



David Yates KC

Pump Court Tax Chambers

Website: www.pumptax.com Email: clerks@pumptax.com Telephone: [+44 \(0\)20 7414 8080](tel:+442074148080)

Budget Note

Autumn Budget 2024 and Employment Taxes

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The Autumn Budget on 30 October 2024 announced some significant changes to employment taxes:

1. The increase of Employer's National Insurance Contributions from 13.8% to 15%;
2. The reduction of the secondary threshold;
3. Employment Allowance;
4. Provision for Overseas Workday Relief;
5. Company cars; and
6. Payrolling benefits.

Employer's NICs

Employer's NICs is a catch-all name for NICs paid by secondary contributors (usually the employer unless they are non-UK resident). The forms of NICs payable by a secondary contributor are:

1. Secondary Class 1 NICs. This is what secondary contributors must pay on "Earnings". The rate is currently 13.8% - set out in [s.9\(2\)](#) of the Social Security Contributions and Benefits Act 1992 ("SSCBA 1992") and defined as the "secondary percentage";
2. Class 1A NICs. This is what secondary contributors must pay on "payments in kind" which do not count as Earnings for NICs purposes but are nevertheless taxable as benefits or (more recently) termination payments under ITEPA. The rate is currently 13.8% as set out in [s.10\(5\)-\(6\)](#) of SSCBA 1992 by reference to the secondary percentage; and
3. Class 1B NICs. This is a niche NICs charge payable only for PAYE Settlement Agreements. Again the rate is currently 13.8% as set out in [s.10A\(6\)-\(7\)](#) of SSCBA 1992 again by reference to the secondary percentage.

The rates set out in [Annex A](#) (the rates and allowances published with the Budget) only address Secondary Class 1 NICs – confirming the 15%. However, it would be surprising if it were intended to leave Class 1A and 1B at the old rate and so one should assume that the rate change will be effective for all Employer’s NICs.

The rates were previously changed to 13.8% from 12.8% under the National Insurance Contributions Act 2011.

Secondary Threshold

NICs operates separately from income tax and so has its own thresholds at which Class 1 NICs are payable – the primary threshold for Employee’s NICs and the secondary threshold for Employer’s NICs. Strictly these thresholds are set out on a weekly rather than annual basis.

The thresholds were already different for employees and employers but this difference widens significantly as a result of the Budget:

	2024/25	2025/26
Primary threshold	£242 per week	£242 per week
Secondary threshold	£175 per week	£96 per week

On a 52 week year, the secondary threshold is therefore reduced from £9,100 to £4,992 (the Budget uses a figure of £5,000). Even in isolation (i.e. at the old rate of 13.8%) this would represent an increase per worker earning above £9,100 of £567 of Secondary Class 1 NICs.

These threshold changes make no difference for Class 1A or Class 1B since these always applied regardless of the level of earnings. Historically, Class 1A did not apply to employees who earned less than £8,500 but that exemption was scrapped in Finance Act 2015.

Employment Allowance

Employment Allowance for NICs was introduced in [s.1](#) of the National Insurance Contributions Act 2014. This essentially provides an annual £5,000 credit for a secondary contributor which can be used against their secondary Class 1 liability. There are however a number of exclusions in [s.2](#) – most obviously for public authorities, NICs liabilities for domestic staff and employers with a Secondary Class 1 NICs liability in excess of £100,000. So this is a provision targeted at small businesses.

The Budget proposes to increase the allowance from £5,000 to £10,500 which will in part offset the other NICs rises for small businesses. Further, the existing exclusion for businesses with a Secondary Class 1 NICs liability in excess of £100,000 is being removed.

To illustrate this, assume that a business employs 5 employees who work 37.5 hours a week on the new National Living Wage (from April 2025) of £12.21 (i.e. £23,873.60 per year). The Employer’s NICs

resulting from the Budget equates to £2,832.24 per worker (or a total of £14,161.20). The business gets to use the Employment Allowance so that it only has to pay £3,661.20.

By contrast if one assumes the same National Living Wage but with the old secondary threshold and rate of 13.8% one would have had an Employer's NICs liability of £10,193.78 which would be reduced by the old Employment Allowance of £5,000 to £5,193.78.

As a broad rule of thumb, a small business with 6 or fewer full-time workers on the National Living Wage is better off. By contrast small businesses with 7 or more full-time workers are worse off when one combines the NICs changes with the increased Employment Allowance.

Overseas Workday Relief ("OWR")

This change is connected with the scrapping of the UK domicile regime and I have discussed this in a previous [Budget Note](#). The draft legislation published is found at pdf page 9 of the [draft legislation](#) which sets out a new s.41M to be inserted into ITEPA. Transitional reliefs are found at pdf page 36.

