



## CLASS 1A NIC IN REAL TIME ON TERMINATION AWARDS AND SPORTING TESTIMONIALS

Issued 19 December 2019

ICAEW welcomes the opportunity to respond to the consultation on the draft **Social Security (Contributions) (Amendment No. X) Regulations 2020** that will enable employers and testimonial committees to report and pay in real time Class 1A National Insurance Contributions on termination awards and sporting testimonials published by HMRC on 16 October 2019.

This response of 19 December 2019 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System are summarised in Appendix 1.

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## GENERAL COMMENTS

1. We should welcome confirmation that the liability for and payments of in-year Class 1A NIC on termination payments and sporting testimonials will be shown separately from other PAYE data on employers' business tax accounts.
2. We reiterate our previously-made recommendation that employer-only in-year NIC on termination payments and sporting testimonials should be allocated a new class name, say Class 1C, to make it easy for everyone to distinguish in-year Class 1A NIC from Class 1A NIC on benefits-in-kind etc paid after the year end.

## DETAILED COMMENT ON THE REGULATIONS

### **Para 7: new section 40D: Special provisions for reporting, payment and collection of Class 1A contributions relating to sporting testimonials**

3. Draft new s40D(8) provides that the Class 1A NIC on sporting testimonials should be calculated by applying the threshold in s403(3) and (4) ITEPA 2003.
4. Unfortunately, s403 relates to termination awards, not sporting testimonials.
5. We suggest that new 40D(8) needs to be corrected to refer instead to the provision in ITEPA 2003 that relates to the sporting testimonials threshold, namely s306B.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).