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STATUTORY INSTRUMENTS

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**2003 No. 2682**

**The Income Tax (Pay As You Earn) Regulations 2003**

**PART 1**

**INTRODUCTION**

*Citation and commencement*

**Citation and commencement**

1. These Regulations may be cited as The Income Tax (Pay As You Earn) Regulations 2003 and shall come into force on 6th April 2004.

**Commencement Information**

**II** Reg. 1 in force at 6.4.2004, see [reg. 1](#)

*Interpretation*

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“additional pay” means the appropriate amount, established from an employee’s code (where it is a K code not used on the cumulative basis) and the tax tables, to be added to the relevant payments made to an employee in order to determine the taxable payments;

[<sup>F1</sup>“additional rate” in relation to the charging of income tax for any tax year, means the rate of income tax determined under section 6(2) of ITA [<sup>F2</sup>, except where the employee is a Welsh taxpayer where it means the Welsh additional rate of income tax calculated under section 6B of that Act]<sup>F3</sup> ...;]

“agency” has the meaning given in section 44 of ITEPA;

[<sup>F4</sup>“agency worker” means a worker who is treated by section 44 of ITEPA(1) as holding an employment with the agency for income tax purposes;]

“approved method of electronic communications” has the meaning given in regulation 189;

“basic rate”, in relation to the charging of income tax for any tax year, means the rate of income tax determined under [<sup>F5</sup>section 6(2) of ITA, except where [<sup>F6</sup>—]

(a) [<sup>F7</sup>the employee is a Scottish taxpayer where it means the Scottish basic rate of income tax set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998, or

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(1) Section 1(2)(a) was amended by section 9(3) of the Finance Act 1992 (c. 20).

(b) the employee is a Welsh taxpayer where it means the Welsh basic rate of income tax calculated under section 6B of ITA]]

“Board of Inland Revenue” means the Commissioners of Inland Revenue (as to which see in particular the Inland Revenue Regulation Act 1890(2));

[<sup>F8</sup>“the client” has the meaning given in section 44 of ITEPA, and cognate expressions shall be construed accordingly;]

[<sup>F9</sup>“closed tax year” means any tax year preceding the current year, and cognate expressions shall be construed accordingly;]

“code” and related expressions have the meanings given in regulation 7;

[<sup>F10</sup>“combined amount” means an amount which includes tax due under these regulations and one or more of the following—

- (a) earnings-related contributions due under the SSC Regulations;
- (b) amounts due under the Income Tax (Construction Industry Scheme) Regulations 2005;
- (c) payments of repayments of student loans due under the Student Loan Regulations;
- (d) [<sup>F11</sup>apprenticeship levy due under these Regulations;]]

“cumulative basis” means the basis of deduction or repayment of tax provided for in regulation 23;

“deductions working sheet” means—

- (a) any form of record in which are to be kept the matters required by these Regulations in connection with an employee’s relevant payments and tax;
- (b) <sup>F12</sup> ...

“earnings” has the meaning given in sections 62 and 721(7) of ITEPA;

“electronic communications” has the meaning given in regulation 189;

“employee’s code” has the meaning given in regulation 8(1);

“employer reference” means the combination of letters, numbers or both used by the Inland Revenue to identify an employer for the purposes of these Regulations;

“employer’s PAYE reference”, in relation to an employer, means the combination of the employer’s employer reference and the Inland Revenue office number;

“employment”, subject to regulations 10 to 12, has the meaning given in sections 4 and 5 of ITEPA; and “employer” and “employee” have corresponding meanings;

[<sup>F13</sup>“employment intermediary” has the meaning given in section 716B(2) of ITEPA;]

“excluded business expenses” has the meaning given in regulation 5;

“family” and “family or household”, in relation to a person, have the meanings given in section 721(4) and (5) of ITEPA;

“free pay” means the appropriate amount, established from an employee’s code (where not used on the cumulative basis) and the tax tables, to be subtracted from relevant payments to arrive at taxable payments (and accordingly represents an appropriate part of reliefs allowable against those payments);

“general earnings” has the meaning given in section 7(3) of ITEPA;

“higher rate”, in relation to the charging of income tax for any tax year, means the rate of income tax determined under [<sup>F14</sup>section 6(2) of ITA [<sup>F15</sup>, except where the employee is a Welsh

taxpayer where it means the Welsh higher rate of income tax determined under section 6B of that Act]<sup>F16</sup>...];

[<sup>F9</sup>“HMRC” means Her Majesty’s Revenue and Customs;]

“ICTA” means the Income and Corporation Taxes Act 1988(3);

“Inland Revenue” means any officer of the Board of Inland Revenue;

“Inland Revenue office”, in relation to an employer, means the office of the Inland Revenue from which codes are normally issued to the employer;

“Inland Revenue office number” means the number which identifies an employer’s Inland Revenue office;

[<sup>F10</sup>“ITA” means the Income Tax Act 2007;]

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003(4);

[<sup>F17</sup>“large employer” has the meaning given in regulation 198A;]

[<sup>F18</sup>“lower earnings limit” means the lower earnings limit for Class 1 contributions for the purposes of section 5(1) of the Social Security Contributions and Benefits Act 1992;]

“national insurance number” means the national insurance number allocated within the meaning of regulation 9 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001(5);

“net PAYE income” has the meaning given in regulation 3;

“non-cumulative basis” means the basis of deduction of tax provided for in regulation 27;

[<sup>F19</sup>“non-Real Time Information employer” means an employer other than one within regulation 2A;]

[<sup>F19</sup>“non-Real Time Information pension payer” means a pension payer other than one within regulation 2B;]

[<sup>F20</sup>“notice” means as follows and “notify” must be read accordingly—

- (a) notice in writing, or in a form authorised (in relation to the case in question) by directions under section 118 of the Finance Act 1998 (which allows certain claims etc to be made by telephone)
- (b) [<sup>F21</sup>for the purposes of regulation 17 (notice to employee of code) and regulation 19 (amendment of code) notice—
  - (i) by an approved method of electronic communications;
  - (ii) in writing (other than a notice falling within sub-paragraph (i)); or
  - (iii) by telephone;]]

“notional payment” has the meaning given in section 710(2)(a) of ITEPA;

“objects” means gives a notice of objection to the Inland Revenue;

“official computer system” has the meaning given in regulation 189;

“other payee” means a person receiving relevant payments in a capacity other than employee, agency worker or pensioner;

“other payer” means a person making relevant payments in a capacity other than employer, agency or pension payer;

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(3) 1988 c. 1.

(4) 2003 c. 1. The Income Tax (Earnings and Pensions) Act 2003 is referred to in these footnotes as “ITEPA”.

(5) S.I.2001/769.

[<sup>F22</sup>“overriding limit” means the limit on the amount of tax to be deducted from a relevant payment and is an amount equal to 50% of the amount of the relevant payment;]

“PAYE income” has the meaning given in section 683 of ITEPA;

“PAYE pension income” has the meaning given in section 683(3) of ITEPA;

“PAYE threshold” must be determined in accordance with regulation 9;

“payee” means an employee, agency worker, pensioner or other payee;

“payer” means an employer, agency, pension payer or other payer;

“pension” means a pension, annuity or other payments of PAYE pension income;

“pensioner” means a person receiving PAYE pension income;

“pension payer” means a person making payments of PAYE pension income;

“PSA” means a PAYE settlement agreement made in accordance with regulation 105;

“qualifying general earnings”, in relation to a PSA, has the meaning given in regulation 106;

[<sup>F9</sup>“qualifying payment” means a payment which becomes retrospective employment income as a relevant payment (including a notional payment);]

[<sup>F19</sup>“Real Time Information employer” has the meaning given in regulation 2A;]

[<sup>F19</sup>“Real Time Information pension payer” has the meaning given in regulation 2B;]

<sup>F23</sup>  
...

“relevant payments” has the meaning given in regulation 4;

“relevant pension payments” has the meaning given in regulation 6;

[<sup>F9</sup>“the relevant time”, in relation to retrospective employment income, has the meaning given by section 710(7) of ITEPA, as modified by subsection (7A) of that section, but subject to section 94(5)(c) of the Finance Act 2006;]

“reliefs from income tax” includes allowances and deductions;

[<sup>F9</sup>“retrospective contributions regulations” has the meaning given by regulation 1(2) of the SSC Regulations;]

[<sup>F9</sup>“retrospective employment income” means payments which are retrospectively treated as payments of employment income by virtue of a retrospective tax provision;]

[<sup>F9</sup>“retrospective tax provision” means a provision of the Income Tax Acts charging to income tax amounts of employment income paid before the enactment containing the provision was passed;]

[<sup>F24</sup>“Scottish basic rate” means the Scottish basic rate of income tax for a tax year set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998;

“Scottish lower rate” means any rate of income tax for a tax year set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998 which is lower than the Scottish basic rate for that tax year]

<sup>F25</sup>  
...

[<sup>F26</sup>“Scottish taxpayer” has the same meaning as in section 989 of ITA (the definitions);]

[<sup>F27</sup>“Scottish upper rate” means any rate of income tax for a tax year set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998 which is higher than the Scottish basic rate for that tax year;]

[<sup>F18</sup>“seconded expatriate” means an employee meeting one of the following descriptions—

(a) an employee in section 689 of ITEPA (employee of non-UK employer); or

- (b) an employee in a branch of an employer where—
- (i) these Regulations would not apply to that employer but for that branch,
  - (ii) the employer seconded the employee to that branch, and
  - (iii) the employee was not employed in the United Kingdom immediately before the secondment;]

[<sup>F28</sup>“specified date” for the purposes of Chapter 3 of Part 10, has the meaning given in regulation 198A;]

[<sup>F9</sup>“SSC Regulations” means the Social Security (Contributions) Regulations 2001;]

<sup>F29</sup> ...

[<sup>F30</sup>“Student Loan Regulations” means the Education (Student Loans) (Repayment) Regulations 2009 or, in Northern Ireland, the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009;]

“taxable payments” means relevant payments reduced by free pay or, as the case may be, increased by additional pay (where the employee’s code is not used on the cumulative basis);

“tax month” means the period beginning on the 6th day of a calendar month and ending on the 5th day of the following calendar month;

“tax not deducted because of the overriding limit” means any tax—

- (a) which is due at the relevant date in accordance with the appropriate tax tables in respect of any taxable payments or total taxable payments to date, but
- (b) which has not been deducted because of the overriding limit;

“tax period” means—

- (a) tax quarter, if <sup>F31</sup>... regulation 70 (quarterly tax periods) applies, or
- (b) tax month, in every other case;

“tax quarter” means any of the following (inclusive) periods—

- 6th April to 5th July,
- 6th July to 5th October,
- 6th October to 5th January, and
- 6th January to 5th April;

“tax tables” means the tax tables prepared by the Board of Inland Revenue under section 685 of ITEPA(6);

“tax week” means 6th April to 12th April (inclusive) and each successive period of 7 days, except that the final tax week in a tax year (“Week 53”) is just the last day of the tax year (or last 2 days in a leap year);

“tax year” means a year for which any Act provides for income tax to be charged;

“TMA” means the Taxes Management Act 1970(7);

“total additional pay to date” means the appropriate amount, established from an employee’s code (where it is a K code to be used on the cumulative basis) and the tax tables, to be added to the total payments to date in order to determine the total taxable payments to date;

“total free pay to date”, in relation to any date, means the appropriate amount, established from an employee’s code (where used on the cumulative basis) and the tax tables, to be subtracted

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(6) Section 685 was amended by section 145(3) and (4) of the Finance Act 2003.

