NICs - The Latest News

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Dear Colleagues

National Insurance Contributions

We are aware of continued uncertainty regarding the attitude of the Inland Revenue (IR) towards seafarers' national insurance contributions. This joint communication is intended to try and clarify the current situation and provide general advice to members.

However, it must be borne in mind that the provision of advice in respect of financial and tax affairs of individuals is an area that is strictly controlled by legislation. NUMAST Officials are not qualified financial or taxation advisers. Beyond being able to provide you with the necessary information and guidance vis-à-vis whom to contact at the Inland Revenue in Cardiff there is little we can do beyond applying pressure on the IR Cardiff if members feel they are being unfairly treated.

If further clarification is needed then we urge members to contact the IR in Cardiff directly. To ensure consistent application and interpretation of the existing arrangements for seafarers the IR has put together a dedicated team in Cardiff and their contact details are attached.

From the communications we have had from members we detect that there is a perception that the Government has changed its policies. This is part fact and part fiction and is possibly confusing two very different problems that are currently of concern to NUMAST.

Firstly, the Government announced a change in policy to remove the exemption for employers' national insurance contributions in respect of inshore operators (primarily aimed at tug operators). In doing so, and in seeking to clarify their intentions, the Inland Revenue caused mayhem and confusion. The industry is still in the process of trying to convince the IR that they have made a big mistake - not in seeking to prevent tug operators from avoiding their NI contributions – but in catching ferry, coastal and offshore operators at the same time when defining "inshore operators" (see front page of this months NUMAST Telegraph). This though had nothing to do with employees' contributions.

Secondly, we have had a number of telephone calls, letters and emails from members that have recently received, out of the blue, a letter from the IR querying their NI contribution records back as far as 1995-6. We have been able to clarify that there has been no change of policy on the part of the IR, there is no "D-Day" looming, nor amnesty period about to expire. However, the IR in Cardiff have requested payment from a number of seafarers last year and it is correct that in some cases, if a seafarer has not paid the contributions they are due to pay, the Inland Revenue can require them to pay up to six years of the lost contributions.

The National Insurance treatment of seafarers is governed by UK Social Security law, (The Social Security Contributions and Benefits Act 1992 and The Contributions Regulations) but also, EC Regulations and a number of Reciprocal Agreements between the UK and other countries. The main points are set out below, but the EC and International position can be quite complex, so what follows is by necessity, a simplification. For definitive position members should refer to the IR in Cardiff and the guidance leaflet CA23 available from the 'FAQ' section

of the NUMAST website (www.numast.org).

Seafarers (or in IR speak “Mariners”) may be liable for different classes of contribution at different times, depending on where they work and for whom. Which Class of contributions a seafarer pays, whether the compulsory Class 1 or voluntary Class 2/3 voluntary contributions, will depend on factors such as the flag of the vessel s/he has worked under, where the contract was entered into, and so on, and also the provisions of the EC Regulations and a number of agreements with other countries.

British Ships

Broadly, a British seafarer (or one from an European Economic Area (EEA) country and certain Reciprocal Agreement countries) on a UK registered ship will pay Class 1 National Insurance contributions. This is normally deducted from their pay by the employer and paid over to the Inland Revenue each month.

- Offshore Manning Companies and British Ships

Where the shipping company has used an offshore manning company, say based in Guernsey, to exempt themselves from the "employer" Class 1 contribution, this will not remove the seafarer’s own primary "employee" Class 1 contributions, which will still be due. Where a seafarer is liable for Class 1 contributions but the employer is not, they may not have had Class 1 National Insurance deducted from pay. To pay the Class 1 contributions, they will need to contact their local tax office and set up a direct arrangement to pay.

Isle of Man

There is a Reciprocal Agreement with the Isle of Man Government under which British seafarers working on Isle of Man registered vessels remain in the UK system and continue to pay Class 1 National Insurance contributions.

Non-British Ship - European Economic Area (EEA) Countries

Under EC Regulation 1408/71, British seafarers employed on ships flagged in another EEA country are liable to pay in the country under which the ship is flagged. There are special rules in these agreements for staff transferred on a temporary basis between ships and by special agreement between countries. This legislation over-rides other domestic law and reciprocal agreements. Seafarers can protect their benefit position by paying Class 2/3 voluntary contributions. For more detailed advice for any officer in this category refer to IR Cardiff.

Non-British Ship - Reciprocal agreements

Reciprocal agreements between the UK and other countries also over- ride other domestic legislation. Generally, these agreements provide for the seafarer to pay in the state where the ship is registered. There are some other types of agreement relating to particular routes. In the case of the Isle of Man, the agreement provides for the British person on an IOM vessel to be insured in the UK. Most of the agreements also provide for a measure of social security benefit coverage in the foreign state. Again, further advice for a particular country, can be provided by IR Cardiff.

If a seafarer pays in another country under these agreements, they do not normally have to pay

contributions in the UK but the IR will accept Class 2/3 voluntary contributions.

"Other" Non British Ships

Where the seafarer is employed on a foreign registered ship and the EC Regulations and Reciprocal agreements do not apply, the IR would consider the seafarer under the domestic legislation. The relevant legislation is in the Social Security (Contributions) Regulations 2001.

Where a seafarer works on a foreign registered vessel. The employer or the person paying their wages will deduct Class 1 National Insurance where the:

- contract in respect of the employment is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage, and
- employer, or person paying the wages has a place of business in the UK.

Where the seafarer is a Master, Radio Officer or Crew member, the contract was entered into in the UK, and the employer or payer of wages does not have a place of business in the UK, but the ship owner or managing owner does, then the seafarer will still be liable for the employee Class 1 contribution, but has to make his or her own arrangements to pay the Class 1 to the Inland Revenue.

For those seafarers working on foreign registered vessels, who do not fall into the above categories, perhaps because they enter into their contracts overseas, or there is no place of business in the UK, they can protect their benefit position by paying Class2/3 contributions. **We take this to mean that officers whose contract of employment is concluded outside of the UK, who has been employed on a non-UK/IOM vessel is not liable for Class 1 contributions.**

We hope that the above information will assist members. If you need documentary support to submit to the IR you should contact your employer who will we are sure be happy to assist.

Att. IR Cardiff Contact Details

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