

Engineering Construction Industry

Holiday Pay Scheme

Briefing Meetings – Questions and Answers

A) Eligibility of Employees	
1. What about any non-NAECI employees?	The Finance Act 2004 Section 74 defines those employees who can benefit from the NIC disregard concession on Holiday Pay. The key point is the concession covers only those involved in 'construction operations' – defined as 'installation work' on site. We believe that repair and maintenance workers will also qualify, however we are still awaiting a clearer definition from HMRC in this respect, which is expected during September. All employees of ECIA member companies falling within the Section 74 definition will be able to participate in the scheme. Regardless of whether their terms and conditions of employment are governed by NAECI or not.
2. Do supervisors fall within scope?	Site-based supervisors will probably fall 'in-scope' to the NI concession because at some point they will probably be involved in installation work. However, office-based supervisors will probably not be 'in-scope' unless at some point they do go out on site and perform installations work.
3. Are workshop-based employees in scope?	No. They are not in scope unless they go out on site to take part in installation work during the year in question.
4. What about the contention that will arise between those 'in-scope' and those 'not in-scope' possibly employed on the same site?	That is something that has always been a possibility when you get a mixture of occupations on site. There have always been employees who do not fall within scope of the concession working on sites with employees who do. They generally accept that this is not an employer decision as the rules are set by HMRC. Welplan has run holiday pay schemes for 55 years and during that time we have not received any feed back from either employers or employees that this has created any problems.
5. Can we participate for holiday pay only	For NAECI employees the requirement of the scheme is that NAECI welfare benefit

if we do not have welfare benefit cover through Welplan?	provision is effected through Welplan alongside the holiday pay. (Contact Welplan for further details)
6. What about employees who generally are employed on UK sites and are UK residents and paid through UK PAYE, but who are required to work short periods abroad (maximum 25%)?	<p>The assumption is that the employees concerned remain employed by the UK employer, and, given the short term nature of the overseas work elements, their employer applies to keep them within the UK NIC regime - i.e. they will continue to pay UK NIC.</p> <p>To benefit from the NIC concession on holiday pay, the employee must be personally engaged in construction operations (as defined in section 74 Finance Act 2004) at the time that entitlement to the holiday pay is accrued. As section 74 applies only to construction operations in the UK, then strictly, to the extent that holiday pay accrues whilst an employee is working on an overseas contract, NIC exemption is denied. However, if the employer's contract with their client is for a mix of UK and overseas construction operations then the employee is working on a mixed contract and will be eligible for NIC exemption throughout the contract. Much therefore depends upon how the employer's contracts are set up.</p>
B) Operational	
1. By commencing in October, will employers have to fund double holiday pay, because they will have to pay Christmas 2008 themselves and fund for 2009 at the same time?	Yes. The employer will need to pay for any holidays taken during the remainder of 2008, as well as pre-funding for 2009 through the holiday pay scheme and this will impact on the company cash flow situation. This is unfortunate but the holiday pay must be pre-funded through the scheme to qualify for the NI concession. This is required by HMRC.
2. What happens if employers have over-budgeted and paid too much into the scheme?	All holiday pay is reimbursed back to the company so if they find they have paid too much during a particular period it will be reimbursed back to them at the next reimbursement. All monies received into the holiday pay scheme are fully reimbursed by Welplan back to the originating company.
3. What happens if employers have under-budgeted? Some companies experience an increase of employees at various times during the year, and they might not have included these in their budget?	Wherever possible it is beneficial to pre-empt changes in employee numbers and pre fund the holiday pay by including an estimate in the amount accrued into the holiday pay scheme. However where shortfalls are likely to arise then it is imperative that early contact is made with Welplan who will assist, where possible, in facilitating adjustments to ensure the pre-funding requirement is met. If the pre-funding requirement is not met then the company will be responsible for paying the relevant holiday pay which would then be

