



**Chartered
Institute of
Taxation.**

National Insurance Contributions (Secondary Class 1 Contributions) Bill 2024

Executive Summary

- **The increase in employers' national insurance (NI) extends the differential in the burden of tax and NI borne by those in employment compared to those engaged as self-employed.**
- **The higher employers' NI goes, the greater the likelihood employers may seek ways to mitigate or absorb the burden, such as limiting wage rises, outsourcing and managing with fewer workers. It may increase the instances of 'false self-employment', whereby employers encourage or require their 'employees' to engage on a self-employed basis, when they should properly be treated as employees.**
- **The government should work with stakeholders to agree a sustainable solution to how earnings should be taxed, and how we might 'level the playing field'.**

Overview

This Bill deals with the following matters:

- An increase in the rate of secondary Class 1 contributions
- A reduction in the secondary threshold for Class 1 contributions
- An increase in the Employment Allowance and removal of the eligibility threshold of secondary Class 1 NICs liabilities of less than £100,000 in the previous tax year.

CIOT comments

The amendments made by the Bill will have the intended effect of increasing employers' NICs as set out by the government.

The CIOT does not comment on rates of tax.

The combined (employer and employee) Class 1 NIC rate is not materially different from 2010 – 23% (or 23.5% if apprenticeship levy is included) for 2025-26 compared to 23.8% in 2010-11. However, there is a significant difference in the incidence of NIC. Specifically, the employer (secondary) Class 1 NIC rate has increased from 12.8% in 2010 to 15% in 2025.

The higher employers' NI goes, the greater the likelihood employers may seek ways to mitigate or absorb the burden. While much media coverage has centred on the fact that this may have an impact on wages / pay rises, it could also include employers considering alternative arrangements to taking on people as employees. Alternatives could include outsourcing or offshoring services, and managing with fewer workers.

While employers must pay employer NI on their employees' earnings, no employer NI is due where someone is genuinely self-employed. However, a worker's employment status for tax is notoriously difficult to judge, as we have seen from recent complex litigation involving some TV presenters and

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football referees (although this remains an ‘every day’ issue, not restricted to high-profile, high-earning individuals).

We are concerned that the increase in employers’ NI could lead to an increase in ‘false self-employment’, where businesses trying to save money turn to arrangements where the worker is not directly employed by them, without necessarily appreciating the rules and risks of such arrangements. HMRC will need to be sufficiently resourced to tackle this.

The three-person problem

Employer (secondary) Class 1 NICs causes a major imbalance between the tax burdens on employment and self-employment (including working through your own personal service company).

This imbalance remains one of the biggest issues to be addressed if the tax system is to keep pace with evolving working practices. It can drive engagers to look to engage workers ‘off the payroll’.

Employment is more heavily taxed than self-employment or working through a limited company. This can be demonstrated by the simplified example below. In the example, we have included the incorporated owner-manager (personal service company) as a distinct category from self-employed. Whilst the self-employed and company owner-managers are often considered as one group, they differ in tax terms quite fundamentally in that the company, as an entity, is taxable in its own right at corporation tax rates with any dividends then being subject to income tax, separately, in the hands of the owner-manager. That said, where an owner-manager works for a customer as if he/she was their employee then IR35/Off Payroll Working rules apply.

The ONS states that average weekly earnings are £696 (September 2024) ([Average weekly earnings in Great Britain - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/employment-and-labour-markets/earnings-and-wages/bulletins/average-weekly-earnings-in-great-britain)). That equates to £36,192 per annum. The taxes paid by an employee, a self-employed worker, and an owner-managed company with earnings/profits of £36,192 would be:

Example: The 3-person problem

	Employee	Self-employed	Incorporated owner-manager
Earnings/Profits*	36,192	36,192	36,192
Income Tax	4,724	4,724	0
Employees' NIC (8%)	1,890		0
Self-employed NIC (6%)		1,417	
Employer's NIC (15%)	5,429		1,137
Corporation Tax (19% - small profits rate)			6,660
Dividend Tax (8.75%)			2,485
Total tax	12,043	6,141	10,282
Of which:			
Paid by individual/company they own	6,614	6,141	10,282
Paid by employing/commissioning body	5,429	0	0

Using 2025-26 tax rates, as announced/known

*Assuming no expenses, other than the employee cost of the owner manager, and that the owner manager pays out a salary equal to the income tax personal allowance, doesn't qualify for the Employment Allowance, and that all post-tax profits are paid out as dividends (also assuming that the company is not a personal services company within the ambit of the intermediaries' legislation (IR35 / Off Payroll Working))

Rules around deductibility of expenses, and availability of reliefs, also differ and are typically less generous for employees.

We believe that the government should work with stakeholders, businesses, unions and individuals with a view to agreeing a sustainable solution to how earnings (whether from employment or self-employment) should be taxed, and how we might 'level the playing field'.

Distinguishing the tax treatment of those who are employed and self-employed is increasingly outdated. Not least given the distorting effect of employers' (secondary) NIC. Tax liabilities should not depend on being an employee. A core driver in relation to businesses preferring to engage labour on a self-employed basis is employers' NICs.

There should be a strategic review of how labour should be taxed in the 21st century and what should be done about employers' NICs.

That there is a significant difference in the tax treatment, resulting in an incentive for engagers to engage workers 'off the payroll', is not the only issue with the status quo. There is concern around whether people in, or claiming, self-employment status have made a genuine choice to be so, or whether, for example, this is occurring as a result of the organisation/engager/'employer' requiring the work to be undertaken in this way. That is, whether this difference in taxes – principally employers NICs – is encouraging 'false self-employment'. (There is more on recognising false self-employment [on the website of the CIOT's Low Incomes Tax Reform Group.](#))

The Chartered Institute of Taxation

The CIOT is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 20,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA' and 'CTA(Fellow)', to represent the leading tax qualification.

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The Chartered Institute of Taxation
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