

# Employment Allowance: further guidance on eligibility, claiming, record keeping and penalties

## Eligibility

### Functions either wholly or mainly of a public nature

Functions are either wholly or mainly of a public nature, if you are carrying out more than 50% of your work **in** or **for** the public sector, for example:

- NHS services
- General Practitioner services
- the managing of housing stock owned by or for a local council
- providing a meals on wheels service for a local council
- refuse collection for a local council
- prison services
- collecting debt for a government department

You do not carry out a function of a public nature, if you are:

- providing security and cleaning services for a public building, such as government or local council offices
- supplying IT services for a government department or local council

### Example of a function wholly or mainly of a public nature

The local surgery has 5 General Practitioners (GPs), 2 nurses, 3 receptionists and a cleaner. The GP's are all partners in the practice. NHS patients make up 90% of the GP's work. There is no entitlement to the Employment Allowance, because the majority of the work done, is wholly or mainly of a public nature.

### Example of a function that is not wholly or mainly of a public nature

Guarding prisoners on behalf of the government makes up 25% of Padlock Security Limited's business. The remaining 75% of the company's work is providing security to private businesses and individual clients. Padlock Security Limited is entitled to the Employment Allowance because the majority of their work is not of a public nature.

## Personal and Managed Service Companies

You cannot claim the allowance for any deemed payments of employment income.

[More information about Service Companies and deemed payments.](#)

### Can the self-employed claim the Employment Allowance?

**Yes**, but **only** if you have employees and your business pays employer Class 1 NICs on your employees' earnings.

### Can a partnership claim the Employment Allowance?

**Yes**, but **only** if your partnership pays employer Class 1 NICs on your employees' or directors' earnings.

### Can a Community Amateur Sports Club (CASC) claim the Employment Allowance?

**Yes**, if your CASC pays employer Class 1 NICs on your employees' or directors' earnings.

## Can connected businesses and charities claim the Employment Allowance?

If a company has control of another company, or both companies are under the control of the same person or persons, for example; companies linked in a group, these companies are connected.

If the same person or connected persons control two or more charities and the charities share the same (or substantially similar) purpose and activities, or both charities belong to a group of charities, the charities for the purpose of the Employment Allowance are connected.

If a charity controls a trading business, they are also considered connected for the purposes of the Employment Allowance.

Where this is the case, you will **only** be entitled to **one Employment Allowance** to use against **one PAYE scheme** (regardless of how many PAYE schemes you operate). It is up to you to nominate which PAYE scheme to claim the allowance against.

If your business controls a charity, they are not connected and you can claim the Employment Allowance for **both** the company and the charity.

## What do I do if I am no longer eligible to claim the Employment Allowance?

If your business or charity stops employing staff during the year, you will no longer have a liability to pay employer Class 1 NICs and you do not need to do anything further.

In the rare circumstance, the nature of your business changes and your business is no longer eligible for the Employment Allowance; you can stop your claim by following the instructions contained in your own payroll software or HMRC's Basic PAYE Tools.

Stopping your claim, means that **no** allowance is due that year, and you **must** repay any Class 1 NICs (previously covered by the Employment Allowance).

If you are exempt from filing online, use your (paper) Employer Payment Summary (EPS), to let us know that your claim has stopped (see the guidance sent to you by HMRC).

## Claiming

### Can I use the Employment Allowance against Class 1A or Class 1B NICs?

**No**, the Employment Allowance is **only** for your **employer Class 1 NICs liability**.

### My software provider has not supplied the Employer Payment Summary (EPS) facility - can I still claim?

If your payroll software does not have, or is unable to use the EPS, you can use HM Revenue and Customs' (HMRC's) Basic PAYE Tools to claim the Employment Allowance.

Using the Basic PAYE Tools software is a simple process. If you only use the Basic PAYE Tools to claim the Employment Allowance and continue to use your own software to operate your payroll, you will need to keep a record of the Employment Allowance used.

### If I change my payroll software, will I need to claim the Employment Allowance again?

**No**, once made, we automatically carry your claim forward each tax year.

However, you may need to submit a new EPS, if your new software needs this, to enable your Employment Allowance claim.

### **I have multiple PAYE schemes for different parts of my business or charity. Can I claim the Employment Allowance under each PAYE scheme?**

**No**, you can only claim one Employment Allowance for your business or charity.

When you nominate the PAYE scheme that you want to use your allowance against, you should pick a scheme where you think you will most likely have at least £2,000 of employer Class 1 NICs liability in that tax year. This ensures that all, or as much of the Employment Allowance is used as possible against the nominated PAYE scheme.

### **When I make my first payment of PAYE or employer Class 1 NICs can I claim the full Employment Allowance straight away?**

**Only** if your total employer Class 1 NICs Liability is £2000 in the first month that you use your allowance. This is because you can **only** use the allowance against your employer Class 1 NICs when the liability arises.

The amount of allowance you can claim for each payment period must be the same as your employer Class 1 NICs liability for the same period – subject to the £2,000 Employment Allowance annual maximum.

If you use up your full £2,000 Employment Allowance before the end of the tax year, you must pay any remaining employer Class 1 NICs liability to HMRC.

#### **Example**

You make your claim for the Employment Allowance in April. You pay your employees monthly and your total Class 1 NICs liability is £200 (per month). Because your monthly liability is £200, you will have used your full allowance (£2000) by month 10 in the tax year. You will need to pay your liability for employers Class 1 NICs for month 11 and 12 to HMRC.

### **Do I take off the Employment Allowance from employer Class 1 NICs liabilities before deducting any other amounts, for example, recoverable Statutory Maternity Pay?**

Yes, recovery of statutory payments is done after the Employment Allowance is deducted.