(7) 1970 c. 9.

from total payments to date to arrive at total taxable payments to date (and accordingly represents an appropriate part of reliefs allowable against those payments);

“total net tax deducted”, in relation to the relevant payments made to an employee during any period, means the total tax deducted from those payments plus any tax accounted for in accordance with regulation 62(5) (notional payments), less any tax repaid to the employee;

“total payments to date”, in relation to any date, means the sum of all relevant payments made by the employer to the employee from the beginning of the tax year up to and including that date;

“total tax to date” means the tax due at any date in accordance with the appropriate tax tables in respect of any total taxable payments to date;

“total taxable payments to date” means total payments to date reduced by total free pay to date or, as the case may be, increased by total additional pay to date (where the employee’s code is used on the cumulative basis);

“trade dispute” has the meaning given in section 35(1) of the Jobseekers Act 1995<sup>(8)</sup> or, in Northern Ireland, in article 2(2) of the Jobseekers (Northern Ireland) Order 1995<sup>(9)</sup>.

[<sup>F32</sup>“tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.]

[<sup>F33</sup>“United Kingdom continental shelf” means the area designated under section 1(7) of the Continental Shelf Act 1964.]

[<sup>F34</sup>“Welsh rate” means a rate set by the National Assembly for Wales for the tax year under section 116D of the Government of Wales Act 2006 (income tax);

“Welsh taxpayer” has the same meaning as in section 116E of the Government of Wales Act 2006 (Welsh taxpayers).]

(2) References in these Regulations to income tax in respect of PAYE income (however expressed) are references to income tax in respect of that income if reasonable assumptions are, when necessary, made about other income.

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| <b>F1</b> | Words in reg. 2 inserted (6.4.2011) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2011 (S.I. 2011/729)</a> , regs. 1, <b>3(a)</b>  |
| <b>F2</b> | Words in reg. 2(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2018 (S.I. 2018/1327)</a> , regs. 1(1), <b>3(a)</b>    |
| <b>F3</b> | Words in reg. 2 omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , regs. 1, <b>3(a)</b>   |
| <b>F4</b> | Words in reg. 2 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015 (S.I. 2015/171)</a> , regs. 1(2), <b>2(2)(a)</b>  |
| <b>F5</b> | Words in reg. 2 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2015 (S.I. 2015/1667)</a> , regs. 1(1), <b>3(b)</b>    |
| <b>F6</b> | Word in reg. 2(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2018 (S.I. 2018/1327)</a> , regs. 1(1), <b>3(b)</b>     |
| <b>F7</b> | Words in reg. 2(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2018 (S.I. 2018/1327)</a> , regs. 1(1), <b>3(b)</b> |

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<sup>(8)</sup> 1995 c. 18.

<sup>(9)</sup> S.I. 1995/2705 (N.I. 15).

- F8** Words in reg. 2 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015 (S.I. 2015/171), regs. 1(2), **2(2)(b)**
- F9** Words in reg. 2(1) inserted (6.4.2007) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **3**
- F10** Words in reg. 2(1) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **3(a)**
- F11** Words in reg. 2(1) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414), regs. 1, **2(2)(c)**
- F12** Words in reg. 2(1) omitted (6.4.2014) by virtue of The Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2014 (S.I. 2014/472), regs. 1(2), **3**
- F13** Words in reg. 2 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015 (S.I. 2015/171), regs. 1(2), **2(2)(c)**
- F14** Words in reg. 2 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2015 (S.I. 2015/1667), regs. 1(1), **3(c)**
- F15** Words in reg. 2(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2018 (S.I. 2018/1327), regs. 1(1), **3(c)**
- F16** Words in reg. 2 omitted (6.4.2018) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **3(b)**
- F17** Words in reg. 2(1) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668), regs. 1(3), **15(a)**
- F18** Words in reg. 2(1) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **60(a)**
- F19** Words in reg. 2(1) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **3**
- F20** Words in reg. 2 substituted (6.4.2011) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2011 (S.I. 2011/729), regs. 1, **3(b)**
- F21** Words in reg. 2(1) substituted (29.1.2015) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2015 (S.I. 2015/2), regs. 1(1), **2(2)**
- F22** Words in reg. 2 substituted (6.4.2015) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2014 (S.I. 2014/2689), regs. 1(2), **3**
- F23** Words in reg. 2 omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014 (S.I. 2014/992), arts. 1(1), **9(2)**
- F24** Words in reg. 2 inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **3(c)**
- F25** Words in reg. 2 omitted (14.12.2015) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 (S.I. 2015/1927), regs. 1(1), **3**
- F26** Words in reg. 2 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2015 (S.I. 2015/1667), regs. 1(1), **3(d)**
- F27** Words in reg. 2 inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **3(d)**
- F28** Words in reg. 2(1) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668), regs. 1(4), **15(b)**
- F29** Words in reg. 2(1) omitted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **3(b)**
- F30** Words in reg. 2(1) substituted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **60(b)**
- F31** Words in reg. 2(1) omitted (6.4.2014) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(4), **6(b)**



- F32** Words in reg. 2(1) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 93**
- F33** Words in reg. 2 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2015 \(S.I. 2015/171\)](#), regs. 1(2), **2(2)(d)**
- F34** Words in reg. 2(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2018 \(S.I. 2018/1327\)](#), regs. 1(1), **3(d)**

#### Commencement Information

- I2** Reg. 2 in force at 6.4.2004, see [reg. 1](#)

#### [<sup>F35</sup>Real Time Information employers

**2A.—**(1) The following are Real Time Information employers—

- (a) an employer who has entered into an agreement with HMRC to comply with the provisions of these Regulations which are expressed as relating to Real Time Information employers,
- (b) an employer within paragraph (2),
- <sup>F36</sup>(c) ..... and
- (d) on and after 6th October 2013, all employers [<sup>F37</sup>, except employers within paragraph (3)].

(2) An employer is within this paragraph if the employer has been given a general or specific direction by the Commissioners for Her Majesty's Revenue and Customs before 6th October 2013 to deliver to HMRC returns under regulation 67B (real time returns of information about relevant payments).

[<sup>F38</sup>(3) An employer is within this paragraph if the employer—

- (a) has an existing special arrangement under regulation 141 (direct collection and special arrangements), and
- (b) has not been given a direction under paragraph (2) by the Commissioners for Her Majesty's Revenue and Customs.]

- F35** Regs. 2A, 2B inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **4**
- F36** Reg. 2A(1)(c) omitted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **14(a)(i)**
- F37** Words in reg. 2A(1)(d) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **14(a)(ii)**
- F38** Reg. 2A(3) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **14(b)**

#### Real Time Information pension payers

**2B.—**(1) The following are Real Time Information pension payers—

- (a) a pension payer who has entered into an agreement with HMRC to comply with the provisions of these Regulations which are expressed as relating to Real Time Information pension payers or Real Time Information employers,
- (b) a pension payer within paragraph (2),



<sup>F39</sup>(c) .....

(c) on and after 6th October 2013, all pension payers.

(2) A pension payer is within this paragraph if the pension payer has been given a general or specific direction by the Commissioners for Her Majesty’s Revenue and Customs before 6th October 2013 to deliver to HMRC returns under regulation 67B (real time returns of information about relevant payments).]

**F35** Regs. 2A, 2B inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **4**  
**F39** Reg 2B(1)(c) omitted (6.4.2013) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **15**

**Net PAYE income**

3.—(1) “Net PAYE income” means PAYE income less any—

- (a) allowable pension contributions, and
- (b) allowable donations to charity.

(2) In paragraph (1)—

[<sup>F40</sup>“allowable pension contributions“ means any contribution under a registered pension scheme which is withheld from the payment of PAYE income which is allowed to be deducted from employment income by the sponsoring employer under section 193(2) of the Finance Act 2004 (relief under net pay arrangements);

“registered pension scheme” and “sponsoring employer” have the meanings given by section 150(2) and (6) respectively, of the Finance Act 2004.]

“allowable donations to charity” means any donation which is withheld from the payment of PAYE income and for which a deduction must be allowed under section 713 of ITEPA (donations to charity: payroll deduction scheme).

**F40** Words in [reg. 3\(2\)](#) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **27(2)**

**Commencement Information**  
**I3** [Reg. 3](#) in force at 6.4.2004, see [reg. 1](#)

**Relevant payments**

4.—(1) In these Regulations, any reference (however expressed) to relevant payments means payments of, or on account of, net PAYE income, except payments of, or on account of,—

- (a) PAYE social security income, except in so far as it is provided for in Part 8,
- (b) United Kingdom social security pensions,
- (c) excluded relocation expenses,

<sup>F41</sup>(d) .....

- (e) excluded pecuniary liabilities, and
- (f) excluded notional payments.

(2) In paragraph (1)—

<sup>F42</sup> ...

“excluded notional payments” means notional payments which an employer is treated as making by section 694 or 695 of ITEPA (non-cash vouchers and credit tokens) as a result of an employee using a non-cash voucher or credit token on behalf of the employer, except where the voucher or token is used as, or as part of, any scheme or arrangement the purpose, or one of the main purposes, of which is—

- (a) to provide the employee with money or an asset, or
- (b) to avoid the making of a relevant payment;

“excluded pecuniary liabilities” means payments made to a person other than an employee to meet the employee’s liability to that other person, but which are not made—

- (a) in fulfilment (in whole or in part) of the employee’s right to a sum of money, nor
- (b) as, or as part of, any scheme or arrangement the purpose, or one of the main purposes, of which is to avoid the making of a relevant payment;

“excluded relocation expenses” means payments in respect of removal expenses, as defined by section 272 of ITEPA (removal benefits and expenses to which section 271 applies), if, and to the extent that, they are payments of net PAYE income;

“PAYE social security income” has the meaning given in section 683(5) of ITEPA;

“United Kingdom social security pensions” means income which is taxable income in accordance with section 578 of ITEPA (UK social security pensions).

- F41** Reg. 4(1)(d) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), **4(a)**
- F42** Words in reg. 4(2) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), **4(b)**

**Commencement Information**

- I4** Reg. 4 in force at 6.4.2004, see [reg. 1](#)

**Excluded business expenses**

<sup>F43</sup>5. ....

- F43** Reg. 5 omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), **5**

**Relevant pension payments**

6. In these Regulations, any reference (however expressed) to relevant pension payments means relevant payments in respect of PAYE pension income.

**Commencement Information**

- I5** Reg. 6 in force at 6.4.2004, see [reg. 1](#)

**Meaning of “code” etc**

7.—(1) In these Regulations, “code” means—

- (a) a combination of letters, numbers or both for use in accordance with the tax tables to establish free pay, additional pay, total free pay to date or total additional pay to date;
  - (b) any of the special codes (whether expressed in words or represented by a combination of letters, numbers or both) for use in accordance with the tax tables or otherwise.
- (2) “K code” means a code which gives rise to additional pay or total additional pay to date.
- [<sup>F44</sup>(2A) “S code” means a code which effects deductions of tax at the rates [<sup>F45</sup>set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998].]
- [<sup>F46</sup>(2B) “C code” means a code which effects deductions of tax at the rates calculated under section 6B of ITA.]
- (3) The special codes are—
- (a) the basic rate code, which effects deductions of tax wholly at the basic rate;
  - (b) the higher rate code, which effects deductions of tax wholly at the higher rate;
  - [<sup>F47</sup>(ba) the additional rate code, which effects deductions of tax wholly at the additional rate;]
  - [<sup>F48</sup>(bb) the appropriate Scottish upper rate code, which effects deductions of tax wholly at a Scottish upper rate for a Scottish taxpayer;]
  - (c) the nil tax code, which requires no deductions of tax;
  - [<sup>F49</sup>(ca) the OT code, which without allowing for personal allowances, effects deductions of tax so that during the tax year the amounts subject to deductions are in accordance with section 10 of ITA (income charged at the basic, higher and additional rates: individuals) or section 11A of ITA (income charged at Scottish rates);]
  - [<sup>F50</sup>(d) the emergency code, which, after allowing for the personal allowance, effects deductions of tax at—
    - [<sup>F51</sup>(i) the basic rate, or
    - (ii) the basic and higher rates, or
    - (iii) the basic, higher and additional ratesso that during the tax year the amounts subject to deductions at the rate or rates concerned are in accordance with section 10 of ITA (income charged at the basic, higher and additional rates: individuals);]
  - (e) the emergency IB codes which, after allowing for the personal allowance and the blind person’s allowance, effect deductions at the basic rate, so that during the tax year the amounts subject to deductions at that rate are in accordance with section 10 of ITA.]
- [<sup>F52</sup>(4) In paragraph (3)—
- [<sup>F53</sup>“appropriate Scottish upper rate code” means a Scottish upper rate code which effects deductions of tax from an employee who is a Scottish taxpayer at a Scottish upper rate which is considered by HMRC to apply where they have reason to believe that the employee will be chargeable at that rate on all or a substantial part of the employee’s relevant payments;]
- “blind person’s allowance” means an allowance claimed under either section 265 of ICTA (blind person’s allowance) or section 38 of ITA (blind person’s allowance);
- “personal allowance” means an allowance claimed under either section 257(1) of ICTA (personal allowance) or section 35 of ITA (personal allowances for those aged under 65).]

