

Part 1 Liability for Class 1A NICs

This part explains whether you will have to pay Class 1A NICs. The rules described in this guide apply to all benefits.

There is a quick guide to working out whether you have to pay Class 1A NICs at paragraph 8, on page 5.

4 When are Class 1A NICs payable?

SSCBA 92, S10(1)

You may have to pay Class 1A NICs on any benefit you provide to your employees by reason of their employment.

Certain conditions must apply before Class 1A NICs are due.

These conditions are:

- the benefit must be from, or by reason of, an employee's employment and must be chargeable to Income Tax under ITEPA 2003 on an amount of general earnings as defined at Section 7(3) ITEPA 2003
- the employment must be 'employed earner's employment' under Social Security law and employment as a director or an employee who earns at the rate of £8,500 or more a year
- the benefit must not already attract a Class 1 NICs liability.

A good way of telling whether you will have to pay Class 1A NICs is if you need to fill in form P11D *Return of Expenses and Benefits*. If you do not know whether you need to fill in forms P11D you should check booklet 480(2009) *Expenses and Benefits – A tax guide*.

5 For which employees are Class 1A NICs due?

SSCBA 92, S10(1)(b)

Class 1A NICs are due on benefits provided to:

- directors and certain other persons in controlling positions, whatever their earnings, but excluding directors who do not have a material interest in a company where
 - the director is a full-time working director, or
 - the company is a charity or non-profit making concern
- employees, including any directors excluded above, who earn at a rate of £8,500 or more a year, including taxable benefits and expenses
- members of the families or households of the above.

More information on benefits provided to family members and working out an employee's earnings is in booklet 480(2009) *Expenses and Benefits – A tax guide*.

In the remainder of this guide we refer to **employees**; this includes **directors**, unless we state otherwise.

6 Who has to pay Class 1A NICs?

SSCBA 92, S10(2)

Class 1A NICs are paid by employers only.

There is no employee contribution payable.

Legally, the person liable to pay Class 1A NICs is:

- the person who is liable to pay employer's Class 1 NICs on the last or only relevant payment of earnings in the tax year, or
- if there is no employer's Class 1 liability, the person who would have been liable to pay employer's Class 1 NICs if the benefit itself had been earnings on which Class 1 NICs are due.

Exception

An exception to this general rule occurs where a benefit is provided to an employee by someone other than his or her employer – usually called a third party benefit or award. See Part 6 on pages 15 and 16 for more information on benefits provided by third parties.