	subject to NIC.
4. The busiest time for holidays for some companies is August/September so the timing of reimbursements in March, June, September and December will not be in line with this?	The fact that Welplan reimburse in March, June, September and December does not mean that this is the time employers need to pay it to their employees. The employer will pay the holiday pay to the individual at the time the holiday is taken irrespective of when the reimbursement is received, subject to the pre-funding requirements being met.
5. Is there a minimum or maximum amount that can be funded?	No. The amount funded should be the accrual necessary to fund for the holiday pay for all employees covered by the NI concession. In general it will be for the employer to decide on this amount. However we would envisage that the figure could be based on a percentage of total remuneration re- calculated each 4 weekly period.
6. How is the Holiday pay claimed back?	No claims are necessary. All Holiday Pay will automatically be reimbursed by Welplan in line with the reimbursement dates.
C) Administration	
1. How much additional payroll administration will be required?	We are looking to have as simple an administration process as possible and one of the purposes for Welplan's regional briefing meetings during July was to take on board employer comments and adapt the scheme accordingly wherever possible. Payroll systems can generally provide extracts which contain the information we require, and this is an existing requirement of the welfare benefits scheme. We will accept the information in which ever order the systems provides it; our only requirements are that information includes specific headings on the spreadsheet and that the column titles agree with Welplan's. A sample spreadsheet will be available from Welplan once the scheme begins. The only other requirement is for the wage roll system to be amended so that holiday pay when identified is paid free from NIC
2. Can holiday pay be submitted monthly instead of 4-weekly?	Yes, the scheme can run either on a monthly basis or a 4-weekly basis. This can be decided when the Company commence participation.
3. What happens with the holiday pay when an employee leaves?	The employer will still pay any outstanding holiday pay due to the employee in the final pay and the NIC saving will apply providing the correct amount has been pre-funded through the scheme. Welplan will reimburse in line with the reimbursement dates as usual.
4. What if employees do not take their holidays?	Strictly speaking an employee would not be due holiday pay if the holiday is not taken and it is not recommended that an employee works throughout a year without a holiday.

	<p>However, this is the employer's decision. It is also questionable as to whether holiday pay paid without the holiday being taken should be paid free of NIC. NAECI 10.1(a) states that 'all holiday entitlement is to be taken during the Leave Year in which it arises'.</p>
<p>5. What happens if holidays have been carried forward?</p>	<p>The employer needs to bear in mind that by commencing in the scheme from 6 October 2008, only pre-funds holidays from 2009 onwards. Consequently, any carried forward holidays from 2008 being paid in 2009 will still attract NIC. However, an additional payment can be made to the scheme if the employer wishes to pre-fund the carried forward holidays and thus benefit from the NI saving. If this is required then it should be allowed for when the accrual payments into the scheme are calculated. The carrying over of holiday entitlement from one year to the next is not permitted for NAECI employees (see NAECI 10.1(a) quoted above).</p>
<p>D) General</p>	
<p>1. What is the effect on an employee's state benefits if they are not paying as much in National Insurance?</p>	<p>The effect of participation in the Holiday Pay scheme is to reduce the amount of earnings on which NIC is paid. For many employees this will reduce their earnings between the lower and upper earnings band. It is earnings within this band that State Second Pension is calculated on, and reducing these earnings will therefore have a small effect on the amount of pension that is received. The basic old age pension is not affected. Additionally this reduction in banded earnings will also have an effect on maternity pay.</p>
<p>2. Why has it taken so long for the NI concession to come through to ECIA?</p>	<p>Until the Government announcement on 8 October 2007 there was no certainty that the concession would continue. The announcement for the first time confirmed the concession would continue to be available for a five year period. Additionally and again for the first time the HMRC have published a definition of employees 'in-scope' to the concession employees which has helped us to identify and confirm that many employees of ECIA member companies are in fact 'in-scope'.</p>
<p>3. Will there be any chance of the Government retaining this concession for the construction industry after 2012?</p>	<p>Currently Welplan, along with other interested parties are lobbying the government to extend the availability of the concession beyond 2012, and we continue to do so.</p>
<p>4. Will HMRC check each individual?</p>	<p>No. They will check the global picture by comparing the actual holiday pay amount paid free of NIC against the amount pre-funded through the scheme. However, they may do a spot check on certain individuals to ensure that they are within 'scope' of the Finance Act</p>

	definition of a 'construction worker'.
5. What would happen if HMRC found a discrepancy in the amount paid and the amount pre-funded?	It is the responsibility of the company to reconcile the NI free holiday payments made to their employees to the amount pre-funded through the scheme. It would therefore also be the responsibility of the company to pay back to the HMRC any shortfall of NI contributions.