**F44** Reg. 7(2A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2015 \(S.I. 2015/1667\)](#), regs. 1(1), 4

**F45** Words in reg. 7(2A) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, 2(3)

- F46** Reg. 7(2B) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2018 (S.I. 2018/1327), regs. 1(1), **4**
- F47** Reg. 7(3)(ba) inserted (6.4.2011) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2011 (S.I. 2011/729), regs. 1, **4(a)**
- F48** Reg. 7(3)(bb) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **4(a)(i)**
- F49** Reg. 7(3)(ca) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **4(a)(ii)**
- F50** Reg. 7(3)(d)(e) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **4(a)**
- F51** Reg. 7(3)(d)(i)-(iii) substituted for words (6.4.2011) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2011 (S.I. 2011/729), regs. 1, **4(c)**
- F52** Reg. 7(4) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **4(b)**
- F53** Words in reg. 7(4) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **4(b)**

#### Commencement Information

- I6** Reg. 7 in force at 6.4.2004, see **reg. 1**

#### Employee's code

- 8.**—(1) An employee's code is the code—
- issued to an employer for use in respect of the employee for a tax year,
  - applied by these Regulations for use by an employer in respect of the employee, or
  - issued to an employee in accordance with regulation 142 (direct collection).
- (2) A code is issued to an employer if it is contained in a document that is sent—
- to the employer, or
  - to a person acting on behalf of the employer,

by the Inland Revenue, and any code so issued is received by the employer for the purposes of these Regulations.

#### Commencement Information

- I7** Reg. 8 in force at 6.4.2004, see **reg. 1**

#### PAYE threshold

- 9.**—(1) The rules set out in Table 1 apply in order to determine whether a relevant payment made by an employer to an employee is a relevant payment which exceeds the PAYE threshold.
- Rules 1 to 5 apply if the employer normally pays the employee at regular intervals.
  - If the employer does not normally pay the employee at regular intervals—
    - rule 6 applies to determine whether a relevant payment made less than a week since the previous relevant payment exceeds the PAYE threshold, and
    - rule 7 applies to determine whether any other relevant payment exceeds the PAYE threshold.

**Table 1**

## Determination of PAYE threshold

<i>Employee's payment interval</i>	<i>Rule to determine whether relevant payment exceeds PAYE threshold</i>
1. Weekly	1. If the sum of the relevant payment and any other relevant payments made earlier in the same tax week is more than the weekly PAYE threshold.
2. Monthly	2. If the sum of the relevant payment and any other relevant payments made earlier in the same tax month is more than the monthly PAYE threshold.
3. Regular intervals which are multiples of a week	3. If the sum of the relevant payment and any other relevant payments made earlier in the same interval is more than the corresponding multiple of the weekly PAYE threshold.
4. Regular intervals, longer than a week, which are fractions or multiples of a month	4. If the sum of the relevant payment and any other relevant payments made earlier in the same interval is more than the corresponding fraction or multiple of the monthly PAYE threshold.
5. Regular intervals, longer than a week, which are not within rules 1 to 4	5. If the sum of the relevant payment and any other relevant payments made earlier in the same interval is more than the corresponding proportion of the weekly PAYE threshold.
6. Intervals shorter than a week, whether regular or irregular	6. If the sum of the relevant payment and any other relevant payments made earlier in the same tax week is more than the weekly PAYE threshold.
7. Irregular intervals longer than a week	7. If the relevant payment is more than the corresponding proportion of the weekly PAYE threshold since— <ul style="list-style-type: none"> <li>(a) any previous relevant payment in the tax year, or</li> <li>(b) if none, the start of the employment or the start of the tax year (whichever is later).</li> </ul>
(4) Regulations 24 and 30 (employee not paid weekly or monthly)— <ul style="list-style-type: none"> <li>(a) apply for the purpose of establishing an employee's normal payment interval, but</li> <li>(b) must otherwise be ignored for the purpose of determining whether a relevant payment exceeds the PAYE threshold.</li> </ul>	
(5) If an employee has more than one normal payment interval in respect of payments made by the same employer, the rules must be applied on the basis of the shorter or shortest of those intervals.	

(6) If an employee’s normal payment interval is longer than a year, the rules must be applied as if the normal payment interval were a year.

(7) “Weekly PAYE threshold” means 1/52 of the personal allowance specified in section 257(1) of ICTA, rounded to the nearest pound.

(8) “Monthly PAYE threshold” means 1/12 of the personal allowance specified in section 257(1) of ICTA, rounded to the nearest pound.

(9) The “corresponding proportion of the weekly PAYE threshold” is established by dividing the number of days in the payment interval by 7, and multiplying the result by the weekly PAYE threshold.

**Commencement Information**  
**I8** [Reg. 9](#) in force at 6.4.2004, see [reg. 1](#)

*Application to payers and payees*

**Application to agencies and agency workers**

**10.**—(1) For the purposes of these Regulations—

- (a) agencies are treated as employers; and
- (b) agency workers are treated as employees.

(2) For the purposes of the regulations listed in paragraph (3), an agency ceases to employ an agency worker at the earlier of—

- (a) the end of the relationship between the agency and agency worker, or
- (b) the end of a period of 3 months during which the agency makes no relevant payments to the agency worker,

and not each time the agency worker stops providing services to a client of the agency.

(3) The regulations are—

regulation 36	cessation of employment: Form P45
regulation 37	PAYE income paid after employment ceased
regulation 46(6)	employer to ignore code relating to employment which has ceased
regulation 51(5) to (7)	effects of employment ceasing on Form P45 procedure
regulation 94(3) to (7)	information to former employees of other earnings.

(4) The following regulations do not apply to agencies or agency workers in their capacity as such—

F54	F54
...	...
F54	F54

...	...
regulation 91	termination awards: information to be provided
regulation 92	termination awards: return if award changes
regulation 93	termination awards: return if more than one employer
regulation 96	termination awards: information to employees
Part 6	PAYE settlement agreements
regulation 167	jobseeker's allowance paid by employer
regulation 168	regulation 167 cases: application of other regulations.

**F54** Words in [reg. 10\(4\)](#) omitted (6.4.2014) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(4), 7

**Commencement Information**

**I9** [Reg. 10](#) in force at 6.4.2004, see [reg. 1](#)

**Application to pension payers and pensioners**

**11.**—(1) For the purposes of these Regulations—

- (a) pension payers are treated as employers;
- (b) pensioners are treated as employees; and
- (c) a pensioner's "employment" with a pension payer starts when the pension starts and ends when the pension ends.

(2) The following regulations do not apply to pension payers or pensioners in their capacity as such—

regulation 25	cumulative basis: subsidiary PAYE income of employee paid weekly or at greater intervals
<b>F55</b>	<b>F55</b>
...	...
<b>F55</b>	<b>F55</b>
...	...
regulation 38	death of employee (other than pensioner)
Chapter 2 of Part 3	new employees (other than pensioners): Forms P45 and P46
regulation 63	repayment during unpaid leave
regulation 64	trade disputes
regulation 65	repayment if no longer employed
regulation 71	modification of [ <sup>F56</sup> regulations 67G and 68] in case of trade dispute



regulation 75	additional return in case of trade dispute
regulations 85 to 89	employers: annual return of other earnings
regulation 90	quarterly return if car becomes available or unavailable
regulation 91	termination awards: information to be provided
regulation 92	termination awards: return if award changes
regulation 93	termination awards: return if more than one employer
regulation 94	employers: information to employees of other earnings
regulation 95	third parties: information to employees of other earnings
regulation 96	termination awards: information to employees
regulation 100	tips: special arrangements
regulation 102(1)	succession to a business etc: employees (other than pensioners)
regulation 104	succession to a business: trade disputes
Part 6	PAYE settlement agreements
Chapter 3 of Part 7	holiday pay funds
regulation 151	obtaining the claimant's Form P45
regulation 167	jobseeker's allowance paid by employer
regulation 168	regulation 167 cases: application of other regulations.

**F55** Words in [reg. 11\(2\)](#) omitted (6.4.2014) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(4\), 7](#)

**F56** Words in [reg. 11\(2\)](#) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), [regs. 1\(1\), 5](#)

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**Commencement Information**

**I10** [Reg. 11](#) in force at 6.4.2004, see [reg. 1](#)

**Application to other payers and payees**

**12.**—(1) For the purposes of these Regulations—

- (a) other payers are treated as employers;
- (b) other payees are treated as employees; and
- (c) an other payee's "employment" with an other payer starts when relevant payments start and ends when relevant payments end.

(2) The following regulations do not apply to other payers or other payees in their capacity as such—

F57	F57
...	...
F57	F57
...	...
regulation 85 to 88	employers: annual return of other earnings
regulation 90	quarterly return if car becomes available or unavailable
regulation 91	termination awards: information to be provided
regulation 92	termination awards: return if award changes
regulation 93	termination awards: return if more than one employer
regulation 94	employers: information to employees of other earnings
regulation 95	third parties: information to employees of other earnings
regulation 96	termination awards: information to employees
Part 6	PAYE settlement agreements
regulation 134	interpretation of Chapter 3 (holiday pay funds)
regulation 167	jobseeker's allowance paid by employer
regulation 168	regulation 167 cases: application of other regulations.

(3) Paragraph (2) is subject to regulation 91(9) (termination awards: former employers and employees).

(4) The following regulation does not apply to other payees in their capacity as such—

regulation 64	trade disputes.
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**F57** Words in [reg. 12\(2\)](#) omitted (6.4.2014) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(4\), 7](#)

**Commencement Information**

**I11** [Reg. 12](#) in force at 6.4.2004, see [reg. 1](#)

## PART 2

### CODES

#### *Determination of code*

#### **Determination of code by Inland Revenue**

**13.** The Inland Revenue must determine the code for use by an employer in respect of an employee for a tax year.

#### **Matters relevant to determination of code**

**14.—(1)** If the Inland Revenue determine a code under this regulation, they must have regard to the following matters so far as known to them—

- (a) the reliefs from income tax to which the employee is entitled for the tax year in which the code is determined, so far as the employee's title to those reliefs has been established at the time of the determination;
- (b) any PAYE income of the employee (other than the relevant payments in relation to which the code is being determined);
- (c) any tax overpaid for any previous tax year which has not been repaid;
- (d) any tax remaining unpaid for any previous tax year which is not otherwise recovered;
- (e) any tax repaid to the employee in excess of the amount properly due to the employee which may be recovered as if it were unpaid tax under section 30(1) of TMA<sup>(10)</sup> (recovery of overpayment of tax etc) and which is not otherwise recovered;
- (f) unless the employee objects, any other income of the employee which is not PAYE income; and
- (g) such other adjustments as may be necessary to secure that, so far as possible, the tax in respect of the employee's income in relation to which the code is determined will be deducted from the relevant payments made during that tax year.

