CHAPTER 24

CLASS 1 NATIONAL INSURANCE CONTRIBUTIONS

In this chapter you will learn about Class 1 NIC including:

- an overview of the six classes of NIC;
- definition of earnings;
- Class 1 primary contributions;
- rules for directors;
- Class 1 secondary contributions;
- contracting out of State Second Pension;
- Class 1 annual maximum.

24.1 Introduction

NIC is a very important money-raising tool for the Treasury and, year on year, National Insurance Contributions bring in around 21% of total Government revenue. Collection of NIC is administered by the National Insurance Contributions Office (NICO) which is part of HM Revenue and Customs. Other parts of HMRC assist NICO in the collection of National Insurance Contributions, particularly via the PAYE system.

The purpose of National Insurance Contributions is to provide certain retirement benefits such as the State Pension, as well as to fund certain Social Security benefits such as Job Seekers Allowance and Employment and Support Allowance. If the amount raised by NICO by way of National Insurance Contributions is insufficient to cover these benefits, any deficit is made up by a grant from the Treasury.

At present there are seven classes of National Insurance:

a. Class 1 - paid by both employees and employers on earnings from employment. SSCBA 1992, s.1

b. Class 1A - paid by employers only on benefits awarded to certain employees.

c. Class 1B - paid by employers only on Pay As You Earn Settlement Agreements (PSAs).

d. Class 2 - a flat rate weekly amount paid by self-employed persons.

e. Class 3 - voluntary contributions paid by taxpayers who wish to top-up their contribution record in order to preserve their entitlement to State benefits.

f. Class 3A - voluntary contributions paid in the period 12 October 2015 to 5 April 2017 by existing pensioners and those who reach State Pension age before 6 April 2016 to allow them to increase their additional State Pension.

g. Class 4 - paid by self-employed persons on the profits from their trade.

This gives us an overview of National Insurance. In this chapter we shall concentrate solely on Class 1 NIC.
24.2 Class 1 NIC

Class 1 National Insurance Contributions are broken down into primary contributions or secondary contributions. Primary contributions are paid by employees whilst secondary contributions are paid by employers.

Class 1 NICs are paid on earnings from the employment. If an employee receives earnings, that employee will pay Class 1 primary contributions whilst if an employer pays earnings to an employee, the employer makes a secondary Class 1 contribution.

Both primary and secondary contributions are accounted for under the PAYE system and are paid over to HMRC, along with income tax, on the 19th of each month or 22nd where payment is made electronically.

Every time an employer makes a payment of earnings to an employee, that employer will have to account for Class 1 secondary NICs currently at a rate of 13.8%. This is a very substantial additional cost borne by employers and the majority of NICs raised by the Treasury are collected from employers rather than employees.

24.3 Earnings

Class 1 contributions are paid on “earnings”. It is very important that we establish what constitutes “earnings” for National Insurance purposes. Any cash payment made by an employer to an employee is likely to be earnings for NIC purposes. This will include salaries and bonuses, but does not include the taxable element of termination payments taxed under s.401 ITEPA 2003. It will not include the reimbursement of genuine business expenses. SSCBA 1992, s.3

If an employer settles an employee’s personal liability, this payment will also constitute earnings for Class 1 National Insurance. For example, if an employee makes a visit to a shop and spends £100 which is not a business expense and that £100 is subsequently paid by the employer, the employer has paid for an employee’s personal bill. That payment will constitute earnings for NIC (but not PAYE). As such, the £100 will be charged to Class 1 National Insurance. Of course, if the employee paid the bill and was subsequently reimbursed by the employer, the amount reimbursed would be subject to Class 1 NIC and also PAYE. If the supply of the goods was arranged by the employer directly with the supplier, Class 1 NIC (and PAYE) is not due on the payment but Class 1A will be due from the employer.

If an employer makes a non-cash payment to an employee – i.e. some form of payment in kind – and that payment in kind can be surrendered for cash, that payment will also be earnings for NIC purposes, just as it is for PAYE purposes. For example, if the employer provides the employee with a bonus in the form of premium bonds, the employee has the legal right to exchange or surrender the premium bonds for cash. The payment in premium bonds will therefore be subject to Class 1 NIC. Contrast this with the employer giving the employee, say, a television. The only way the employee can obtain cash for the TV is if he sells the asset, not simply by surrender. The payment by way of the TV is therefore not subject to Class 1 NIC. Instead, it will be subject to Class 1A.

