

Class 2 NIC complexities

The proposal to abolish Class 2 NIC has been dropped by the Government as it thought that it would make the system more complex. However, the operative word here is 'more'.

Self-assessment

The payment of Class 2 NIC has been incorporated into the self-assessment system for the last couple of years. However, there have also been a number of problems with HMRC's systems over recent years where some Class 2 liabilities are not recognised through the self-assessment system. This may be because the person did not register as self-employed for NIC purposes in the past.

We also hear of cases where HMRC state that, as the Class 2 NIC was not paid by the 31 January, then it cannot be paid at all and so the year ceases to qualify for the State Pension, so what are the rules?

The legislation

S11 SSBA 1992 states that Class 2 NIC is due once profits break the Small Profits Threshold and is payable in the same way as Class 4 NIC (other than payments on account). S11 SSBA 1992 also allows someone who is not liable to make voluntary contributions (generally for the last six years).

If Class 2 NIC is not paid on time it may be subject to the normal self-assessment interest and penalty regime for late payment. If Class 2 NIC is due but is not collected through self-assessment, then the individual has generally six years from the relevant year to make the payment (per Reg 3 SI 2001/769). Whilst paying late may affect the rate at which Class 2 is due, it does not necessarily mean that the year does not qualify.

Voluntary Contributions

Under s12 SSBA 1992 it may be possible to make voluntary contributions for more than six years but the rules are strict and HMRC are likely to fight such a request. The voluntary contribution rules are also currently subject to special rules due to the implementation of the new State Pension (see Reg 61B SI 2001/1004).

The extended time limits for paying voluntary Class 2 NIC apply for 2006/07 to 2015/16 to ensure contributors who reach State Pension age under the new system are not disadvantaged. Those affected will have more time to pay voluntary Class 2 (or Class 3) NIC. The extended time limits apply if the:

- person reaches State Pension age on or after 6 April 2016; and
- person makes payment by 5 April 2023.

Amount payable

The amount to be paid is as follows:

- if paid by 5 April 2019, the amount payable is the rate that applied in the 2012/13 year for the years 2006/07 to 2009/10 for Class 3 and 2006/07 to 2010/11 for Class 2;
- for the remaining years, up to and including 2015/16, the relevant rate for that year if paid by 6 April 2019; and
- if payment is made after 5 April 2019, an increased amount of £3 per week for Class 2 or £15 for Class 3 for gaps between April 2006 and April 2017 will be charged.

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