(2) If the Inland Revenue determine the code before the beginning of the tax year for which it is determined, the Inland Revenue—

- (a) must have regard to any expected change in the amount of any relief referred to in paragraph (1)(a), but
- (b) may disregard any such relief if they are not satisfied that the employee will be entitled to it for the tax year for which the code is determined.

(3) Paragraphs (1)(c) and (d) are subject to regulations 186 and 187 (recovery and repayment: adjustment of employee's code).

#### **[<sup>F58</sup>Determination of code in respect of recovery of relevant debts**

**14A.—(1)** HMRC may determine a code so as to effect recovery of all or part of a relevant debt within the meaning of section 684 of ITEPA (sums owed to HMRC).

(2) A determination in reliance on paragraph (1) does not prevent recovery by other means (whether or not under a provision of TMA) of all or any part of a relevant debt that is not recovered

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<sup>(10)</sup> Section 30 was substituted by section 149(1) of the Finance Act 1982 (c. 39), and subsection (1) was amended by paragraph 13(2) of Schedule 19 to the Finance Act 1998 (c. 36).

by deduction in accordance with the code (whether or not it was at any stage expected to be recovered by deduction).

(3) Sums deducted or to be deducted as a result of a determination made in reliance on paragraph (1) are to be treated, for the purposes of employers' obligations and enforcement, in the same way as amounts of tax which the employer is liable to pay under provisions of these Regulations (so, for example, regulation 84 applies for the purposes of recovery).

(4) Sums deducted as a result of a determination made in reliance on paragraph (1) are to be treated for the purposes of interest on the relevant debt as having been paid on the first day of the tax year in respect of which the determination is made.]

**F58** Reg. 14A inserted (with effect from 6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.3\) Regulations 2011 \(S.I. 2011/1584\)](#), regs. 1(2), **2(2)**

#### [<sup>F59</sup> **Determination of code in respect of high income child benefit charge**

**14B.** HMRC may determine a code, if and to the extent that the payee does not object, to secure that—

- (a) income tax payable for a tax year by the payee by virtue of section 681B of ITEPA (high income child benefit charge) is deducted from PAYE income of the payee paid during that year, and
- (b) repayments are made in a tax year in respect of any amounts overpaid on account of income tax under that section for that tax year.]

**F59** Reg. 14B inserted (with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **3**

#### [<sup>F60</sup> **Determination of code in respect of recovery of tax credit debts**

**14C.—(1)** HMRC may determine a code, if and to the extent that the payee does not object, to effect the recovery of all or part of a tax credit debt.

(2) Sums deducted or to be deducted as a result of a determination made in reliance on paragraph (1) are to be treated, for the purposes of employers' obligations and enforcement, in the same way as amounts of tax which the employer is liable to pay under provisions of these Regulations (so, for example, regulation 84 applies for the purposes of recovery).

(3) Sums deducted as a result of a determination made in reliance on paragraph (1) are to be treated for the purposes of interest on the tax credit debt as having been paid on the first day of the tax year in respect of which the determination is made.

(4) In this regulation "tax credit debt" means child tax credit or working tax credit that the payee is liable to repay to the Commissioners under or by virtue of an enactment.

**F60** Regs. 14C, 14D inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2014 \(S.I. 2014/2689\)](#), regs. 1(1), **4**

#### **Recovery of debts: overall limit**

**14D.—(1)** This regulation applies where HMRC determines a code under, or by reference to, one or both of the following provisions—

- (a) regulation 14A(1) (determination of code in respect of recovery of relevant debts); or

(b) regulation 14C(1) (determination of code in respect of recovery of tax credit debts).

(2) Column 2 of Table 1A sets out the total amount of debt that may be recovered from an employee (“E”) under a code to which this regulation applies, by reference to the expected amount of PAYE income of E in the tax year for which that code is determined.

**TABLE 1A**

**TOTAL AMOUNT OF DEBT THAT MAY BE RECOVERED**

<i>1 The expected amount of PAYE income of E in the tax year for which the code is determined</i>	<i>2 The total amount of debt that may be recovered from E in that tax year</i>
Less than £30,000	No more than £3,000
£30,000 or more but less than £40,000	No more than £5,000
£40,000 or more but less than £50,000	No more than £7,000
£50,000 or more but less than £60,000	No more than £9,000
£60,000 or more but less than £70,000	No more than £11,000
£70,000 or more but less than £80,000	No more than £13,000
£80,000 or more but less than £90,000	No more than £15,000
£90,000 or more	No more than £17,000.

(3) In this regulation the “total amount of debt” means the sum recovered or to be recovered by virtue of a code determined under, or by reference to, one or both of regulations 14A(1) or 14C(1).]

**F60** Regs. 14C, 14D inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2014 \(S.I. 2014/2689\)](#), regs. 1(1), 4

**Flat rate codes**

15.—<sup>F61</sup>(A1) HMRC may determine that the code for use by an employer in respect of an employee for a tax year is the additional rate code, if they have reason to believe that the employee will be chargeable at the additional rate on all or a substantial part of the employee’s relevant payments.]

(1) The Inland Revenue may determine that the code for use by an employer in respect of an employee for a tax year is the higher rate code, if they have reason to believe that the employee will be chargeable at the higher rate on all or a substantial part of the employee’s relevant payments.

(2) The Inland Revenue may determine that the code for use by an employer in respect of an employee for a tax year is the basic rate code, if they have reason to believe that the employee will be chargeable at the basic rate on all or a substantial part of the employee’s relevant payments.

<sup>F62</sup>(2A) HMRC may determine that the code for use by an employer in respect of an employee who is a Scottish taxpayer is an appropriate Scottish upper rate code if they have reason to believe that the employee will be chargeable at a Scottish upper rate on all or a substantial part of the employee’s relevant payments.]

(3) The Inland Revenue may determine that the code for use by an employer in respect of an employee for a tax year is the nil tax code, if—

- (a) the employee's PAYE income will be taken into account as taxable income other than PAYE income in any assessment,
- (b) the Inland Revenue are not satisfied that the employee's income will be chargeable, or
- (c) the Inland Revenue have reason to believe that the employee will be entitled to a deduction under Chapter 6 of Part 5 of ITEPA (deductions from seafarers' earnings) in respect of the employee's PAYE income or so much of it as remains after any deductions under <sup>F63</sup>sections 188 to 195 of the Finance Act 2004 (members' contributions).]

(4) References in this regulation to an employee's relevant payments, PAYE income and income are references to the payments or income in respect of which the employee's code is being determined for the purposes of the employment in question.

<sup>F64</sup>(4A) For the purposes of this regulation an "appropriate Scottish upper rate code" has the meaning given in regulation 7(4).]

- F61** Reg. 15(A1) inserted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **5**
- F62** Reg. 15(2A) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **5(a)**
- F63** Words in reg. 15(3)(c) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **27(3)**
- F64** Reg. 15(4A) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **5(b)**

### Continued application of employee's code

**16.**—(1) If the Inland Revenue determine that the code for use by an employer in respect of an employee for a tax year remains the same as at the previous 5th April, the Inland Revenue need not issue a code to the employer.

(2) If for any tax year the employer does not receive a code for an employee who was in that employer's employment on the previous 5th April, the code which applied on that date is treated as having been issued by the Inland Revenue for the tax year in question.

### Notice to employee of code

**17.**—(1) The Inland Revenue must give notice to an employee of the code which they have determined for use in respect of that employee for any tax year.

(2) But notice need not be given if—

- (a) the code for use in respect of the employee remains the same as at the previous 5th April; ...
- <sup>F65</sup>(b) the change in the code is solely because of an alteration or proposed alteration—
  - (i) in the rates of any of the personal reliefs allowable under Chapters 2 (personal allowance etc.) and 3 (tax reductions etc.) of Part 3 of the Income Tax Act 2007; or
  - (ii) in the tax tables;
- (c) the employee's PAYE income is not chargeable to tax; or
- (d) the employee does not have a liability to tax in respect of any PAYE income.]

- F65** Reg. 17(2)(b)-(d) substituted for reg. 17(2)(b) (29.1.2015) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2015 \(S.I. 2015/2\)](#), regs. 1(1), **2(3)(b)**

*Appeals and amendment*

**Objections and appeals against employee’s code**

**18.**—(1) An employee who objects to the determination of a code must state the grounds of objection.

(2) On receiving the notice of objection the Inland Revenue may amend the determination of the code by agreement with the employee.

(3) If the Inland Revenue and employee do not reach agreement, the employee may appeal ... against the determination of the code by giving notice to the Inland Revenue.

(4) [<sup>F66</sup>On an appeal that is notified to the tribunal, the tribunal] must determine the code in accordance with these Regulations.

(5) .....

**F66** Words in reg. 18(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 94(3)**

**Amendment of code**

**19.**—(1) Paragraph (2) applies if the code for use by an employer in respect of an employee is found to be inappropriate because the actual circumstances are different from the circumstances by reference to which it was determined, whether by the Inland Revenue or the [<sup>F67</sup>tribunal].

(2) The Inland Revenue may, and if required by the employee must, amend the code by reference to the actual circumstances.

(3) The Inland Revenue must give notice of the amended code to the employee by the date on which the notice under regulation 20(1) is issued to the employer.

[<sup>F68</sup>(4) But notice need not be given—

(a) if the change in the code is because of an alteration or a proposed alteration—

- (i) in the rates of any of the personal reliefs allowable under Chapters 2 (personal allowance etc.) and 3 (tax reductions etc.) of Part 3 of the Income Tax Act 2007; or
- (ii) in the tax tables; or

(b) if as a consequence of any change to the code—

- (i) the employee’s PAYE income is not chargeable to tax; or
- (ii) the employee does not have a liability to tax in respect of any PAYE income.]

(5) Regulation 18 (objections and appeals) applies in relation to the amended code as it applies in relation to the original code.

(6) Regulation 18 also applies if the Inland Revenue do not agree that the circumstances have changed and so refuse to amend the code in accordance with paragraph (2).

**F67** Word in reg. 19(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 95**

**F68** Reg. 19(4) substituted (29.1.2015) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2015 \(S.I. 2015/2\)](#), regs. 1(1), **2(4)**



### **Notice to employer of amended code**

**20.**—(1) If the code for use by an employer in respect of an employee is amended after notice of it has been issued to the employer, the Inland Revenue must issue the amended code to the employer.

(2) An amended code is issued to an employer if it is contained in a document that is sent to the employer or a person acting on behalf of the employer by the Inland Revenue, and any code so issued is received by the employer for the purposes of these Regulations.

(3) On making any subsequent relevant payment to the employee, the employer must deduct or repay tax by reference to the amended code.

(4) Paragraphs (5) and (6) apply if there is a change or proposed change in the rates of any of the personal reliefs allowable under sections 257 and 257A of ICTA (personal allowance and married couple's allowance).

(5) If the change or proposed change relates to the current tax year, the Inland Revenue may give notice requiring the employer, with effect from the date specified in the notice, to amend specified codes as directed.

(6) If the change relates to the following tax year, the Inland Revenue may give notice requiring the employer to carry forward to the following tax year specified codes of the current tax year and adjust them as directed in the notice.

(7) A code which has—

(a) been amended by virtue of paragraph (5) in respect of the current tax year, or

(b) been carried forward to the following tax year and adjusted by virtue of paragraph (6),

is treated as having been determined and issued by the Inland Revenue as the employee's code for that tax year.

(8) A notice under paragraphs (5) and (6) may be issued to the employer or to a person acting on behalf of the employer.

