United Kingdom – NIC Apportionment for Internationally Mobile Employees: HMRC Guidance

The U.K. tax authority, HMRC, has published guidance (NIM33650) clarifying its view on the National Insurance Contributions (NIC) treatment of cash remuneration and share awards which are taxed as earnings (e.g., Restricted Stock Units that are not structured as 'securities options') for Internationally Mobile Employees (IMEs).[1]

Employers will now need to consider both future compliance processes as well as the possibility of historic adjustments, which we highlight below.

WHY THIS MATTERS

HMRC's guidance clarifies its view on the NIC liability for IMEs, stating that the Class 1 NIC liability arises at the time the earnings are earned, but is assessed and payable when the earnings are actually paid. In other words, the liability to NIC should be apportioned based on the employee's exposure to U.K. social security legislation during the period in which the earnings arise. HMRC's approach mandates that NIC liabilities are determined by the legislation in effect during employment, irrespective of the employee's location at the time of payment.

For many employers this confirmation will necessitate adjustments to future payroll processes and will also potentially require corrections to past NIC payments.

More Details

For many years there has been uncertainty over the appropriate NIC treatment for bonuses and other forms of deferred remuneration where an individual has been subject to NIC during the performance period. In some cases, HMRC has settled enquiries on an 'all or nothing' basis (where NIC has been considered due based on the employee's location at the tax point, also referred to as 'music stops'), whereas in other cases the 'apportionment approach' has been applied (whereby NIC has been payable to the extent that the individual was subject to NIC during the performance period of the award).

Whilst the position has been unclear for many years, HMRC has now published guidance in its 'National Insurance Manual' (NIM), setting out its view that the apportionment approach is correct, and by inference that the all or nothing approach is incorrect. As such, going forward, the apportionment approach should be applied.

Whilst it is welcome to have some clarity for the future on this long-standing issue, where all or nothing has been applied by an employer historically, HMRC's Agent Update 135 has confirmed the authority's expectation that employers should self-correct their payroll submissions through the Real Time Information (RTI) payroll process to claim any refunds and to correct any underpayments of NIC going back six years.

Next Steps for Employers to Consider

The publication of this guidance is welcome insofar as it clarifies the long-standing ambiguity regarding the correct approach to NIC liabilities, emphasising the apportionment approach over the all or nothing approach. As such, employers may wish to consider the following:

1. **Be informed**: Review HMRC's guidance in the NIM and in Agent Update 135, discuss these developments with your advisers, and watch out for further commentary from HMRC in its forthcoming October 2025 *Employer Bulletin*.

2. **Prepare for future compliance**: Evaluate the necessary steps to align payroll processes with HMRC's guidance, considering implications for both U.K. and non-U.K. social security liabilities going forward.

3. **Consider the historical position**: Review the approach taken by your organisation over the past six years – has the organisation applied the apportionment approach consistently to IMEs' remuneration (in which case no further action may be required), or has the all or nothing approach been used? If so, consider the feasibility of identifying potential NIC underpayments and overpayments over the past six years and making self-corrections through RTI in accordance with HMRC's commentary in Agent Update 135.[2]

KPMG LLP (U.K.) INSIGHTS

Whilst HMRC's clarification is welcome after many years of uncertainty, it nevertheless results in a number of areas of complexity. These include:

- **Addressing the likelihood of dual liabilities** – Despite the point having been raised with HMRC repeatedly over the past 10 years, its guidance does not provide any mitigation or relief for employers and employees who may suffer double social-security liabilities where the apportionment approach is applied. This would be the outcome where HMRC seeks to subject part of a payment to U.K. NICs, whilst the individual's country of work at the time of payment also applies a social security charge to the full amount. We note that many would consider it unfair to expect U.K. employers to bear such additional costs and it is hoped that HMRC will reconsider how this eventuality may be mitigated.

- **Challenges around retrospective application** – HMRC had previously provided undertakings via the 'Joint Forum on Expatriate Tax and NICs' that *if an employer has been applying the all or nothing approach in a reasonable manner then HMRC would likely not look to take action in relation to prior periods*.[3] This was generally understood and accepted as a reasonable approach given the uncertain position that prevailed at that time. The new guidance and supporting commentary from HMRC now set out the tax authority's expectation that employers should use RTI to self-correct any underpayments and overpayments going back six years, which appears at odds with the spirit of previous statements and may well be both costly and administratively burdensome for many employers.

- **A need for practical guidance and examples to support employers moving forward** – The guidance provides some examples of how the apportionment approach would work in practice. However, the wide range of scenarios in which earnings may be paid to IMEs (e.g., spot bonuses; termination payments, etc.) necessitates far more detailed commentary on the practical application of the rules than is currently available.

- **Payroll complexities –** It is notable that the guidance states that an individual's monthly salary should be apportioned in cases where he or she ceased or started to be liable to U.K. NIC part-way through the pay period. In practice, it may be very difficult for payroll providers to effectively apply two different NIC rates in one pay run.

- **Practical considerations in relation to tracking employees –** There may be cases when an employee is on assignment outside the U.K., he is paid via an overseas payroll and receives a payment that relates wholly to the period he was working overseas – whilst the payment may not be subject to U.K. tax, it may be liable to U.K. NIC due to the operation of the '52 week rule.' This rule states that an individual on assignment to a country with which the U.K. does not have a social security agreement will remain liable to U.K. NICs for the initial 52 weeks of his or her assignment (and vice-versa). This means that the overseas payroll will need to be aware that the individual has a U.K. NIC liability in order to provide information to the U.K. entity to allow this to be reported accurately.

- **Apportionment calculation complexities –** The period when an individual is liable to U.K. NIC may not be the same as the period where he or she is resident in the U.K. or liable to U.K. income tax. This would be the case where, for example, the individual is travelling to or from a country with which the U.K. has a social security agreement, and therefore he or she is covered by a certificate of coverage for part of the period, or if he or she is covered by the 52-week rule under U.K. domestic legislation. Therefore, employers will need to carefully track each employee and calculate their U.K. NIC liability based on that employee's specific circumstances.

Conclusion

KPMG continues to share its recommendations and observations with HMRC in the interests of maintaining an approach for employers which is fair, equitable, and practically applicable moving forward.

HMRC's guidance represents a pivotal shift in the approach to NIC for IMEs. Should employers wish to discuss the forthcoming changes, as well as how they can align future practices with HMRC's guidance and assess the possibility of making historic adjustments, it is advisable to contact their usual qualified tax professional or a member of the GMS tax team with KPMG in the United Kingdom (see the Contacts section).

We will endeavour to provide further updates as and when available to readers of *GMS Flash Alert*.

FOOTNOTES:

1 See GOV.UK website, "*National Insurance Manual*," updated 18 September 2025.

2 See GOV.UK website, "*Issue 135 of Agent Update*," published 18 September 2025.

3 Minutes of the Joint Forum on Expatriate Tax and NICs meeting – 11 June 2020 .

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Contact us

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