



HM Revenue
& Customs

Class 2 National Insurance contributions: inactive members of Limited Liability Partnerships

Who is likely to be affected?

Inactive members of Limited Liability Partnerships (LLPs) who may be liable to pay Class 2 National Insurance contributions (NICs).

General description of the measure

This measure will ensure that inactive members of LLPs will be liable to pay Class 2 NICs in the same way as Sleeping Partners and inactive Limited Partners.

Policy objective

The objective of this measure is to ensure that liability to pay Class 2 NICs is not a determining factor in the decision of whether individuals operate through an LLP or a partnership.

Background to the measure

In April 2013 HM Revenue and Customs (HMRC) announced a change in interpretation of the law so that Sleeping Partners and inactive Limited Partners were liable to pay Class 2 and 4 NICs. For the purposes of Class 2 NICs, a change to regulations is proposed to ensure that for the avoidance of doubt the position of inactive members of LLPs follows that of Sleeping Partners and inactive Limited Partners.

Detailed proposal

Operative date

The measure will have effect from April 2015. Class 2 NICs will be collected through Self Assessment from April 2016, for the 2015 to 2016 tax year onwards.

Current law

The current law is included in section 2 and 122 of the Social Security Contributions and Benefits Act 1992 (SSCBA). The equivalent legislation for Northern Ireland is section 2 and 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (SSCB(NI)A).

Proposed revisions

Section 2 of the SSCBA and the SSCB(NI)A provides that liability to pay Class 2 NICs requires that an individual is a “self-employed earner” who is “gainfully employed”. “Employment” is defined in section 122 of SSCBA and the SSCB(NI)A to include any trade, business, profession, office or vocation and “employed” has a corresponding meaning.

These changes amend the Social Security Contributions (Limited Liability Partnership) Regulations 2014 by inserting new regulation 2A which provides that “employment” for the purposes of Parts 1 to 6 of the SSCBA and the SSCB(NI)A includes membership of a LLP.

These changes also amend the Social Security Contributions (Limited Liability Partnership) Regulations 2014 by inserting new regulations 2B and 2C into them. New regulation 2B provides that a person in Great Britain who is a member of a LLP is to be treated as a self-employed earner for the purposes of the SSCBA unless the Salaried Member Rules in regulation 3 of the Social Security Contributions (Limited Liability Partnership) Regulations 2014 apply to them. New regulation 2C makes equivalent provision for Northern Ireland.

Summary of impacts

Exchequer impact (£m)	2015 to 2016	2016 to 2017	2017 to 2018	2018 to 2019	2019 to 2020
		negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer.				
Economic impact	The measure is not expected to have any significant economic impacts.				
Impact on individuals, households and families	<p>This change represents a positive impact on the self-employed in terms in terms of ensuring that the liability to pay Class 2 NICs is broadly consistent for inactive members of LLPs, Sleeping Partners and inactive Limited Partners.</p> <p>This measure is not expected to have any impact on family formation, stability or breakdown.</p>				
Equalities impacts	It is expected that this measure will be neutral in respect of equalities impacts.				
Impact on business including civil society organisations	<p>There is likely to be a small positive administrative impact on businesses operating through LLPs in terms of considering whether they are liable to pay Class 2 NICs. The change removes this impact by ensuring that there is no difference in the liability to pay Class 2 NICs whether they operate through an LLP or a partnership.</p> <p>The change has no impact on civil society organisations.</p>				
Operational impact (£m) (HMRC or other)	HMRC may incur some small costs from the introduction of the new regulations but these are considered to be negligible.				
Other impacts	<p><u>Small and micro business assessment:</u></p> <p>There is likely to be a small positive administrative impact on small businesses operating through LLPs in terms of considering whether individual members are liable to pay Class 2 NICs. The change is aimed at ensuring that there is no difference in the liability to pay Class 2 NICs whether they operate through an LLP or a partnership.</p> <p>Other impacts have been considered and none have been identified.</p>				

Monitoring and evaluation

The measure will be evaluated on an on-going basis through information collected on tax returns.

Further advice

If you have any questions about this change, please contact Raj Nayyar on:

Telephone: 03000 586543

Email: raj.nayyar@hmrc.gsi.gov.uk

Declaration

David Gauke MP, the Financial 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.