## **PART 3**

### **DEDUCTION AND REPAYMENT OF TAX**

#### **CHAPTER 1**

#### **DEDUCTION AND REPAYMENT**

##### *Deduction and repayment by reference to employee's code*

### **Deduction and repayment of tax by reference to employee's code**

**21.**—(1) On making a relevant payment to an employee during a tax year, an employer must deduct or repay tax in accordance with these Regulations by reference to the employee's code, if the employer has one for the employee.

(2) The employer must deduct or repay tax by reference to the employee's code, even if the code is the subject of an objection or appeal.

### *The cumulative basis*

#### **The cumulative basis**

**22.** An employer must deduct or repay tax on the cumulative basis, unless these Regulations provide otherwise.

#### **Cumulative basis: deduction and repayment**

**23.**—(1) This regulation provides for deductions and repayments on the basis of total payments to date (the cumulative basis).

(2) In this regulation—

- (a) TT is the total tax to date relating to an employee;
- (b) UT is any tax not deducted because of the overriding limit when the last relevant payment was made to the employee, and is nil if the payment in question is the first relevant payment to the employee in any tax year;
- (c) PT is the previous total tax to date relating to the employee, and is nil if the payment in question is the first relevant payment to the employee in any tax year.

(3) The employer must, before making any relevant payment to the employee, calculate TT.

(4) If  $TT + UT$  exceeds PT, the employer must deduct the excess from the relevant payment on making the payment.

(5) But ... the deduction is not to exceed the overriding limit, subject to 62(6) (notional payments).

(6) If  $TT + UT$  is less than PT, the employer must repay the difference to the employee on making the payment, subject to regulations 25(4) (extra payment made before main payment) and 64 (trade disputes).

(7) If  $TT + UT$  equals PT, the employer must neither deduct nor repay tax when making the payment.

(8) “Previous total tax to date” means the total tax to date corresponding to the employee’s total payments to date and the employee’s code—

- (a) at the date of the last preceding relevant payment, or
- (b) if later, at the date on which the employer complied with this regulation as if a relevant payment had been made.

(9) But—

- (a) if the employee’s code is an amended code, and
  - (b) the employee’s previous code was not used on the cumulative basis,
- “previous total tax to date” means the total net tax deducted by the employer.

(10) Paragraphs (2)(c), (8) and (9) are subject to regulations 43(9) and (10), 52(11) and (12), 53(4) and 61(4) (which modify the meaning of previous total tax to date in certain circumstances).

#### **Cumulative basis: employee not paid weekly or monthly**

**24.**—(1) This regulation applies if—

- (a) an employer normally makes main relevant payments to an employee at regular intervals which are longer than a week, other than monthly, and
- (b) the employee’s code is used on the cumulative basis.

(2) The first main relevant payment in a tax year is treated for the purposes of calculating the deduction or repayment of tax as having been made at the end the period which—

- (a) starts on the first day of the tax year, and
  - (b) finishes at the end of the employee's normal regular payment interval.
- (3) Subsequent main relevant payments in the tax year are treated for the purposes of calculating the deduction or repayment of tax as having been made at the end of the period which—
- (a) starts the day after the date on which the previous main relevant payment is treated as having been made (by paragraph (2) or this paragraph), and
  - (b) finishes at the end of the employee's normal regular payment interval or the last day of the tax year (if earlier).
- (4) If the employee's main relevant payments are normally made at regular intervals which are longer than a year, any such payment in a tax year is treated, for the purposes of calculating the deduction or repayment of tax, as made on the last day of that tax year.
- (5) But, in every case, the employer must record the actual date of every payment in the deductions working sheet.
- (6) This regulation does not apply if the payment falls within regulation 31(1) (payments in short payment periods).

**Cumulative basis: subsidiary PAYE income of employee paid weekly or at greater intervals**

**25.—**(1) This regulation applies if—

- (a) an employee's main relevant payments are normally made at regular intervals of a week or more,
  - (b) the employee's code is used on the cumulative basis, and
  - (c) the employer makes a payment in respect of overtime or other extra earnings (the "extra payment").
- (2) For the purposes of calculating the deduction or repayment of tax, the extra payment is treated as made on the same date as that on which the main relevant payment in the payment period is due to be paid or is due to be treated as paid by regulation 24 (employee not paid weekly or monthly).
- (3) But paragraph (4) applies if the extra payment is actually made before the date on which the main relevant payment in the payment period is due to be paid (disregarding the effects of regulation 24).
- (4) A repayment which would (but for this paragraph) be due under regulation 23(6) on making the extra payment must not be paid to the employee, but must instead be added to the previous total tax (as defined by regulation 23(8)) on making the next relevant payment.
- (5) This regulation does not apply if the extra payment is made in a short payment period (but regulation 31 applies instead if that period contains an extra pay day).
- (6) "Payment period"—
- (a) in the case of an employee normally paid weekly, means a tax week,
  - (b) in the case of an employee normally paid monthly, means a tax month,
  - (c) in the case of an employee normally paid at other regular intervals, has the meaning given in paragraph (7).
- (7) In the case mentioned in paragraph (6)(c)—
- (a) the first payment period in a tax year starts on 6th April and finishes at the end of the employee's normal regular payment interval, and
  - (b) subsequent payment periods in the tax year start the day after the end of the previous payment period and finish—
    - (i) at the end of the employee's normal regular payment interval, or

(ii) on 5th April (if earlier).

(8) “Short payment period” means the last payment period in a tax year if, because of paragraph (7)(b)(ii), it is shorter than the previous payment periods.

(9) “Extra pay day” has the meaning given in regulation 31(4).

### *The non-cumulative basis*

#### **The non-cumulative basis**

**26.**—(1) An employer must deduct tax in accordance with regulation 27 (the non-cumulative basis) from any relevant payment made to an employee if—

- (a) the Inland Revenue direct, or
- (b) these Regulations provide,

that the non-cumulative basis is to apply.

(2) If this regulation applies then regulation 22 (cumulative basis) does not apply.

#### **Non-cumulative basis: general rule for deductions**

**27.**—(1) On making a relevant payment, the employer must deduct the amount of tax which would have been deductible in accordance with the appropriate tax tables, by reference to the employee’s code, if the payment had been made on the first day of the tax year.

(2) This is subject to—

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regulation 28	modification of general rule
regulation 29	aggregation of payments.

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#### **Non-cumulative basis: modification of general rule**

**28.**—(1) Paragraphs (2) to (5) modify the general rule in regulation 27(1) (the non-cumulative basis) in certain circumstances.

(2) If regulation 30 (employee not paid weekly or monthly) applies to the employee’s main relevant payments, the employer must deduct from a relevant payment the amount of tax which would have been deductible, by reference to the employee’s code, if the payment (whether or not it is a main relevant payment) had been made on the date given by that regulation.

(3) If the employer does not normally make relevant payments to the employee at regular intervals, the employer must deduct from a relevant payment the amount of tax which would have been deductible, by reference to the employee’s code—

- (a) if the payment is the first payment in the tax year, on the date it is made, or
- (b) in any other case, on the date found by counting forward  $x$  days starting on 5th April, where  $x$  is the number of days found by starting with the date of the previous relevant payment and counting forward to the date of the payment in question.

(4) But if two or more relevant payments are made in the same tax week, the employer must deduct from the second or subsequent relevant payment the amount of tax which (subject to regulation 29(5)) would have been deductible, by reference to the employee’s code, if that payment were made at the date given by paragraph (3) for the first payment.

(5) ... the deduction is not to exceed the overriding limit, subject to regulation 62(6) (notional payments).

### **Non-cumulative basis: aggregation of payments**

**29.**—(1) Paragraph (2) applies if—

- (a) relevant payments are normally made to an employee at regular intervals of a week or more, and
- (b) the employee's code is used on the non-cumulative basis.

(2) If the relevant payment is the second or subsequent relevant payment made to the employee during the payment period (as defined by regulation 25(6)), the amount of tax to be deducted must be—

- (a) calculated by reference to the aggregate of the relevant payments made to the employee during the payment period (as defined by regulation 25(6)),
- (b) increased by any tax not deducted because of the overriding limit when the previous relevant payment in that payment period was made to the employee, and
- (c) reduced by the amount of tax calculated when the employer made the previous relevant payment in that payment period.

(3) But, for the purposes of the aggregate, any effects of regulation 30(2) (regular payments treated as made at later date) must be disregarded.

(4) Paragraph (5) applies if relevant payments to an employee—

- (a) are normally made at regular intervals of less than a week, or
- (b) are made at irregular intervals of less than a week.

(5) If the relevant payment is the second or subsequent relevant payment made to the employee during a tax week, the amount of tax to be deducted must be—

- (a) calculated by reference to the aggregate of the relevant payments made to the employee in the tax week,
- (b) increased by any tax not deducted because of the overriding limit when the previous relevant payment in that tax week was made to the employee, and
- (c) reduced by the amount of tax calculated when the employer made the previous relevant payment in that tax week.

### **Non-cumulative basis: employee not paid weekly or monthly**

**30.**—(1) This regulation applies if—

- (a) an employer normally makes main relevant payments to an employee at regular intervals which are longer than a week, other than monthly, and
- (b) the employee's code is used on the non-cumulative basis.

(2) Each main relevant payment in a tax year is treated for the purposes of calculating the deduction of tax as having been made at the end the period which—

- (a) starts on 6th April, and
- (b) finishes at the end of the employee's regular payment interval.

(3) If the employee's main relevant payments are normally made at regular intervals which are longer than a year, any such payment in a tax year is treated, for the purposes of calculating the deduction of tax, as made on 5th April in that tax year.

(4) But, in every case, the employer must record the actual date of every payment in the deductions working sheet.

### Payments in short payment periods

**31.**—(1) An employer must deduct tax on the non-cumulative basis from any relevant payment made to an employee in a short payment period which includes an extra pay day, even if the employee’s code is normally used on the cumulative basis.

(2) Paragraph (1) does not apply if the employee’s code is the basic rate code.

(3) If—

(a) the employee’s total payments to date do not exceed the employee’s total free pay to date, and

(b) the employee’s code is normally used on the cumulative basis,

the employer must not deduct any tax from relevant payments made in a short payment period which includes an extra pay day.

(4) “Extra pay day” means the last day in a tax year on which a main relevant payment is due to be made to an employee if—

(a) the employee’s main relevant payments are normally made weekly or at greater intervals which results in the number of pay days varying from tax year to tax year (solely because of the number of days in a calendar year), and

(b) the day falls in a short payment period.

(5) “Short payment period” has the meaning given in regulation 25(8).

*[<sup>F69</sup>Higher rate, additional rate and nil tax codes]*

**F69** Reg. 32 cross-heading substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, 6

### Higher rate code: deductions

**32.** If an employee’s code is the higher rate code the employer must deduct tax at the higher rate, and regulations 22 and 26 (cumulative and non-cumulative basis) do not apply.

### <sup>F70</sup>Additional rate code: deductions

**32A.** If the employee’s code is the additional rate code the employer must deduct tax at the additional rate and regulations 22 and 26 (cumulative and non-cumulative basis) do not apply.]

**F70** Reg. 32A and cross-heading inserted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, 7

### <sup>F71</sup>Scottish upper rate codes

**32B.**—(1) If the employee’s code is an appropriate Scottish upper rate code the employer must deduct tax at the Scottish upper rate specified in that code and regulations 22 and 26 (cumulative and non-cumulative basis) do not apply.

(2) For the purposes of this regulation an “appropriate Scottish upper rate code” has the meaning given in regulation 7(4).]

**F71** Reg. 32B inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, 6

**Nil tax code: no deductions or repayments**

**33.**—(1) If an employee’s code is the nil tax code the employer must not deduct or repay any tax, and so regulation 22 (cumulative basis) does not apply.

(2) But—

- (a) if the nil tax code is an amended code, and
- (b) the Inland Revenue so direct,

regulation 22 applies to the next relevant payment the employer makes in the same tax year, and the employer must make any repayment of tax due.

