
STATUTORY INSTRUMENTS

2020 No. 88

INCOME TAX

**The Income Tax (Pay As You Earn)
(Amendment) Regulations 2020**

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| <i>Made</i> | - - - - | <i>30th January 2020</i> |
| <i>Laid before the House of Commons</i> | - - - - | <i>3rd February 2020</i> |
| <i>Coming into force</i> | - - | <i>6th April 2020</i> |

The Commissioners for Her Majesty’s Revenue and Customs, in exercise of the powers conferred by section 113(1) of the Taxes Management Act 1970⁽¹⁾, section 133(1) of the Finance Act 1999⁽²⁾, section 136 of the Finance Act 2002⁽³⁾, and section 684(1) and (2), and section 685(4) of the Income Tax (Earnings and Pensions) Act 2003⁽⁴⁾, now exercisable by them⁽⁵⁾, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment) Regulations 2020 and come into force on 6th April 2020.

Amendment of the Income Tax (Pay As You Earn) Regulations 2003

- 2.—(1) The Income Tax (Pay As You Earn) Regulations 2003⁽⁶⁾ are amended as follows.
(2) In regulation 141 (direct collection and special arrangements) for paragraph (1) substitute—

(1) 1970 c. 9.
(2) 1999 c. 16.
(3) 2002 c. 23.
(4) 2003 c. 1. Section 684 has been relevantly amended by section 145 of the Finance Act 2003 (c. 14), paragraph 102(2) of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11) (“CRCA”), and paragraphs 2, 5 and 7 of Schedule 58 to the Finance Act 2009 (c. 10). Section 685 has been relevantly amended by section 145 of the Finance Act 2003 (c. 14).
(5) The powers of the Board of Inland Revenue under section 684 of the Income Tax (Earnings and Pensions) Act 2003 were transferred to the Commissioners for Her Majesty’s Revenue and Customs by paragraph 102(2) of Schedule 4 to CRCA. The functions of the Board of Inland Revenue under section 113(1) of the Taxes Management Act 1970, section 133(1) of the Finance Act 1999 and section 136 of the Finance Act 2002 were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(1) of CRCA. Section 50(1) of that Act provides that, in so far as appropriate, in consequence of section 5 a reference in an enactment, instrument or other document to the Commissioners of Inland Revenue (however expressed) shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.
(6) S.I. 2003/2682. This instrument was relevantly amended by S.I. 2014/472.

“(1) In any case in which HMRC are of the opinion that deduction of tax by reference to the tax tables is impracticable, the direct collection procedure in regulation 142 applies to any PAYE income, unless HMRC makes special arrangements for the collection of tax in respect of that PAYE income.”.

(3) In regulation 141 (direct collection and special arrangements) after paragraph (2) insert—

“(3) A special arrangement must be—

- (a) in writing, and
- (b) signed and dated by the employer and HMRC.

(4) A special arrangement must specify—

- (a) the date by which the return under paragraph (8) must be delivered, which must be no later than 31st May following the end of each tax year to which the special arrangement relates, and
- (b) the due date for the payment of tax under paragraph (5).

(5) The employer must pay to HMRC by the due date the tax payable in relation to the preceding tax year in respect of the PAYE income to which a special arrangement applies.

(6) PAYE income to which a special arrangement applies is not to be included—

- (a) in a return by the employer under regulation 67B, 67D, 67E, 73, 74 or 75 (returns of relevant payments and tax deducted), nor
- (b) in particulars provided by the employer under regulation 85 (annual return of other earnings (Form P11D)).

(7) Following the end of the tax year, the employer must deliver to HMRC the information specified in Schedule A1 (real time returns)(7) in respect of the PAYE income to which a special arrangement applied for that tax year.

(8) The information must be included in a return which must be delivered by the date specified in the special arrangement.

(9) The return must be made using an approved method of electronic communications.

(10) In paragraph (3) “in writing” includes electronic communications and “signed” includes electronic signatures.

(11) In paragraphs (4) and (5) “the due date” means the date specified in the special arrangement which must be no later than 31st May following the end of each tax year to which the special arrangement relates.”.

*Jim Harra
Justin Holliday*

Two of the Commissioners for Her Majesty’s
Revenue and Customs

30th January 2020

(7) Schedule A1 was inserted by regulation 52 of S.I. 2012/822 and amended by regulation 37 of S.I. 2013/521, regulation 20 of S.I. 2014/472, regulation 2 of S.I. 2015/2, regulation 14 of S.I. 2015/1927, regulation 5 of S.I. 2016/329, regulation 17 of S.I. 2017/1263 and regulation 4 of S.I. 2019/83.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the principal Regulations”) which make provision for the assessment, charge, collection and recovery of income tax in respect of all pay as you earn (“PAYE”) income.

Regulation 1 provides for citation and commencement.

Regulation 2 amends regulation 141 of the principal Regulations, by substituting paragraph (1) and inserting new paragraphs (3) to (11). Regulation 141 makes provision for cases where it is not practicable for the employer to deduct tax by reference to tax tables. In such cases the direct collection procedure in regulation 142 of the principal Regulations will apply unless HMRC agrees a special arrangement with the employer for the collection of tax in respect of the relevant PAYE income.

In new regulation 141(1) the reference to casual employment is removed as it is now covered elsewhere in the principal Regulations.

New regulation 141(3) provides that a special arrangement must be in writing and signed by HMRC and the employer.

New regulation 141(4) provides that a special arrangement must specify a due date for payment of income tax payable by the employer, which must be no later than 31st May following the end of the tax year.

New regulation 141(5) provides that the employer must pay the income tax payable to HMRC by the specified due date.

New regulation 141(6) provides that the employer is not required to make returns under Chapter 1 of Part 4 of the principal Regulations in relation to the relevant PAYE income to which a special arrangement applies.

New regulations 141(7) and (8) provide that the employer must instead deliver an annual return containing the information specified in Schedule A1 to the principal Regulations by a date set out in the special arrangement, which must be no later than 31st May following the end of the tax year.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.