Payments in the form of “readily convertible assets” are earnings for NIC purposes. You will recall from the PAYE chapter, that a readily convertible asset is an asset that is traded on a recognised Stock, or Commodities Exchange, or an asset for which trading arrangements exist. The definition of a readily convertible asset for NIC is exactly the same as the definition we looked at for PAYE. The readily
Convertible assets legislation was introduced as many employers had thought up imaginative NIC avoidance schemes to reduce their NIC liabilities. ITEPA 2003, s.702

**Vouchers are** earnings for NIC, regardless of whether they are cash or non-cash vouchers. Childcare vouchers given to employees are specifically excluded to the extent that they do not exceed the exempt amount, being £55, £28 or £25 per week and are not earnings for Class 1 NIC. Class 1 NIC is charged on any excess amount over the allowable amount.

Mileage payments are not earnings for Class 1 NIC purposes if they do not exceed 45p per mile (irrespective of the number of miles reimbursed). If an employer pays more than this then the excess over 45p per mile will be subject to Class 1 NIC.

So, if an employee travels 15,000 miles on company business in a year and is reimbursed 50p per mile, the excess of 5p per mile i.e. £750 will be subject to Class 1 NIC. Remember that the excess reimbursement for tax purposes will not be subject to PAYE.

The vast majority of common benefits will not be earnings for Class 1 NIC purposes. For instance, if an employee is given use of a company car, or has a taxable cheap loan, that benefit will be charged to income tax, but it will not then be charged to Class 1 National Insurance Contributions in the hands of the employee. Again, Class 1A will be payable by the employer.

### 24.4 Class 1 Primary Contributions

Primary contributions are paid by employees on earnings in an “earnings period”. Most UK employees have a monthly earnings period – i.e. we receive our salary etc on a monthly basis. Some employees, typically in manufacturing industries, still receive their earnings weekly.

The current rates of National Insurance are given in the tax tables. For employees who receive their remuneration **weekly**, **no National Insurance is charged on the first £155 per week** of an employee’s earnings. This is called the “primary earnings threshold” (PET). On **earnings between £155 per week and £815 per week**, the main rate of Class 1 NIC is **12%**. The weekly limit of £815 is called the “upper earnings limit” (UEL).

Employees also pay Class 1 NICs at the additional rate of **2% on earnings in excess of the upper earnings limit i.e. above £815 per week**.

The tables also give us the monthly and annual limits. For employees with a **monthly earnings period**, for earnings up to £672 per month, NIC is charged at zero percent. For earnings between £672 and £3,532 per month, the rate is 12% and there is a further NIC liability of 2% on earnings in excess of £3,532 per month. SSCBA 1992, s.8

This is illustrated by the diagram below:

<table>
<thead>
<tr>
<th>£0</th>
<th>Nil</th>
<th>PET</th>
<th>12%</th>
<th>UEL</th>
<th>2%</th>
</tr>
</thead>
<tbody>
<tr>
<td>£155 pw</td>
<td>£815 pw</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>£672 pm</td>
<td>£3,532 pm</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>£8,060 pa</td>
<td>£42,385 pa</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

An employee will start to pay Class 1 primary contributions with effect from his 16th birthday and will stop paying NIC when the pensionable age is reached. For men
pensionable age is currently 65. For women born before 6 April 1950, pensionable age is 60. For women born after 6 April 1950, pensionable age is increasing to 65 between 2010 and 2018. Between these dates, pensionable age for a woman born on or after 6 April 1950 will depend on her exact date of birth. 

SSCBA 1992, s.6

From December 2018, the pensionable age for both men and women will start to increase to reach 66 in October 2020. Further increases are planned after this date.

NICs are calculated for earnings periods. An employee who is paid monthly will have 12 earnings periods in any particular tax year, so to calculate his NIC for the year, we do 12 separate NIC calculations and add them together.

Illustration 1

An employee has a salary of £18,000 per annum in 2015/16 which is paid monthly. The employee has use of a company car giving rise to a benefit of £2,500. The employee gets a cash bonus at Christmas of £5,000.

Calculate the employee's NIC for 2015/16.

