
PRACTICE NOTE

PN 204/18

Date: 24 May 2018

AWARDS MADE BY THE ISLE OF MAN EMPLOYMENT TRIBUNAL

Introduction

This Practice Note provides clarity in relation to the income tax and National Insurance treatment of awards made by the Isle of Man Employment Tribunal.

Background

The Employment Tribunal ("the Tribunal") is an independent judicial body established in law to hear and determine claims in respect of disputes over statutory employment rights such as, but not limited to:

- unfair dismissal (including protected disclosures/whistleblowing);
- redundancy;
- sex discrimination;
- equality disputes;
- unlawful deductions from pay.

Awards

Many of the awards made by the Tribunal in their decisions are compensation for the loss or breach of one of the statutory rights afforded by Isle of Man Employment Law, or in respect of a breach of a contractual obligation.

Compensatory awards are not subject to National Insurance Contributions ('NIC') because they are not earnings derived from employment. However, they fall within the definition of "termination payment" for the purposes of income tax, so amounts up to £30,000 are free from income tax.

In addition to making compensatory awards, the Tribunal can also direct an employer to discharge any outstanding contractual obligations to an employee. For example, this may include making a payment for accrued holiday pay, outstanding wages or an unpaid bonus owing to the employee.

The fact that the Tribunal have included these contractual payments in their decision does not change their tax or NIC position. Payments of holiday pay, wages, bonus etc. are earnings and are subject to income tax and NIC in the same way as all other earnings.

Please read PN 203/18 for full details of the income tax and NIC treatment of payments made on termination of employment.

Example

An employee is dismissed from his employment without notice on 21 October.

His contract of employment included:

- 12 weeks' notice for either party; and
- 4 weeks' paid holiday.

His last pay was for the period up to 30 September and he had accrued 9 days' holiday as at 21 October.

He makes a claim to the Tribunal, who find that the claimant was dismissed in breach of contract because he was not given his contractual notice.

In their decision the Tribunal directs the following payments be made to the claimant:

1. £400 unpaid wages from 1 October to 21 October;
2. £243 holiday pay for the 9 days accrued leave;
3. £1,596 in respect of the notice period that should have been given.

Payments 1 and 2 are earnings and are subject to income tax and NIC because they are contractual payments that the Tribunal are directing the employer to pay.

Payment 3 is compensation for not being given the contractual notice period of 12 weeks. It is not a contractual payment in lieu of notice (PILON), because there was no contractual entitlement to a PILON.

The payment was awarded to forestall any claim for damages against the employer that the employee may have for loss of income because they were not given the opportunity to earn their wages during the notice period.

Payment 3 will not be subject to NIC; it qualifies as a "termination payment" and is less than £30,000, so the full amount will be free of income tax.

Reporting of Awards

It is the responsibility of both the employer and the employee to correctly report, for income tax and National Insurance purposes, any compensatory awards and any contractual payments directed by the Tribunal, and to pay the income tax and National Insurance liabilities at the correct time.

An employer must report payment of any earnings and taxable benefits they are directed to pay, plus the amount of any compensatory award that is in excess of £30,000, through their payroll within the normal reporting timescales, deduct income tax and NIC from these payments and provide the employee with the necessary forms (e.g. payslip, T9, T14 etc).

An employee should declare all contractual payments, taxable benefits and the amount of any compensatory awards in excess of £30,000 received on their income tax return form for the year in which the payment is made.

If the employer or employee do not correctly report the amounts to the Assessor at the correct time, they may be charged penalties for non-compliance and late payment.

Nicola Guffogg
Assessor of Income Tax

This Practice Note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax and or national insurance.

Comments and suggestions for improvements of issued Practice Notes and suggestions for future Practice Notes are always welcome.