### **Can I move my Employment Allowance to another PAYE scheme during the tax year?**

**No**, you cannot move your existing claim to another PAYE scheme.

However, you can **stop** your claim at the end of the tax year, nominate another PAYE scheme in the new tax year (**before** you make any NICs or PAYE payments), and make a new claim against that scheme.

### **How should a business with one PAYE scheme running more than one payroll, for example, weekly and monthly or employee and**

## **directors, claim the Employment Allowance if the business uses different providers for each payroll?**

**Only** one payroll provider can use the Employment Allowance, this ensures that you do not claim more than your £2000 entitlement. You **must** let your Payroll providers know which payroll the allowance can be set against.

## **What happens if a business with more than one PAYE scheme doesn't use the full £2,000 Employment Allowance during the year?**

If you do not use your full £2000 allowance entitlement against your nominated PAYE scheme, but you have employer Class 1 NICs liability on your other PAYE schemes, and have paid all your PAYE up to date, you can apply to HMRC (at the end of the tax year) for a refund of any unused balance.

Your unused balance will be the lesser of £2,000 or the total employer Class 1 NIC liability for all your PAYE schemes, less the allowance already given against your nominated PAYE scheme.

### **Example**

If your nominated PAYE scheme had £1,000 employer Class 1 NIC, and your total employer Class 1 NIC for all your schemes was £1,800, you would have an unused balance of £800 (i.e. £1,800 less £1,000).

If you do not apply for a refund, and have an un-used balance you should apply to HMRC to use this against any forthcoming PAYE debt.

## **Can I claim the Employment Allowance after the start of the tax year?**

**Yes**, as long as your business or charity has employer Class 1 NICs liabilities and is eligible to claim the Employment Allowance.

### **Example**

You are claiming the Employment Allowance and have employer Class 1 NICs liabilities of £500 per month and other PAYE liabilities, (including employee Class 1 NICs) of £800 per month.

You start claiming the allowance on 31 July (August will be the first month you can use the allowance against your employer Class 1 NICs liability).

If your claim had started at the beginning of the tax year 6 April (rather than July) your claim to date would be £1,500 (the total allowance that you could claim for May, June, July).

Because you have not used any of your allowance in the previous 3 months, you are entitled to the full £2,000 Employment Allowance in August.

This amount is enough to cover your August employer Class 1 NICs and other PAYE liabilities and leave a balance of £700 (£2,000-£1,300) that you can use against your September employer Class 1 NICs liability, or (if you have not used the full amount) your PAYE liabilities.

If you make your claim at the end of the tax year, and you do not have enough PAYE liabilities remaining to use the Employment Allowance against, HMRC will use the balance against any PAYE debt or liabilities in the following tax year. If you do not have any existing PAYE debts or liabilities, you can claim your allowance as a repayment.

## **Can I claim the Employment Allowance for an earlier tax year?**

**Yes**, you can make a claim up to 4 years (from 2014-15 **only**) after the end of tax year in which the allowance applies. For example, you want to make a claim for the Employment Allowance for 2014-15. The tax year-ends on the 5 April 2015, you must make your claim by 5 April 2019.

You will need a separate EPS for each year's claim.

If you send your claim one year after the tax year has ended, your claim will continue into the current tax year, unless you already have a claim for Employment Allowance in place that year.

If you have paid your PAYE up to date, HMRC will set any Employment Allowance award against your future or existing PAYE liabilities, unless you ask them to refund the amount.

## **When completing an EPS to claim the Employment Allowance, do I need to include any previously reported EPS figures such as statutory payments?**

**No**, you do not need to send us previously reported information.

## **Can HMRC use my unused Employment Allowance against my other PAYE liabilities (ie tax, student loan repayment etc)?**

The Employment Allowance is based on your employer Class 1 NICs liability shown on your Full Payment Summary (FPS), and normally would be set against your employer Class 1 NIC liability as it arises during the year. The maximum award you can have in a year is the lesser of the total of your Employer Class 1 NIC and £2,000.

If you have not used your Employment Allowance award in full (e.g. because you claimed the Employment Allowance late and did not have enough employer Class 1 NICs liability for the remaining part of the year), HMRC will offset the balance against other current or future PAYE liabilities, so the allowance is not lost.

Where you make a claim for the Employment Allowance after the end of the tax year, this will be offset against any outstanding PAYE liabilities, or current/future liability, or you can ask HMRC for a payment of any balance, provided you have no outstanding PAYE liabilities.

## **Will connected businesses or charities, that do not use the full £2,000 Employment Allowance, be able to claim any unused balance?**

**No**, where companies or charities are connected, only one nominated PAYE scheme with employer Class 1 liabilities can claim the allowance. You **cannot** transfer any balance of unused allowance.

## **What happens if the business changes ownership, before using its full £2,000 Employment Allowance?**

Any claim for Employment Allowance **stops** when your business changes ownership. The new ownership will be able to make a claim for the full £2000 allowance in its own right. You **cannot** transfer any balance of unused allowance between the old and new businesses.

## **Record keeping and Penalties**

### **If HMRC have charged late payment penalties or interest, can I have them reduced if I submit a late repayment claim for Employment Allowance?**

**No**, any penalties or interest (charged for late payment) remain due and payable.

### **How long do I have to keep records for?**

You must keep (any) records that relate to your claim, for a minimum period of 3 years after the end of the tax year in which you claimed the Employment Allowance. Your records must show:

- why you were entitled to claim the allowance
- how much allowance was used or in some circumstances repaid
- what liabilities the allowance covered