The salary and the Christmas bonus constitute earnings for Class 1 NIC, but the company car benefit does not.

The monthly limits are:

<table>
<thead>
<tr>
<th></th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary earnings threshold</td>
<td>672</td>
</tr>
<tr>
<td>Upper earnings limit</td>
<td>3,532</td>
</tr>
</tbody>
</table>

For 11 months of the year his earnings will be 18,000/12 = £1,500.

In December his earnings will be 1,500 + 5,000 = £6,500.

The calculation will therefore be as follows:

Class 1 primary NIC

<table>
<thead>
<tr>
<th>Earnings</th>
<th>Calculation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>£1,500</td>
<td>(1,500 - 672) x 12% x 11 months</td>
<td>1,093</td>
</tr>
<tr>
<td>£6,500</td>
<td>(3,532 - 672) x 12% x 1 month</td>
<td>343</td>
</tr>
<tr>
<td></td>
<td>(6,500 - 3,532) x 2% x 1 month</td>
<td>59</td>
</tr>
</tbody>
</table>

NIC payable 1,495

The effect of this is that part of the £5,000 bonus paid in December 2015 will only have been charged to NIC at 2%.

24.5 Directors

The above rules do not apply to directors. All directors have an annual earnings period. This means to calculate a director's NIC we look at their earnings in the whole of the tax year, irrespective of whether the director was paid on a weekly or
monthly basis. This is to prevent a company director from manipulating the NIC rules by paying himself in such a way as to minimise his NIC for the year.

## Illustration 2

Take the figures in the previous illustration, but this time assume that the salary, the car benefit and the Christmas bonus are accruing to a director rather than a normal employee.

### Calculate the director's NIC for 2015/16.

To calculate the director's NIC we need to aggregate his earnings for the whole of the tax year and compare to the annual limits.

Annual earnings

\[(18,000 + 5,000) = £23,000\]

Class 1 primary NIC

\[(23,000 – 8,060) @ 12\% = £1,793\]

We see here that, unlike as with the employee in the previous illustration, none of the director's earnings will attract the 2% rate of NICs and for this reason it tends to be more expensive from an NIC perspective to be a director rather than a normal employee.

### 24.6 Class 1 Secondary Contributions

Class 1 secondary contributions are paid by employers on any earnings paid to employees. The current rate of Class 1 secondary contributions is zero percent on earnings up to the secondary earnings threshold and 13.8% on the excess.

Employers start to pay Class 1 secondary contributions when an employee's earnings exceed £156 per week (£676 per month, £8,112 per annum). Note that the secondary earnings thresholds are slightly different from the primary earnings thresholds. **SSCBA 1992, s.9**

<table>
<thead>
<tr>
<th>£0</th>
<th>Nil</th>
<th>SET</th>
<th>13.8%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>£156 pw</td>
<td>£676 pm</td>
<td>£8,112 pa</td>
</tr>
</tbody>
</table>

You should also note two other key differences between employee and employer contributions. The first is that the rate of NIC is higher for employers than for employees – i.e. 13.8% as opposed to 12%. The second thing to note is that there is no upper earnings limit for employer's contributions, i.e. the 2% rate does not apply for employers. So for every one pound of earnings paid to an employee above the secondary earnings threshold, the employer will have to pay 13.8 pence in National Insurance Contributions.

This is a substantial cost for employers to have to bear and effectively, adds nearly another 13.8% to their total wages bill.

In the case of an employee or director earning £23,000 in 2015/16, the secondary liability to be paid by the employer is:

\[(23,000 – 8,112) @ 13.8\% = £2,055\]
Employer secondary contributions begin with effect from the employee's 16th birthday, but there is no upper age limit. So if a salary is paid to an employee who is 68 years old, the employee will have no Class 1 primary liability, but the employer will still have to pay Class 1 secondary contributions at 13.8%.

However, from April 2015 the rate of employer secondary contributions in respect of employees (and directors) under the age of 21 has been reduced to 0% on earnings between the secondary earnings threshold and the 'upper secondary threshold'. This is the same as the primary upper earnings limit. Where earnings exceed the upper secondary threshold, no secondary Class 1 NICs are payable on earnings below this limit but are paid at the usual 13.8% rate on earnings above this limit. Note that the 0% rate does not apply when calculating the Class 1 primary contributions payable by the employee.

