



Isle of Man Chamber of Commerce

National Insurance Reform Proposals Consultation

Response for the IOM Chamber of Commerce

The topic of OMB's was raised by several members, therefore, Chamber felt it necessary to survey its membership on two specific elements of the consultation.

Questions 1 and 2 were put to the membership. An anonymised copy of all written feedback is included with this response.

Question 1. Do you think all working persons (under state pension age) should pay NICs irrespective of how they structure their affairs?

No

Of the 40 members of Chamber who responded to the survey, 62.5% responded in the negative to question 1.

The responses which were in favour of the proposal focussed on the fairness of the system and that those who may need to rely on state services should contribute equally, regardless of how they structure their affairs, i.e. employed or self-employed.

Most people have a strong sense of the importance of fairness: if you expect to benefit from NI then you should contribute your fair share regardless of age, if you are a working person under state pension. The aim should be to foster a culture of community contribution and fairness, even from a young age.

One response was positive, but provided that if dividends which are currently considered to be unearned income, are to be subject to NICs, they should also be considered as Net Relevant Earnings for the purposes of calculating tax relief on pension contributions, as is the case for employees. Otherwise the system would be completely unfair.

However, the majority of submissions were negative and included (in summary) the following arguments:

- emphasis was placed on the need for the Island to encourage and not to disincentivise OMBs, which are critical to the economy.
- many of the responses highlighted –
 - (i) the fact that in an OMB structure the owners bear considerable financial risk



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- (ii) owners of OMBs often have no guaranteed income or pension yet may have invested heavily into the business;
 - (iii) any profit made by an OMB can only be determined at the end of the financial year;
 - (iv) that where an OMB is successful, it will employ greater numbers of employees who will pay NICs;
 - (v) the proposal seems at odds with the recent announcement of the Government's Economic Strategy which includes plans regarding creation of an additional 5000 jobs, expansion of the population to 100,000 and targeting new and innovative business sectors;
 - (vi) with reference to suggestion in section 6 of the consultation and the need to align the Isle of Man NICs with the UK in order to maintain the reciprocal arrangement, if the Isle of Man system changes dramatically as they are proposing, what impact will that have on people currently paying for UK benefits and those who have already accrued benefits? This is additional money being spent in the Island contributing to the Manx economy;
 - (vii) it is unreasonable to ask those who will not receive a state pension to contribute to it;
 - (viii) OMBs are the "lifeblood of any growing economy";
 - (ix) Owners of OMBs may be panelised in terms of their eligibility for benefits which will be assessed by reference to their contributions;
 - (x) The earned income invested into OMBs has already been subject to tax and NICs;
 - (xi) In terms of the Island's economy and the Island being seen as a jurisdiction to do business, the proposal could be very detrimental.
- although the majority of responses were negative, a number did note the need for reform and/or a fairer system and included alternative suggestions, but which proposals would not create the same inherent disincentives for OMBs. Those suggestions included:
 - (i) the replacement of NICs with 2 separate deductions: an NHS deduction and a state pension deduction, with reasonable minimum and maximum values and increment based on total income;
 - (ii) a formal "contracting out" solution whereby workers opt out of paying NICs (or equivalent) but accept that they are excluded from claiming a state pension, but with greater regulation for "contracted out" pension providers;
 - (iii) increase directors' salaries to minimum or living wage, thereby increasing NICs;
 - (iv) a reduced rate or some other form of allowance for the self-employed and owner managed businesses to reflect the risk that these individuals are taking by choosing not to be employed.
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Question 2. Do you think that an employee who 'owns' their business (OMB) should pay National Insurance which aligns with that of a self-employed individual?

Of the 40 members of Chamber who responded to the survey, 62.5% responded in the negative to question 2.

Again, of the members' responses which were positive about the proposal, the reasons (in summary) concentrated on fairness. All individuals who benefit from NI should contribute equally. It is difficult to justify otherwise when NICs should be based on the principles of fairness and equality. Those who do not contribute should not be entitled to benefit from the services to which the contributions relate. During a cost of living crises, fairness is crucial.

Of the responses which were negative, the reasons (in summary) included:

- (i) the likely strain on many small businesses who are already struggling to survive in the current economic climate;
- (ii) tax is payable on dividends and so, ultimately, the contributions balance out;
- (iii) the additional risk borne by and effort required of an owner of an OMB far outweighs any small benefit they may obtain through the NIC system;
- (iv) the question pre-supposes that OMBs are structured **in order to** avoid NICs which is not the case;
- (v) one response indicated that if the proposal were to be progressed, they would cease to trade;
- (vi) the island status and the additional hurdles to attracting individuals and businesses to relocate here should be acknowledged and to disincentivise entrepreneurs could prove detrimental to the economy;
- (vii) profits are likely to be reinvested in the OMB;
- (viii) the proposal removes any incentive to be entrepreneurial;
- (ix) the owners of OMBs pay tax and NI on their directors' salary;
- (x) an OMB can choose when to declare a dividend. The proposal could result in a situation in which dividend issue is timed to reduce NI liability and/or dividends are not declared annually or at all. To require resident OMBs to pay NICs on dividends, but not non-resident OMBs cuts across the same international guidelines on harmful tax practices as resulted in the repeal of DPC and ARI;
- (xi) the Island is competing with other jurisdictions (including the UK) which do not apply NI to dividends. The proposal could put the Island at a competitive disadvantage;
- (xii) In order to qualify for a state pension, 10 years' contributions are required. Entrepreneurs who do not intend to settle or retire in the Island are likely to factor this into a decision as to whether or not to start a business in the IOM;
- (xiii) The proposal is not sufficiently clear as to who OMBs and self-employed persons are to be aligned. Greater detail should be the subject of further consultation;



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- (xiv) There is a need to distinguish between the type of dividends subject to NICs, would all dividend types fall into the same class of NICs, or will this create further varying levels thus adding to the disparity with the UK. UK dividends for basic rate taxpayers are charged at 7.5% and 32.5% for BRT and HRT respectively, IOM OMB's are already hugely disadvantaged if they pay themselves under £50k per annum;
 - (xv) the Government should be encouraging contributions in to pensions via auto enrolment legislation to reduce the reliance on the state pension and thereby reduce the burden for Government.
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Question 3. Do you agree that the merged payment of Class 2 and Class 4 National Insurance should be due and payable on 6th January following the year of assessment?

Question 3 was not put separately by Chamber to its members. However, two responses were received: one was positive, based on the assumption that the proposal leads to a reduction in the administration of both self-employed individuals and Treasury; one negative, on the basis that the proposal would create additional cash flow pressure at the start of what is for many companies the new financial year, for self-employed individuals this could create a strain on cashflows and the timing of this & the other changes set out in the proposed reform are badly timed given the current fragile economy & ever increasing overhead costs associated with running a business.

Question 4. Do you have any further information or comments that you may consider relevant?

Question 4 was not put separately by Chamber to its members and no feedback was received.