 Bringing payments from sporting testimonials that are non-contractual, non-customary and organised by an independent testimonial committee within the scope of both income tax and National Insurance contributions (NICs).
- 3 Introducing a new exemption for tax and NICs of £100,000 for sporting testimonial payments that are organised by independent testimonial committee.
- 4 Ensuring the new £100,000 exemption applies to only one testimonial in a person's lifetime, which could come from one event or a series of events held over a 12 calendar month testimonial year.
- 5 The changes for income tax were legislated for in the Finance Act 2016, and will come into effect on 5 April 2017. The corresponding changes for NICs will be included in the National Insurance Contributions Bill 2017, and will come into effect a year later: in April 2018.

Commentary on the draft clauses

Clause 1: Sporting testimonial payments: Great Britain

- 6 This section provides for any Class 1A NICs liability arising on taxable sporting testimonial payments by virtue of section 226E of ITEPA 2003 (sporting testimonial payments) and section 10 of the Social Security Contributions and Benefits Act 1992 (Class 1A contributions: benefits in kind) to be met by third party controllers of sporting testimonials.
- 7 The controller will be liable to pay Class 1A NICs due on sporting testimonial payments that comprise of cash as well as benefits in kind. Equivalent provisions will be introduced for Northern Ireland.
- 8 *Subsection (1)* of Clause 1 provides for necessary amendments to be made to the Social Security Contributions and Benefits Act 1992 (SSCBA 92) which contains the main provisions dealing with National Insurance contributions.
- 9 *Subsection (2)* inserts into section 10 of SSCBA 92 a reference to new section 10ZBA which will provide for the new Class 1A NICs liability on sporting testimonial payments to be placed on the controller of a sporting testimonial committee.
- 10 *Subsection (3)* inserts into section 10ZA of SSCBA 92 (liability of third party provider of benefit in kind) new subsection (1A). This new subsection makes clear that section 10ZA will not apply if the benefit being provided by the third party consists of a sporting testimonial

payment.

- 11 *Subsection (4)* inserts into SSCBA 92 new section 10ZBA (Liability of third party controller of sporting testimonial).

New section 10ZBA Liability of third party controller of sporting testimonials

- 12 New section 10ZBA(1) defines the circumstances in which a sporting testimonial controller will be liable to pay a Class 1A contributions. Three conditions must be satisfied:
- a. A Class 1A contribution liability must be payable for the tax year in respect of general earnings paid to an earner.
 - b. Those general earnings must consist in a sporting testimonial payment.
 - c. The controller of the sporting testimonial making the payment must not be the person who, but for new section 10ZBA, would be liable to pay Class 1A contributions on those general earnings.
- 13 New subsection 10ZBA(2) provides that the controller of the sporting testimonial instead of the earner's employer is liable to pay the Class 1A contributions due in respect of the sporting testimonial payment.
- 14 New subsection 10ZBA(3), (4) and (5) deal with cases where the controller of the sporting testimonial pays an amount to discharge any liability of the earner to pay income tax in the relevant tax year in respect of a sporting testimonial payment. Normally, a payment of an earner's income tax by someone other than the earner himself constitutes a payment of earnings for NICs purposes on which a Class 1 NICs liability arises. New subsection (4) provides that where such an amount is paid by the controller of the sporting testimonial, that amount is to be treated as a payment of general earnings and is to be ignored in the computation of the earner's earnings for Class 1 NICs purposes. The combined effect of subsections (3), (4) and (5) is to require the controller of a sporting testimonial to pay Class 1A NICs on any payment made by him to discharge the earner's tax liability on the sporting testimonial payment.
- 15 New subsection 10ZBA(6) provides that the expressions used in this section have the same meaning as in section 226E of ITEPA 2003 (sporting testimonial payments).
- 16 *Subsection (5)* provides that the amendments made by section 1 have effect for tax years 2018-19 and subsequent tax years.

Clause 2: Termination awards: Northern Ireland

- 17 [This clause mirrors the effect of clause 1 in Northern Ireland legislation]