*Simplified deduction scheme*

**Simplified deduction scheme for personal employees**

**34.** .....

**Simplified deduction schemes: records**

**35.** .....

*Cessation of employment*

**Cessation of employment: Form P45**

**36.**—(1) On ceasing to employ an employee in respect of whom a code has been issued, the employer must complete Form P45.

[<sup>F72</sup>(1A) If Part 3 of Form P45 is not available—

- (a) the employer is not required to complete that Part of the Form, and
- (b) where the employer does not complete that Part, any requirement, however expressed, in these Regulations which relates only to Part 3 does not apply.]

(2) The employer must then—

- (a) send Part 1 of that form to the Inland Revenue [<sup>F73</sup>if the employer is one to whom paragraph (2A) applies], and
- (b) provide Parts 1A, 2 and 3 to the employee,

on the day on which the employment ceases or, if that is not practicable, without unreasonable delay.

[<sup>F74</sup>(2A) This paragraph applies to—

- (a) non-Real Time Information employers, and
- (b) Real Time Information employers to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee’s employment.]

(3) Retirement on pension is not a cessation of employment for the purposes of this regulation if the PAYE pension income is paid by the same employer after retirement.



**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

(4) The information listed in column 1 of Table 2 must, subject to the conditions set out in column 2, be provided in the various Parts of Form P45 as indicated in columns 3 to 5.

**Table 2**

Information which must be provided in Form P45

1. Information to be provided	2. Conditions	3–5. Form P45 Part		
		1	1A	2, 3
1. the employer's PAYE reference		yes	yes	yes
2. the employee's national insurance number	if known	yes	yes	yes
3. the employee's name		yes	yes	yes
[ <sup>F75</sup> 3A. the employee's date of birth		yes	no	no
3B. the employee's sex		yes	no	no]
4. the date on which the employment ceased		yes	yes	yes
5. the employee's code or, if more than one, the latest code, issued by the Inland Revenue for the tax year during which the employment ceased		yes	yes	yes
6. whether the employee's code is used on the cumulative basis		yes	yes	yes
7. the tax week or month in which the last relevant payment was made to the employee or, in a case falling within regulation 24, was treated as having been made	if the employee's code is used on the cumulative basis	yes	yes	yes

1. Information to be provided	2. Conditions	3–5. Form P45 Part		
		1	1A	2, 3
8. the total payments to date and the corresponding total net tax deducted	if the employee's code is used on the cumulative basis	yes	yes	yes
9. the total payments to date relating to the employment question and corresponding net tax deducted	if the employee's code is used on the cumulative basis, and if different from the information supplied under item 8	yes	yes	no
10. the total payments to date relating to the employment question and corresponding net tax deducted	if the employee's code is not used on the cumulative basis	yes	yes	no
11. the number used by the employer to identify the employee	if any	yes	no	no
12. the department or branch in which the employee was employed	if any	yes	no	no
13. the employee's address	if known	yes	no	no
14. the employer's name		yes	yes	no
15. the employer's address		yes	yes	no
16. the date the Form is completed		yes	yes	no

(5) This regulation is subject to regulations 38, 39 and 180 (death of employee etc).

- F72** Reg. 36(1A) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), 16
- F73** Words in reg. 36(2)(a) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), 6(a)

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)*

- F74** Reg. 36(2A) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), 6(b)
- F75** Words in reg. 36(4) Table 2 inserted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), 3

**[<sup>F76</sup>Income subject to retrospective tax provision — information to employee**

**36A.**—(1) This regulation applies if—

- (a) a payment is made to an employee;
- (b) the employment in connection with which it was paid ceases;
- (c) the payment becomes a qualifying payment after the cessation of the employment;
- (d) the tax year in which the payment was actually made is not closed, and
- (e) the amount of the qualifying payment was not included in Form P45.

(2) If this regulation applies the person who made the payment must provide to the employee, without unreasonable delay after the relevant time, details of—

- (a) the date on which the qualifying payment was actually made;
- (b) the amount of the qualifying payment; and
- (c) the amount of tax deducted under regulation 62(4) or (5).]

- F76** Reg. 36A inserted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, 4

**PAYE income paid after employment ceased**

**37.**—(1) This regulation applies if a relevant payment is made to an employee after the employment has ceased—

- (a) by the former employer in respect of the former employment, or
- (b) by any other person in respect of an obligation of the former employer,

and the payment has not been included in Form P45.

[<sup>F77</sup>(1A) But this regulation does not apply if regulation 37A applies.]

[<sup>F78</sup>(2) [<sup>F79</sup>The] person making the payment must deduct tax on the non-cumulative basis using the OT Code.

(2A) .....

(2B) .....]

(3) But—

- (a) the payment does not affect the cessation of employment, and
- (b) the provisions listed in paragraph (4) do not apply.

(4) The provisions are—

regulation 21

deduction and repayment of tax by reference to employee's code

regulations 22 and 23

cumulative basis

F80

F81

...  
Chapters 2 and 3 of this Part

...  
new employees and new pensioners: Forms P45 and P46.

(5) The person making the payment must record the following information in a deductions working sheet (which the person must prepare for the purpose if one has not already been prepared for that tax year).

(6) The information is—

- (a) the date of the payment,
- (b) the amount of the relevant payment, and
- (c) the amount of tax deducted on making the payment, or to be deducted or accounted for under regulation 62(4) or (5) (notional payments).

(7) The person making the payment must also notify the employee of the information mentioned in paragraph (6) without unreasonable delay.

**F77** Reg. 37(1A) inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **5**

**F78** Reg. 37(2)-(2B) substituted for reg. 37(2) (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2011 \(S.I. 2011/1054\)](#), regs. 2, **3**

**F79** Word in reg. 37(2) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **65(a)**

**F80** Words in reg. 37(4) omitted (6.4.2011) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **8(b)(i)**

**F81** Words in reg. 37(4) omitted (6.4.2011) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **8(b)(ii)**

**[<sup>F82</sup>Income paid after cessation of employment subsequently becoming subject to PAYE**

**37A.—**(1) This regulation applies if—

- (a) a payment has been made, after the cessation of the employment, to a former employee—
  - (i) by the former employer, or
  - (ii) by any other person in respect of an obligation of the former employer;
- (b) that payment becomes a qualifying payment after the employment ceased; and
- (c) the amount of the qualifying payment has not been included in Form P45.

(2) Where a qualifying payment has been made in a closed year, the employer must deduct tax, from any other payment made to the former employee in the tax period at the relevant time—

- (a) in accordance with the last code used for the tax year in which the qualifying payment was made, or
- (b) if the employer has not been notified of a code for that tax year, at the [<sup>F83</sup>additional] rate of tax applicable for that year.

(3) Where a qualifying payment has been made in an open year, the employer must deduct tax from any other payment made to the former employee—

- (a) in accordance with the code in force in the final tax period in which the employee was employed, or
- (b) if the employer has not been notified of a code, at the [<sup>F84</sup>additional] rate of tax applicable for that year.

(4) Neither the making of the qualifying payment, nor its subsequently becoming taxable, affect the cessation of the employment, and the provisions listed in regulation 37(4) do not apply in relation that payment.

(5) The employer must record the following information in a deductions working sheet for the tax year in which that payment was made.

If a deductions working sheet has not already been prepared for that tax year, the employer must prepare one.

(6) The information is—

- (a) the date on which the qualifying payment was actually made;
- (b) the amount of that payment; and
- (c) the amount of tax to be deducted or accounted for under regulation 62(4) or(5) (notional payments).

(7) The employer must also notify the employee of the information listed in paragraph (6) without unreasonable delay after the relevant time.]

**F82** Reg. 37A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007](#) (S.I. 2007/1077), regs. 1, 6

**F83** Word in reg. 37A(2)(b) substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011](#) (S.I. 2011/729), regs. 1, 9(a)

**F84** Word in reg. 37A(3)(b) substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011](#) (S.I. 2011/729), regs. 1, 9(b)

## Death of employee

**38.**—<sup>F85</sup>(A1) This regulation applies to—

- (a) non-Real Time Information employers, and
- (b) Real Time Information employers to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment.]

(1) On the death of an employee (other than a pensioner) in respect of whom a code has been issued by the Inland Revenue, the employer must—

- (a) complete Form P45 indicating in Part 1 that the employee has died, and
- (b) send it to the Inland Revenue.

(2) The employer must comply with paragraph (1)—

- (a) on the day on which the employer learns of the employee's death, or
- (b) if that is not practicable, without unreasonable delay.

(3) The employer must, on making a relevant payment after learning of the employee's death but before completing Form P45, deduct or repay tax as if the deceased employee were still alive and employed by the employer at the date of the payment.

(4) Regulation 37(2) to (6) applies to any relevant payment which—

- (a) is made in respect of the employee's employment after the date of the employee's death, and
- (b) is not included in Form P45.

**F85** Reg. 38(A1) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), 7

### Death of pensioner

**39.**—<sup>F86</sup>(A1) This regulation applies to—

- (a) non-Real Time Information pension payers, and
- (b) Real Time Information pension payers to whom HMRC has given a notice requiring the pension payer to send to HMRC Form P45 or Form P46(Pen) on the commencement of a new pensioner's pension.]

(1) On the death of a pensioner in respect of whom a code has been issued by the Inland Revenue, the pension payer must—

- (a) complete Form P45 indicating in Part 1 that the pensioner has died, and
- (b) send it to the Inland Revenue.

(2) The pension payer must comply with paragraph (1)—

- (a) on the day on which the pension payer learns of the pensioner's death, or
- (b) if that is not practicable, without unreasonable delay.

(3) Paragraph (4) applies if the pension payer makes any relevant pension payments after the date of the pensioner's death—

- (a) before completing Form P45, or
- (b) after completing Form P45 but during the tax year in which the pensioner died.

(4) The pension payer must, on making any such payment, deduct or repay tax as if the deceased pensioner were still alive and in receipt of a pension at the date of the payment.

(5) Regulation 37(2) to (6) applies to any relevant pension payment which—

- (a) is made in a tax year following the tax year in which the pensioner died, and
- (b) is not included in Form P45.

**F86** Reg. 39(A1) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), 8

### *Employee's duty to provide Form P45*

#### **Duty of employee to give new employer Form P45**

**40.**—(1) An employee who has Parts 2 and 3 of Form P45 must give them to the new employer on commencing a new employment.

(2) If an employee receives Parts 2 and 3 of Form P45 after commencing a new employment, the employee must immediately give them to the new employer.

(3) [<sup>F87</sup>But paragraphs (4) and (6) apply] if an employee objects to the disclosure of the total payments to date to the new employer.

(4) [<sup>F88</sup>If the employer is a non-Real Time Information employer or a Real Time Information employer to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment, the] employee may, instead of complying with paragraph (1) or (2), send Parts 2 and 3 of Form P45 to the Inland Revenue before

commencing the new employment or as soon as the employee receives Form P45 (as the case may be).

(5) The Inland Revenue—

- (a) must then issue a code in respect of the employee to the new employer, and
- (b) may direct that the non-cumulative basis is to apply to all relevant payments which the new employer makes to the employee.

[<sup>F89</sup>(6) If the employer is a Real Time Information employer, the employee need not comply with paragraphs (1) and (2).]

- F87** Words in [reg. 40\(3\)](#) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **9(a)**
- F88** Words in [reg. 40\(4\)](#) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **9(b)**
- F89** [Reg. 40\(6\)](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **9(c)**

[<sup>F90</sup>**Duty of employee to assist with completion of new employee fields in returns under regulations 67B and 67D**

**40A.**—(1) An employee who commences employment with a Real Time Information employer must provide the information required to allow the employer to complete the new employee fields in the first return required by regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) which includes information in respect of the employee.

(2) The employer must verify the information given under paragraph (1) before making that return.