Under the current s.26 regime the following were the key criteria:

1. The remittance basis applies for the year (under ss.809B, D or E) – this by definition also means the individual is UK resident but non-UK domiciled;
2. The requirements of s.26A are met – essentially a test that the individual has not been resident in the UK for more than 3 tax years prior to becoming UK resident and has not been UK resident for the 3 tax years prior to the year in question;
3. All or part of the individual's General Earnings are not in respect of duties performed in the UK nor are from overseas Crown employment subject to UK tax;
4. To the extent that the year is a "split-year" the earnings are attributable to the UK part of the split-year (if they were attributable to the non-UK part, there would be no need for this relief – instead one would only have to consider s.27).

In summary, under the current rules new arrivals get s.26 treatment for the first 3 years but in the fourth year are taxed like all other UK residents (unless they could avail themselves of s.22).

Where s.26 applied, the non-UK domiciled individual would only be taxable on employment income attributable to non-UK duties on a remittance basis (i.e. they would be taxed on the income if remitted).

The new proposed regime is significantly different in the following respects:

1. It is available to everyone regardless of their domicile status;
2. Instead of needing to be non-UK resident for 3 years prior to arrival, the new rule will now be 10 years (as is this is a requirement of the new Foreign Income Gains ("**FIG**") Regime) – this is the "qualifying new resident" referred to in the proposed s.41M;
3. The regime is extended to 4 years (currently it is 3). This aligns OWR with the wider FIG regime.
4. The new regime will operate as a partial exemption from income tax in terms of earnings attributable to overseas duties as opposed to being chargeable on remittance. The relief is capped at 30% of "qualifying employment income" or £300,000 (whichever is lower) – see the new proposed s.41R.

The 30%/£300,000 differs from the previous Conservative proposals in that it is less generous. This appears to be benchmarked to other 30% expatriate regimes in the EU such as the Netherlands or France.

However, unlike the Conservative proposals, the relief applies for 4 years (not the current 3). The Budget also confirms that the new OWR rules will apply to Part 7A (see the proposed s.41U) and ERS (including options) (the proposed s.41V) - both of which indirectly use the current OWR rules. This was a point of uncertainty that I highlighted in the previous Budget Note.

It should be emphasised that under both the current and the now proposed rules, no provision is made for NICs. Domicile has never been a relevant concept for NICs and indeed the NICs rules have their own separate rules on residence (i.e. not using the statutory residence test for income tax). Therefore full NICs will be payable even if OWR is claimed.

Company cars

The changes announced are relevant for benefit in kind charges for company cars:

- Electric vehicle rates will rise from a current 2% BIK to 5% in 2027/28 (i.e. 1% per year) but then by 2% per year for 2028/29 and 2029/30 (i.e. reaching 9% in 2029/30);
- Hybrid cars will increase more in line with ICE vehicles and reach 18% BIK in 2028/29 and 19% in 2029/30.
- Other vehicle bands will increase by 1% per year with BIK rates hitting 20%-39% in 2029/30 (depending on carbon dioxide emissions).
- Double cab pick-ups (DCPUs) with a payload of one tonne or more will be treated as cars for income tax purposes from 6 April 2025.

The DCPU point requires a bit of unpacking. The issue arose following the Court of Appeal judgment in [Payne v HMRC](#) [2020] EWCA Civ 889 which addressed the meaning of "goods vehicle" in [s.115\(2\)](#) of ITEPA:

"“goods vehicle” means a vehicle of a construction primarily suited for the conveyance of goods or burden of any description”

The case itself concerned "van-like" vehicles which had been fitted out with seats. The Court held that "construction" in [s.115\(2\)](#) meant the vehicle in its finished form (as opposed to when it rolled off the factory production line) and "primarily suited" meant suitability "marginally greater" than another suitability. Suitability was a question that had to be considered in the round as opposed to being a mechanical or mathematical exercise. The Court of Appeal concluded that both the VW Kombi and Vauxhall Vivaro were "cars". The case belatedly prompted HMRC in 2024 to suggest that DCPUs should also be considered cars but a U-turn was made by HMRC within a few days - [see here](#). However, where a DCPU had a weight of less than one tonne, HMRC continued to treat them as "cars". HMRC's U-turn is now going to be U-turned again with the Labour proposal albeit with some transitional provision.

Payrolling benefits

Currently there is express provision to allow the voluntary payrolling of benefits in kind in Chapter 3A (rr.61A-61M) of the PAYE Regs (SI 2003/2682). Currently voluntary payrolling is only available for

"authorised employers". Further, it is only available for "specific benefits", in summary this means:

- Non-cash vouchers and credit-tokens
- Cars, vans and fuel
- Residual benefits under Chapter 10 of the Benefits Code

In January 2024, the Conservative Government announced that payrolling of benefits would become mandatory from April 2026 – see [this update](#). However, it was unclear whether this would also apply to employment related loans and accommodation as well or merely those benefits currently the subject of the voluntary payrolling regime.

The Budget now confirms (see the detail [here](#)) that the payrolling of benefits will be phased in from April 2026:

- This will be mandatory for all benefits apart from employment related loans and accommodation.
- A voluntary system will exist for employment related loans and accommodation but P11D and P11D(b) will still be available.
- There is an indication that HMRC will take a tolerant approach on penalties for tax year 2026/27.