

TAXATION OF TERMINATION PAYMENTS – UPDATE

The Government has announced a change to the implementation timetable for the treatment of national insurance contributions on termination payments.

Previously, the proposal was to apply NICs both to 'deemed PILON' payments (where there is no contractual PILON) and also to ex gratia termination payments over £30,000, both from April 2018. It has now decided to postpone the National Insurance Contributions Bill, which means the latter change won't take effect until April 2019.

However, all PILON payments *will* still be subject to employee's and employer's NICs, along with income tax, as from next April. This is set out at the HMRC page which was updated on 9 November:

<https://www.gov.uk/government/publications/income-tax-and-national-insurance-contributions-treatment-of-termination-payments/income-tax-and-national-insurance-contributions-treatment-of-termination-payments>

The position remains that the first £30k of termination payments will be free of income tax, and termination payments (even those above £30k) will be free of employee's National Insurance contributions.

The delay with the NICs Bill may assist members who receive a termination payment in the period before April 2019 - because employers will not have to pay NI contributions on any such payments, they will not have to take that cost into account in negotiating a package of compensation. Once employers' national insurance contributions apply from 2019, the possibility is that termination payments may fall as a consequence.

The saga may remind you of the (apocryphal?) graffiti *Algerie Francaise*, *Algerie Algerienne*, *Algerie Francaise* etc appended in Anglo-Saxon with "Why can't you bloody Fr..s make up your bloody minds?" And the Government hasn't even got the UK out of the EU yet!

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