

**Draft Statutory Instrument: the Social Security (Miscellaneous Amendment) Regulations
2015**

Response from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

- 1.1 This is an abbreviated response given the very short time for consultation. In particular, we have not considered the interactions with other benefits, with the exception of maternity allowance, but we do recommend that similar provision is made in relation to contribution-based employment and support allowance which is analogous to maternity allowance.
- 1.2 We welcome the fact that liability for Class 2 National Insurance contributions (NIC) will be notified separately to other tax liabilities, but we would like assurance that individuals may pay those liabilities in preference to other tax debts to maintain the current situation.
- 1.3 Guidance in the new tax return and accompanying notes will be crucial in ensuring the self-employed properly understand any choice they make as to whether to voluntarily pay such contributions.

2 About Us

- 2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

- 2.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3 Comments on individual Regulations

3.1 Regulation 8 - New regulation 87AA

3.1.1 This regulation mimics the existing wording in Regulation 87A regarding notification of liability (or ceasing liability) to Class 2 – “A person...shall **immediately** notify the relevant date...” (emphasis added). While ‘immediately’ is somewhat vague, we welcome the flexibility afforded by para (4) of this regulation, and the absence of any penalty provision (it has always seemed absurd to us that a self-employed person should be penalised for omitting to do something from which only they benefit)..

3.1.2 A further point arises in this connection – an individual may file his tax return before 31 January following the end of the tax year. We understand that the self assessment tax return is to be amended to show dates when self employment starts or ends. Will completion of that section of the tax return be regarded as notification? We suggest that it should.

3.2 Regulation 9 – Amendment to Regulation 89

3.2.1 Among other things, this regulation places an obligation on HMRC to advise the taxpayer of his Class 2 liability for the prior year by 31 October following the end of the tax year (in an ongoing situation).

3.2.2 We welcome the fact that the liability for Class 2 contributions will be notified separately to other liabilities. See further at 4.1 below.

3.2.3 Having said that, we would suggest that providing that information somewhat earlier would aid budgeting by low-income taxpayers. It seems somewhat anomalous that new regulation 89A places an obligation on HMRC to notify such liability by 1 June 2015 where the taxpayer notified they would be liable for Class 2 contributions in the last six months of the 2014/15 tax year. In an ongoing situation we would recommend that 1 June would be a more appropriate date for HMRC to notify the taxpayer of his Class 2 liability as this will enable the taxpayer to make budget payments.

3.2.4 We are not clear whether these statements will take into account any credits being applied to the taxpayer's account, for example as a result of receipt of some state benefits. If not,

we are concerned that some people might overpay these liabilities. Indeed as this information will be freely available to HMRC via their links with DWP, we would be very disappointed if it were not included.

3.3 ***Regulation 15 – Insertion of Regulation 148C***

- 3.3.1 This regulation, among other things, requires the individual to maintain their business records for six years following the 31 January falling after the end of the relevant year of assessment. This seems anomalous. Normally such records need only be maintained for **five** years following the 31 January falling after the end of the relevant tax year (see S12(B) Taxes Management Act 1970). We recommend the time limits for these obligations are aligned.

4 **More general comments**

4.1 ***Payment of contributions***

- 4.1.1 We note that special provision has been made to enable claimants of maternity allowance to pay such contributions early. We welcome this but note that no such provision has been made for claimants of contributions-based employment and support allowance, for example. While we accept that this point may only be relevant for the few individuals who fall sick between starting work and their first payment of Class 2, for those individuals it may be crucial.
- 4.1.2 For this reason, as well as to enable low-income workers to budget more successfully, we would welcome assurance that taxpayers will be able to make payments specifically towards Class 2 liabilities in preference to any other tax debts. This maintains the current situation.
- 4.1.3 In addition, more generally we would welcome a budgeting plan that enabled people to pay towards their tax liabilities in a more flexible manner.

4.2 ***New self assessment tax return***

- 4.2.1 We look forward to seeing a draft of the new form and the accompanying guidance in relation to non-payment of contributions due to the Small Profits Threshold. We remain convinced that only by ensuring taxpayers understand properly the implications of not paying Class 2 contributions will they be able to make an informed choice about the liability.

LITRG
2 March 2015