Illustration 3

Oliver, aged 20, has a salary of £24,000 paid monthly.

Calculate the employee's and employer's NIC for 2015/16.

The monthly limits are: £
Primary earnings threshold: 672
Secondary earnings threshold: 676
Upper earnings limit: 3,532
Upper secondary threshold: 3,532

Oliver’s monthly earnings are £24,000/12 = £2,000

Employee’s Class 1 primary NIC:
\[(2,000 - 672) \times 12\% \times 12\] 1,912

Employer’s Class 1 secondary NIC:
\[(2,000 - 676) \times 0\% \times 12\] Nil

From April 2016 the reduced rate of employer secondary contributions of 0% on earnings between the secondary earnings threshold and the upper earnings limit, which currently only applies to employees under age 21, will also apply to the earnings of apprentices under the age of 25.

Class 1 secondary NIC contributions paid by the employer in respect of an employee, along with Class 1A and 1B contributions, are deductible by the employer in arriving at taxable profits.

24.7 Employment Allowance

An employer can claim to reduce their secondary Class 1 NIC bill by up to £2,000 each tax year. £2,000 is the maximum relief available. So if the secondary Class 1 NIC liability for the year is less than this amount, the employer will not have to pay Class 1 NIC. There is no provision to carry forward any unused relief to the next tax year. **NICA 2014, s.1**

Illustration 4

Doodle Ltd has 6 employees. The secondary Class 1 NICs due each month in 2015/16 amount to £1,100 in total.

Show how Doodle Ltd will obtain relief for the employment allowance.
For the tax month ended 5 May 2015, Doodle Ltd will not have to pay Class 1 NICs as the liability of £1,100 is covered in full by the employment allowance. Of the £2,000 allowance, £1,100 has been used in the month ended 5 May 2015, leaving £900 to set against the secondary Class 1 NICs due for the month ended 5 June 2015. £200 of Class 1 NIC (being £1,100 less £900) is due for payment by Doodle Ltd in respect of the month ended 5 June 2015. Doodle Ltd has now received the maximum relief of £2,000 therefore employer Class 1 NICs of £1,100 will be payable each month for the remainder of 2015/16.

The majority of businesses are eligible to claim the employment allowance. This includes sole traders, partnerships and companies. The main exceptions are public authorities and any business whose activities are wholly or mainly the performance of functions of a public nature. So, where more than 50% of the work of a business is in or for the public sector, such as NHS services or refuse collection, the relief is not available.

The other key situation where the relief is not available, is where the secondary Class 1 NICs are in respect of an employee who is employed for purposes connected with the employer’s personal, family or household affairs. Therefore the relief is not available in respect of secondary Class 1 NIC for domestic staff such as a housekeeper or nanny.  NICA 2014, s.2

However from 6 April 2015 the employment allowance can also be claimed by individuals who employ care or support workers to care for themselves or others.

### 24.8 State Second Pension

When we calculated the employee's Class 1 NIC liability in the previous illustrations, we did so on the assumption that the employee had not “contracted out” of the State Second Pension.

The State Second Pension provides individuals with an Additional State Pension. The amount of the pension relates to the earnings of the employee, but is more generous for the low paid.

It is possible for an employee who is a member of a salary related occupational pension scheme to contract out of the State Second Pension and if he does so, he is informing the Government that he will make his own pension arrangements. There are certain advantages from an NIC point of view of contracting out of the State Second Pension.

If an employee is contracted out of the State Second Pension, that employee will get a 1.4% rebate on his National Insurance Contributions.

The employee will pay Class 1 NIC at a reduced rate of 10.6% on earnings between the primary earnings threshold and the upper accruals point. Earnings between the upper accruals point and the upper earnings limit will remain liable to NIC at 12%. Earnings in excess of the upper earnings limit are subject to NIC at the 2% rate.

In addition, a rebate of 1.4% is given on earnings between the lower earnings limit and the primary earnings threshold. This is deducted from the total NIC liability.

Where an employer operates a salary related occupational pension scheme which is contracted out, employer’s secondary contributions between the secondary earnings threshold and the upper accruals point will be 10.4% as
opposed to 13.8%. A 3.4% rebate is given on earnings between the lower earnings limit and the secondary earnings threshold.

