



Are termination payments set to become less taxing?

In July 2015, the government launched a consultation on how termination payments are treated for the purposes of tax and National Insurance contributions ('**NICs**'). It has now published a response to the consultation which includes draft legislation aimed at implementing the changes that it has decided to make. The proposals (which are likely to come into force in April 2018), include

- All payments in lieu of notice ('**PILONS**') whether contractual or non-contractual will be subject to tax and NICs.
- Aligning the rules for income tax and employer NICs so that employer NICs will be payable on **all** payments above £30,000 (which are currently only subject to income tax).
- Removing the foreign service relief exemption for termination payments.
- Clarifying that the exemption for injury does not apply in cases of injured feelings (there is currently conflicting case-law on this).
- Payments for injury to feelings will fall outside the exemption for injury payments, except where this amounts to a psychiatric injury or a recognised medical condition.

What does this mean for employers?

The positive bit of news for employers is that this legislation would simplify the discussion about whether PILONS are subject to tax and NICs. However, the downsides for employers are as follows:

- As all PILONS are now subject to tax and NICs, this means that some employees might find their payments taxable where they wouldn't have been otherwise. This might result in employees negotiating for high settlements from their employer.
- Employers will now end up paying NICs on payments over the £30,000 threshold, where they did not before. In these circumstances, terminations will be 13.8% more expensive for employers.

The government's consultation is open until 5 October 2016.