Class 1A NICs on termination payments and sporting testimonials

Employment Tax

28 February 2020

The ATT has responded to a HMRC consultation on draft legislation covering the application of Class 1A NIC contributions on termination payments and sporting testimonials from April 2020.

A key point raised in the ATT response is that it is currently unclear exactly when the draft legislation will take effect in relation to termination payments. Both the draft legislation and accompanying technical overview clearly state that the regulations have effect in relation to sporting testimonials which are announced on or after 6 April 2020. However, there is no corresponding clarification as to when they are intended to take effect in relation to termination payments.

As a result, it is unclear whether the draft legislation is intended to apply to any payments which are made on or after April 2020 in respect of termination, or only to payments in respect of terminations which take place on or after 6 April 2020. The ATT recommends that it be made clear in the final version of the legislation (or as a minimum in the accompanying documents and guidance) exactly how the provisions take effect in relation to termination payments. It would also be helpful for guidance to address how payment arrangements which span this commencement date are to be treated for Class 1A purposes.

The ATT response sets out a number of other comments on the format of the draft legislation and the terminology it uses. In particular, it recommends that further introductory signposting be included in the legislation to indicate which parts relate to termination payments and which to sporting testimonials, and highlights the need for more assistance in interpreting certain terms (including ‘blood relative’ and ‘dependant’).

The ATT also notes that, in order to ensure the smooth roll out of the changes introduced by the draft legislation, it will be important to issue comprehensive practical guidance to employers. This should cover issues including commencement of the rules and the treatment of non-cash benefits which continue post-termination.

The ATT response can be found here: www.att.org.uk/ref346.

Emma Rawson
erawson@att.org.uk