Note that it is not possible to contract out where an individual has a personal pension or is a member of a defined contribution occupational pension scheme.

For people who reach pensionable age on or after 6 April 2016, the basic state pension and the additional state pension will be replaced by the ‘new State Pension’. As a result, contracting out will no longer be possible from 6 April 2016. All employers and employees will pay the standard rate of NIC and the contracting out rates will not apply.

24.9 NIC Administration

NICs are dealt with on a day to day basis by the National Insurance Contributions Office (NICO).

The collection and payment of Class 1 NICs is the responsibility of the employer under the PAYE regulations. If an employer fails to comply with the regulations, notices under Sch 4 SI 2001/1004 can be issued to recover any NICs underpaid. SI 2001/1004 Reg 67

Class 1 NICs are due for payment along with income tax collected under PAYE. The payment, interest and penalty provisions we looked at in respect of PAYE apply equally to NIC due, as well as tax. SI 2001/1004 Reg 67A & 67B

Details of Class 1 primary and secondary NICs payable must be included on the employer’s Full Payment Submissions. Penalties for incorrect submissions are calculated based on the liability to tax and NIC.

Taxpayers have a right of appeal against any assessment of national insurance contributions. The NIC appeals procedure follows that for income tax.

24.10 Annual Maxima

There is an “annual maximum” of contributions applying to any individual for a “contribution year”. The contribution year is the same as the tax year. These “annual maxima” rules apply where the earner either has two jobs (and is therefore paying Class 1 NICs twice) or he is both employed and self employed.

Employees pay Class 1 NIC and the self-employed pay Classes 2 and 4. If an individual has substantial earnings from two employments or earnings as an employee and profits as a self employed individual, this could add up to a sizeable amount of NIC each year. Therefore there is a maximum cap which applies each year.

There are 2 tests. “Test 1” determines Class 2 and Class 1 payable and may result in a refund of Class 1. “Test 2” determines the amount of Class 4 contributions payable.

Here, we are only concerned with the application of Test 1 for an individual who has more than one employment.

The annual maxima rules are complex and difficult to remember. It is therefore important that you are familiar with where to locate these rules in the tax statutes. The annual maxima rules are contained in Statutory Instrument 2001/1004 within the NIC section of the Tolley Yellow Handbooks.
24.11 Test 1

Test 1 applies when the taxpayer has more than one employment. **SI 2001/1004 Reg 21**

SI 2001/1004 contains a series of steps which we must follow to calculate the maximum NICs payable in the year. Although we will reproduce the various steps below, **we do not recommend that you try to learn them**. You should always answer a question on these annual maxima rules by referring to SI 2001/1004.

### Step 1:
Calculate $53 \times (\text{UEL} - \text{PT})$

\[
34,980
\]

where:
- **UEL** is the weekly upper earnings limit for the year (£815 for 2015/16)
- **PT** is the weekly primary threshold (£155 for 2015/16).

### Step 2:
Multiply the result of Step 1 by 12%

\[
4,198
\]

### Step 3:
For each of the employments, calculate the amount by which earnings exceed the primary threshold but do not exceed the upper earnings limit.

### Step 4:
Figure found by Step 3

Less: Figure found by Step 1

\[
X
\]

### Step 5:
Step 4 figure \(\times\) 2%.

(If Step 4 is a negative number, this will be zero)

### Step 6:
For each of the employments, calculate the amount by which earnings exceed the upper earnings limit.

### Step 7:
Step 6 figure \(\times\) 2%.

### Step 8:
Figure found by Step 2

Figure found by Step 5

Figure found by Step 7

ANNUAL MAXIMUM

Less: Class 1 (primary) actually paid

Refund due

\[
X
\]

### Illustration 5

Steve has two jobs. He works for a publishing company for 3 days a week earning £900 per week (£46,800 pa). At weekends he works for a bookmaker and earns £250 per week (£13,000 pa).