(3) In this regulation, “the new employee fields” means the information required under paragraphs 36 to 44 of Schedule A1.]

- F90** [Reg. 40A](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **10**

## CHAPTER 2

### NEW EMPLOYEES (OTHER THAN PENSIONERS): FORMS P45 AND P46

#### Scope of Chapter 2

**41.** This Chapter sets out the procedure to be followed for deductions and repayments (Form P45 and P46 procedure) in cases to which Chapter 3 (new pensioners: Forms P45 and P46) does not apply (see regulation 54).

#### Procedure if employer receives Form P45

**42.**—(1) This regulation applies—

- (a) if an employee gives Parts 2 and 3 of Form P45 to the employer on commencing employment, and
- (b) in the circumstances mentioned in regulation 51(2) (late presentation of Form P45: before employer required to send Form P46).

(2) The new employer must prepare a deductions working sheet and record on it the following information shown in Parts 2 and 3 of Form P45—

- (a) the employee's name,
- (b) the employee's national insurance number.

(3) If Parts 2 and 3 of Form P45 show that the earlier employment ended in the current tax year, the new employer must comply with regulation 43.

(4) If—

- (a) Parts 2 and 3 of Form P45 show that the earlier employment ended in the previous tax year, and
- (b) the new employment commences on or before 24th May,

the new employer must comply with regulation 44.

(5) If—

- (a) Parts 2 and 3 of Form P45 show that the employment ended in the previous tax year, and
- (b) the employment commences after 24th May,

the new employer must comply with regulation 45.

(6) If Parts 2 and 3 of Form P45 show that the employment ended in any earlier tax year, the new employer must comply with regulation 45.

[<sup>F91</sup>(6A) Paragraphs (7) and (8) apply if the employer is either—

- (a) a non-Real Time Information employer, or
- (b) a Real Time Information employer to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment.]

(7) In all cases the new employer must then insert in Part 3 of Form P45—

- (a) the employer's employer reference,
- (b) the date on which the new employment commenced,
- (c) any number used to identify the employee,
- (d) the employee's code in use by the employer if different from the code shown in Parts 2 and 3 of Form P45,
- (e) any figure recorded in accordance with paragraph (5)(c) or (6)(c) of regulation 43 (Form P45 for current tax year), if different from the total tax to date shown on Parts 2 and 3 of Form P45,
- (f) the employee's address,
- (g) the employee's date of birth, ...

[<sup>F92</sup>(ga) the employee's sex,]

- (h) the employee's job title or description,
- (i) the employer's name, and
- (j) the employer's address.

(8) The employer must then send Part 3 of Form P45 to the employer's Inland Revenue office.

**F91** Reg. 42(6A) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **11**



**F92** Reg. 42(7)(ga) inserted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), 4(b)

### Form P45 for current tax year

**43.**—(1) The new employer must record in the deductions working sheet the code shown in Parts 2 and 3 of Form P45 as the employee's code.

(2) Paragraphs (3) to (10) apply if Parts 2 and 3 of Form P45 show that the cumulative basis was used.

(3) The employer must record in the deductions working sheet the total payments to date (if any) shown in Parts 2 and 3 of Form P45.

(4) The employer must record in the deductions working sheet the following additional information, or keep such records as enable its production.

(5) If the code shown in Parts 2 and 3 of Form P45 is a K code, the additional information is—

- (a) the total additional pay to date,
- (b) the total taxable payments to date, and
- (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 and the total net tax deducted shown in it.

(6) In any other case, the additional information is—

- (a) the total free pay to date,
- (b) the total taxable payments to date, and
- (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.

(7) The amounts required by paragraphs (5)(a) and (b) and (6)(a) and (b) must be arrived at by the employer by reference to the information shown in Parts 2 and 3 of Form P45.

(8) On making any relevant payment to the employee, the employer must deduct or repay tax by reference to the employee's code on the cumulative basis.

(9) For the purposes of—

- (a) paragraph (8), and
- (b) item 8 of Table 2 in regulation 36(4) (Form P45), and
- (c) regulation 55(4)(f) [<sup>F93</sup>(Form P46(Pen))],

the total payments to date recorded in the deductions working sheet in accordance with paragraph (3), and the figure recorded in accordance with paragraph (5)(c) or (6)(c) must be treated as if they were relevant payments made to the employee by, and tax deducted by, the new employer.

(10) For the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date) the figure recorded in accordance with paragraph (5)(c) or (6)(c) must be treated as the previous total tax to date when the employer next makes a relevant payment to the employee.

(11) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used, on making any relevant payment to the employee the employer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax by reference to the employee's code on the non-cumulative basis.

(12) The receipt by the employer of Parts 2 and 3 of Form P45 is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the employee.

**F93** Word in reg. 43(9)(c) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), 5

### **Form P45 for previous tax year: employment starting on or before 24th May**

**44.**—(1) The new employer must—

- (a) record in the deductions working sheet the code shown in Parts 2 and 3 of Form P45 as the employee's code, and
- (b) deduct or repay tax by reference to that code on the cumulative basis, subject to regulation 32 (higher rate code: deductions).

(2) The receipt by the employer of Parts 2 and 3 of Form P45 is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the employee.

### **Other Forms P45**

**45.**—(1) The new employer must—

- (a) record in the deductions working sheet the emergency code as the employee's code, and
- (b) deduct tax from each relevant payment using the emergency code on the non-cumulative basis.

(2) The emergency code is treated as having been issued to the employer by the Inland Revenue as the code for use in respect of the employee.

### **[<sup>F94</sup>Application of regulations 46 to 49E: Real Time Information employers and non-Real Time Information employers**

**45A.**—(1) Regulations 46 to 49 (procedure where no Form P45) apply in relation to—

- (a) non-Real Time Information employers, and
- (b) Real Time Information employers to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment.

(2) Regulations 49A to 49E (procedure where employee fails to assist with completion of new employee fields or no Form P45) apply in relation to Real Time Information employers other than those within paragraph (1)(b).]

**F94** Reg. 45A inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 12

### **Form P46 where employer does not receive Form P45 and code not known**

**46.**—(1) This regulation applies if—

- (a) an employee commences employment without giving the employer Parts 2 and 3 of Form P45, and
- (b) a code in respect of the employee has not otherwise been issued to the employer.

[<sup>F95</sup>(1A) The employee must provide the following information in Form P46.

(1B) The information is —

- (a) the employee's national insurance number (if known),

- (b) the employee’s full name,
- (c) the employee’s sex,
- (d) the employee’s date of birth, and
- (e) the employee’s full address including postcode.

[<sup>F96</sup>A seconded expatriate who is a national of an EEA state (see section 56(3)(za) of ITA) ... must provide confirmation of this as additional information.]]

(1C) .....

(2) The employee must indicate in Form P46 which ... of the following statements [<sup>F97</sup>applies]—

[<sup>F98</sup>Statement A: that the employment referred to in paragraph (1)(a) is the employee’s first employment since the preceding 6<sup>th</sup> April, and the employee has not since that date received—

- (a) jobseeker’s allowance [<sup>F99</sup>, incapacity benefit or employment and support allowance] which is subject to income tax, or
- (b) a retirement pension or an occupational pension;

Statement B: that the employee is not receiving a retirement pension or an occupational pension and since the preceding 6<sup>th</sup> April—

- (a) has had another employment, but is not now in receipt of employment income from it, or
- (b) has received jobseeker’s allowance [<sup>F99</sup>, incapacity benefit or employment and support allowance] which is subject to income tax, but payment of that allowance or benefit has ceased;

Statement C: that the employee either has another employment (which is continuing) or is in receipt of a retirement pension or an occupational pension.]

...

[<sup>F100</sup>A seconded expatriate must indicate instead which of the following statements applies—

Statement A: the employee intends to live in the United Kingdom for [<sup>F101</sup>183 days or more];

Statement B: the employee intends to live in the United Kingdom for less than [<sup>F102</sup>183 days];

Statement C: the employee will work both inside and outside the United Kingdom, but will live outside.]

[<sup>F103</sup>(2A) A Form P46 must be—

- (a) signed by the employee; or
- (b) delivered by the employer by an approved method of electronic communications after he has complied with paragraph (2B).

(2B) To the extent that the information contained in it relates to the employee, the employer must verify the content of a Form P46 before it is delivered.

(2C) If, despite the requirements of paragraphs (2) to (2B), a Form P46 is sent or delivered to an officer of Revenue and Customs without the requirements of those paragraphs being satisfied, the employer must deduct tax [<sup>F104</sup>on the non-cumulative basis using code 0T] from the employee’s earnings.]

[<sup>F105</sup>(3) The employer must provide the following information in the Form P46—

- (a) the date on which the employment started;
- (b) the employee’s works payroll number and the department or branch (if any) in which the employee is employed;
- (c) the title of the job;

- (d) the employer's PAYE reference;
- (e) the employer's name;
- (f) the employer's full address, including the postcode; and
- (g) the tax code used in relation to the employee's earnings.]

(4) The employer must keep the Form P46 until required to send it to the Inland Revenue in accordance with regulations 47 to 49.

(5) Before sending the Form P46, the employer must indicate in the Form which code is being used in respect of the employee and whether it is being used on the non-cumulative basis.

(6) For the purposes of paragraph (1)(b), the employer must ignore any code issued to the employer in respect of an employee's earlier employment which has ceased.

(7) This regulation ceases to apply in the circumstances mentioned in regulation [<sup>F106</sup>51(2)(a)] (late presentation of Form P45: before employer required to send Form P46).

- F95** Reg. 46(1A)(1B) inserted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(2)**
- F96** Words in reg. 46(1B) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(1)**
- F97** Word in reg. 46(2) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(a)(ii)**
- F98** Reg. 46(2): Statements A, B, C substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(b)**
- F99** Words in [reg. 46\(2\)](#) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **17(a)**
- F100** Words in reg. 46(2) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(3)**
- F101** Words in [reg. 46\(2\)](#) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **17(b)**
- F102** Words in [reg. 46\(2\)](#) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **17(c)**
- F103** Reg. 46(2A)-(2C) inserted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(4)**
- F104** Words in reg. 46(2C) substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **10**
- F105** Reg. 46(3) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(5)**
- F106** Words in reg. 46(7) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **13**

**[<sup>F107</sup>Procedure in Form P46 cases: (a) seconded expatriate is national of EEA state or Commonwealth citizen, or (b) employee is not seconded expatriate and Statement A applies]**

47.—[<sup>F108</sup>(1) This regulation applies in the case of an employee [<sup>F109</sup>(not a seconded expatriate)] who indicates that Statement A applies.

[<sup>F109</sup>It also applies to a seconded expatriate who confirms being a national of an EEA state ... (see regulation 46(1B)).]]

(2) On making the first relevant payment which [<sup>F110</sup>equals or exceeds the lower earnings limit] to the employee, the employer must—

- [<sup>F111</sup>(a) send the Form P46 to Her Majesty’s Revenue and Customs,]
- (b) prepare a deductions working sheet and enter the total payments to date, and
- (c) deduct tax on the cumulative basis using the emergency code.

[<sup>F112</sup>(2A) To comply with paragraph (2)(a)—

- (a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the Inland Revenue issue a code for use in respect of the employee, the employer must continue to deduct or repay tax on the cumulative basis using the emergency code.

(4) .....