**Calculate the maximum Class 1 NIC payable by Steve for 2015/16.**
The Class 1 primary NICs actually paid in 2015/16 are as below:

Publishing job:
- $52 \times (815 - 155) \times 12\% = £4,118$
- $52 \times (900 - 815) \times 2\% = £88$

Bookmakers job:
- $52 \times (250 - 155) \times 12\% = £593$

The maximum Class 1 National Insurance he is required to pay will be calculated as follows:

Step 1: $53 \times (815 - 155) = £34,980$
Step 2: $34,980 \times 12\% = £4,198$
Step 3: $(42,385 - 8,060) = £34,325$
- $(13,000 - 8,060) = £4,940$
- $(42,385 - 8,060) = £39,265$
Step 4: Step 3
- Less: Step 1 $(34,980) = £4,285$
Step 5: $4,285 \times 2\% = £86$
Step 6: $(46,800 - 42,385) = £4,415$
Step 7: $4,415 \times 2\% = £88$

- Figure found by Step 2 $4,198$
- Figure found by Step 5 $86$
- Figure found by Step 7 $88$
- ANNUAL MAXIMUM $4,372$
- Less: Class 1 primary actually paid (above) $(4,799)$
- Refund due (Class 1) $(427)$

Employed earners who are contracted out of the State Second Pension via a salary related occupational pension scheme, only pay NICs at 10.6% on earnings between the primary earnings threshold and the upper accruals point (a 1.4% contracted out rebate is given on earnings between the lower earnings limit and the primary earnings threshold).

However, for the purposes of the annual maxima test above, the rules assume that the employee had paid Class 1 NICs at the “contracted in” rate (i.e. at 12% between the limits). Therefore for a contracted out employee who is subject to the annual maxima test, a computation will be necessary to calculate the “notional” Class 1 primary NICs that would have been paid had the contracted out election not been made. SI 2001/1004 Reg 21(3)

24.12 Deferment of NIC

Deferment is possible where an individual can demonstrate they will be due a refund of Class 1 contributions, due to having more than one employment.
Application for deferment of Class 1 primary NICs is made to NICO on form CA72A. The application should be made as soon as possible before the start of the tax year although will be accepted until the end of the year (if there is time for HMRC and the employer to process it). NICO will determine for which of the employments deferment will be granted. In those employments where Class 1 deferment is granted, the employee will continue to pay Class 1 contributions at 2% on earnings in excess of the primary earnings threshold.

A National Insurance contributions assessment will be raised if a deferment was given which was not in fact due. This could happen, for instance, if the individual left an employment part way through the year. The National Insurance Contributions Office will raise the appropriate assessment and collect the underpayment directly from the taxpayer.

24.13 Overseas Aspects

As a general rule, persons (individuals or companies) are not required to pay Class 1 NICs unless they are “resident or present” in Great Britain. SSCBA 1992, s.1(6)

Great Britain means England, Scotland and Wales (i.e. not Northern Ireland) although the detailed regulations in SI 2001/1004 (paragraph 145 onwards) do extend these provisions to Northern Ireland. For the rest of this session, we shall use the term “UK”.

Class 1 primary contributions are payable by employees who are either:

- resident, or
- present, or
- ordinarily resident

in the UK, where they are “gainfully employed” in the UK. SSCBA 1992, s.2(1)[a]

Secondary contributions are payable by employers who are resident or present in the UK when contributions become payable, or who have a place of business in the UK at that point.

An individual’s residence position for NIC purposes is not determined in the same way as their residence position for tax purposes. In particular, it does not follow that if someone is non-resident for tax purposes that they will be not ordinarily resident for NIC purposes. Equally, someone who is ordinarily resident for NIC purposes may not be resident for tax purposes.

The words “ordinarily resident” are not defined in the legislation. For NIC purposes, HMRC consider that an individual will be ordinarily resident in the UK if they normally live in the UK, apart from temporary or occasional absences and have a settled and regular mode of life in the UK.

For employees coming to the UK or leaving the UK, the Class 1 NIC position can be complex and depends largely on where the employee is going to or coming from. Different rules apply depending on whether the employee is coming from or going to a country in the European Economic Area (including Switzerland), or a country with which the UK has a reciprocal Social Security Agreement, or a country outside the EEA with which there is no reciprocal agreement. The general rule set out above is overridden by EU Regulations and the terms of a reciprocal agreement.
(i) Leaving the UK

If the employee is going to work in an EEA country for a period which is not expected to exceed 24 months, both the employee and the employer will generally continue to pay UK national insurance contributions. After 24 months (or immediately in any other case) the employee will pay social security contributions in the EEA country and UK NICs will not be paid.

If the employee is going to work in a country with which the UK has a reciprocal agreement, the employee and employer will continue to pay Class 1 NIC where the period of overseas employment will not exceed the maximum period under the terms of the agreement. For example, the UK has reciprocal agreements with the USA and Canada, whereby UK NIC will continue to be paid for postings of up to 5 years.

If an employee leaves the UK to take up employment abroad outside the EEA in a country with which there is no reciprocal agreement, they will not, under general principles, be liable to Class 1 NIC as they will not be employed in the UK. However, liability to pay Class 1 NICs will continue for a period of 52 weeks from the date of departure, if certain conditions are met. Class 1 secondary liabilities will also continue.

This “52 week NIC extension” will apply if: SI 2001/1004 para 146

- the employer has a place of business in the UK; and
- the employee is ordinarily resident in the UK; and
- immediately prior to commencing employment abroad the employee was resident in the UK.

When an individual goes abroad, HMRC will consider a number of factors when determining if they are ordinarily resident in the UK. For example, they will consider whether there are return visits to the UK, with frequent and longer returns indicative of ordinary residence. Visits to family and holidays in the UK will also indicate ordinary residence, as will maintaining a house in the UK. If visits to the UK are purely in connection with overseas work and the individual's partner and/or children accompany the employee during the overseas employment, it may indicate that the individual is not ordinarily resident in the UK.

If an employee leaves the UK to take up permanent employment abroad, and is treated as not ordinarily resident in the UK for NIC purposes, liability to pay Class 1 NIC would cease at the date the UK employment ceased.

Any employee not paying Class 1 NICs is entitled to make voluntary Class 3 contributions in order to preserve entitlements to state benefits etc.

(ii) Coming to the UK

Where an employed earner comes to the UK, from an EEA country for a period of not more than 24 months, no Class 1 NICs will be payable. After 24 months (or immediately in any other case) Class 1 NICs will be due.

If the employee comes to the UK from a country with which the UK has a reciprocal agreement, Class 1 NICs (primary and secondary) will either commence from the date of arrival, or the employee will continue to pay contributions in the home country. The treatment depends on how long the employee is staying in the UK and on the terms of the reciprocal agreement, SI 2001/1004 para 145(2).
If the employee comes to the UK from a country with which the UK has no reciprocal agreement, providing that:

- the employee is not ordinarily resident in the UK and not ordinarily employed in the UK; and
- the employment is mainly outside the UK with an employer whose place of business is outside the UK;

no Class 1 NICs are payable for 52 weeks following the employee's arrival.

This "52 week NIC holiday" would most commonly apply to employee's working temporarily in the UK for an overseas employer.

After 52 weeks, Class 1 primary and secondary contributions will become payable in the usual way.
EXAMPLES

❖ Example 1

Which of the following forms of remuneration are earnings for Class 1 NIC purposes?

a. Interest free loan
b. £5,000 of premium bonds
c. £20,000 of gold bullion
d. John Lewis store voucher
e. Reimbursement of home telephone calls
f. Reimbursement of business expenses

❖ Example 2

Harry is an employee earning £26,000 per year. He is paid weekly and in March 2016 he received a bonus of £1,000.

Calculate his Class 1 NIC due for 2015/16.
### ANSWERS

**Answer 1**

<table>
<thead>
<tr>
<th>Earnings</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Interest free loan</td>
<td>No</td>
</tr>
<tr>
<td>b. £5,000 of premium bonds</td>
<td>Yes</td>
</tr>
<tr>
<td>c. £20,000 of gold bullion</td>
<td>Yes</td>
</tr>
<tr>
<td>d. John Lewis store voucher</td>
<td>Yes</td>
</tr>
<tr>
<td>e. Home telephone bill</td>
<td>Yes</td>
</tr>
<tr>
<td>f. Reimbursed business expenses</td>
<td>No</td>
</tr>
</tbody>
</table>

**Answer 2**

Earnings:
- 51 weeks @ £500
- 1 week @ £1,500

NIC:
- \((500 - 155) \times 12\% \times 51\) = £2,111
- \((815 - 155) \times 12\% \times 1\) = £79
- \((1,500 - 815) \times 2\% \times 1\) = £14

Total: £2,204