<b>F107</b>	Reg. 47 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588)</a> , regs. 1(1), <b>3(4)</b>
<b>F108</b>	Reg. 47(1) substituted (6.4.2006) by <a href="#">The Income Tax (Pay as You Earn) (Amendment) Regulations 2005 (S.I. 2005/2691)</a> , regs. 1, <b>4(3)</b>
<b>F109</b>	Words in reg. 47(1) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588)</a> , regs. 1(1), <b>3(5)</b>
<b>F110</b>	Words in reg. 47(2) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)</a> , regs. 1(2), <b>6(a)</b>
<b>F111</b>	Reg. 47(2)(a) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)</a> , regs. 1(2), <b>6(b)</b>
<b>F112</b>	Reg. 47(2A) inserted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)</a> , regs. 1(2), <b>6(c)</b>

**[<sup>F113</sup>Procedure in Form P46 cases: (a) Statement B applies (not seconded expatriate), or (b) Statement B or C applies (seconded expatriate)]**

48.—(1) This regulation applies in the case of an employee [<sup>F114</sup>(not a seconded expatriate)] who indicates in the Form P46 that ... Statement B applies.

[<sup>F114</sup>It also applies in the case of a seconded expatriate who indicates in the Form P46 that Statement B or C applies.]

(2) On making the first relevant payment which [<sup>F115</sup>equals or exceeds the lower earnings limit] to the employee, the employer must—

- [<sup>F116</sup>(a) send the P46 to Her Majesty’s Revenue and Customs,]
- (b) prepare a deductions working sheet and enter the total payments to date, and
- (c) deduct tax on the non-cumulative basis using the emergency code.

[<sup>F117</sup>(2A) To comply with paragraph (2)(a)—

- (a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the employee's code is issued, the employer must continue to deduct or repay tax on the non-cumulative basis using the emergency code.

(4) .....

- F113** Reg. 48 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(6)**
- F114** Words in reg. 48(1) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(7)**
- F115** Words in reg. 48(2) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(a)**
- F116** Reg. 48(2)(a) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(b)**
- F117** Reg. 48(2A) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(c)**

**[<sup>F118</sup>Procedure in Form P46 cases: (a) Statement C applies (not seconded expatriate), or (b) Statement A applies (seconded expatriate)...]**

**49.**—(1) This regulation applies in any case which is not dealt with by regulation 47 or 48 which concerns an employee to whom regulation 46(1) applies.

(2) On making the first relevant payment to the employee, the employer must—

- [<sup>F119</sup>(a)** send the Form P46 to Her Majesty's Revenue and Customs,]
- (b) prepare a deductions working sheet and enter both the total payments to date and the total tax to date before the first payment as nil,
- (c) deduct tax on the cumulative basis using the basic rate code.
- [<sup>F120</sup>(2A)** To comply with paragraph (2)(a)—
- (a) the employer must send the Form P46 to Her Majesty's Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the employee's code is issued, the employer must continue to deduct tax on the cumulative basis using the basic rate code.

**[<sup>F121</sup>(4)** In the case of a seconded expatriate, the emergency code must be used instead of the basic rate code mentioned in paragraphs (2)(c) and (3) (see also regulation 7(3) about the codes).]

- F118** Reg. 49 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(8)**
- F119** Reg. 49(2)(a) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **8(a)**
- F120** Reg. 49(2A) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **8(b)**
- F121** Reg. 49(4) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(9)**

**[<sup>F122</sup> Procedure where employee fails to assist with completion of new employee fields in returns under regulations 67B and 67D**

**49A.**—(1) If, despite the requirements of regulation 40A(1) and (2) (duty of employee to assist with completion of new employee fields in returns under regulations 67B and 67D) and regulations 67B (real time returns of information about relevant payments) and 67D (exceptions to regulation 67B), a return is sent to HMRC under those regulations without the new employee fields being completed in respect of the employee, the employer must deduct tax on the non-cumulative basis using code 0T.

(2) In paragraph (1), “the new employee fields” has the same meaning as in regulation 40A.

**F122** Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **14**

**Procedure where no Form P45 and code not known: application of regulations 49C to 49E**

**49B.**—(1) Regulations 49C to 49E (procedure where no Form P45) apply if—

- (a) regulation 49A does not apply,
- (b) an employee commences employment without giving the employer Parts 2 and 3 of Form P45 and the circumstances mentioned in regulation 51(2)(b) (late presentation of Form P45) do not apply, and
- (c) a code in respect of the employee has not otherwise been issued to the employer.

(2) For the purposes of paragraph (1)(c), the employer must ignore any code issued to the employer in respect of an employee’s earlier employment which has ceased.

**F122** Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **14**

**Procedure where no Form P45 and: (a) employee is not a seconded expatriate and paragraph 41(a) of Schedule A1 applies; or (b) seconded expatriate is national of EEA state**

**49C.**—(1) This regulation applies where—

- (a) the employee is not a seconded expatriate and has indicated in accordance with regulation 40A(1) (duty of employee to assist with completion of new employee fields in returns under regulations 67B and 67D) that the statement in paragraph 41(a) of Schedule A1 (real time returns) is correct, or
- (b) the employee is a seconded expatriate and has confirmed in accordance with regulation 40A(1) being a national of an EEA state.

(2) On making the first relevant payment which equals or exceeds the lower earnings limit to the employee, the employer must—

- (a) prepare a deductions working sheet and enter the total payments to date, and
- (b) deduct tax on the cumulative basis using the emergency code.

(3) On making any subsequent relevant payment before HMRC issue a code for use in respect of the employee, the employer must continue to deduct or repay tax on the cumulative basis using the emergency code.



**F122** Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **14**

**Procedure where no Form P45 and: (a) employee is not a seconded expatriate and paragraph 41(b) of Schedule A1 applies; or (b) employee is a seconded expatriate and paragraph 43(b) or 43(c) of Schedule A1 applies**

- 49D.**—(1) This regulation applies where—
- (a) the employee is not a seconded expatriate and has indicated in accordance with regulation 40A(1) that the statement in paragraph 41(b) of Schedule A1 is correct, or
  - (b) the employee is a seconded expatriate to whom regulation 49C does not apply and has indicated in accordance with regulation 40A(1) that the statement in paragraph 43(b) or 43(c) of Schedule A1 is correct.
- (2) On making the first relevant payment which equals or exceeds the lower earnings limit to the employee, the employer must—
- (a) prepare a deductions working sheet and enter the total payments to date, and
  - (b) deduct tax on the non-cumulative basis using the emergency code.
- (3) On making any subsequent relevant payment before the employee's code is issued, the employer must continue to deduct or repay tax on the non-cumulative basis using the emergency code.

**F122** Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **14**

**Procedure where no Form P45 and: (a) employee is a not seconded expatriate and paragraph 41(c) of Schedule A1 applies; or (b) employee is a seconded expatriate and paragraph 43(a) of Schedule A1 applies**

- 49E.**—(1) This regulation applies in any case which is not dealt with by regulation 49C or 49D.
- (2) On making the first relevant payment to the employee, the employer must—
- (a) prepare a deductions working sheet and enter both the total payments to date and the total tax to date before the first payment as nil,
  - (b) deduct tax on the cumulative basis using the basic rate code.
- (3) On making any subsequent relevant payment before the employee's code is issued, the employer must continue to deduct tax on the cumulative basis using the basic rate code.
- (4) In the case of a seconded expatriate, the emergency code must be used instead of the basic rate code mentioned in paragraphs (2)(b) and (3).]

**F122** Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **14**

**[<sup>F123</sup>No Form P45: code treated as issued by HMRC]**

- 50.**—(1) [<sup>F124</sup>Code OT, the] emergency code or the basic rate code used by the employer in accordance with regulations [<sup>F125</sup>46] to [<sup>F126</sup>49E] is treated, for the purposes of Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information) as having been issued by the Inland Revenue as the code for use in respect of the employee.



(2) This does not apply for the purposes of regulation 18 (objections and appeals) and regulations 46 to [F12649E] and 51 to 53 (... late presentation of Form P45).

- F123** Reg. 50 heading substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **15**
- F124** Words in reg. 50 substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **16(a)**
- F125** Word in reg. 50 substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **16(b)**
- F126** Word in reg. 50 substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **16(c)**

[F127] **Procedure in cases of retrospective earnings: code treated as issued by HMRC**

**50A.**—(1) If—

- (a) as a result of a retrospective tax provision, a qualifying payment was made in a year (whether open or closed) to a person, and
- (b) a code has never been issued to the employer in respect of employment with whom that qualifying payment was made,

paragraph (2) applies.

(2) Where this paragraph applies the higher rate code applicable to the year in which the qualifying payment was made is treated, for the purposes of Parts 2 to 4 (codes, deduction and repayment of tax, payments, information and returns) as having been issued by HMRC as the code for use in respect of the employee in relation to that year.

(3) Paragraph (2) does not apply for the purposes of regulation 18 (objections and appeals) and regulations 46 to [F12849E] and 51 to 53 (Form P46 procedure and late presentation of Form P45).]

- F127** Reg. 50A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **7**
- F128** Word in reg. 50A(3) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **17**

**Late presentation of Form P45**

**51.**—(1) This regulation applies if an employee gives Parts 2 and 3 of Form P45 to the employer after commencing employment.

[F129](2) If the employee gives Parts 2 and 3 of Form P45 to the employer before, as the case may be—

- (a) the employer is required to send Form P46 to HMRC under regulations 47 to 49, or
- (b) the employer is required to send the first return in relation to the employee under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) to HMRC,

regulation 42 (procedure if employer receives Form P45) applies.]

(3) If the employee gives Parts 2 and 3 of Form P45 to the employer—

[F130](a) after, as the case may be—

- (i) Form P46 is required to have been sent to HMRC, or

(ii) the employer is required to send the first return in relation to the employee under regulation 67B or 67D to HMRC,

but]

(b) before the employee's code has been issued to the employer, this regulation and regulation 52 (late presentation of Form P45: employer's duties) apply.

(4) If the employee gives Parts 2 and 3 of Form P45 to the employer after the employee's code has been issued to the employer, they must be destroyed.

(5) If Parts 2 and 3 of Form P45 show that the employment ended in the current tax year then, unless the employer has already ceased to employ the employee—

- (a) the code shown in Parts 2 and 3 of Form P45 is treated as having been issued by the Inland Revenue to the employer on the day the employee gives them to the employer, and
- (b) the employer must comply with regulation 52.

(6) If Parts 2 and 3 of Form P45 show that the employment ended in the previous tax year and the employee gives them to the employer on or before 24th May then, unless the employer has already ceased to employ the employee—

- (a) the code shown in Parts 2 and 3 of Form P45 is treated as having been issued by the Inland Revenue to the employer on the day the employee gives them to the employer,
- (b) the employer must deduct or repay tax by reference to that code using the cumulative basis, subject to regulation 32 (higher rate code: deductions), and
- (c) the employer must comply with paragraphs (2) and (3) of regulation 52.

(7) Parts 2 and 3 of Form P45 must be destroyed—

- (a) if they show that the employment ended in the previous tax year and the employee gives them to the employer after 24th May, or
- (b) if they show that the employment ended in an earlier tax year.

**F129** Reg. 51(2) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **18(a)**

**F130** Reg. 51(3)(a) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **18(b)**

### **Late presentation of Form P45: employer's duties**

**52.**—(1) This regulation applies in the circumstances mentioned in regulation 51(5); and paragraphs (2) and (3) of this regulation also apply in the circumstances mentioned in regulation 51(6).

[<sup>F131</sup>(1A) Paragraphs (2) and (3) apply if the employer is either—

- (a) a non-Real Time Information employer, or
- (b) a Real Time Information employer to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment.]

(2) The employer must insert in Part 3 of Form P45—

- (a) the employer's employer reference,
- (b) the date on which the new employment commenced,
- (c) any number used to identify the employee,

- (d) the employee's code in use by the employer if different from the code shown in Parts 2 and 3 of Form P45,
  - (e) if Parts 2 and 3 of the Form P45 show that the cumulative basis has been used, the figure (if any) recorded in accordance with paragraph (7)(c) or (8)(c) if different from the total tax to date shown on Parts 2 and 3 of Form P45,
  - (f) the employee's address,
  - (g) the employee's date of birth, ...
  - [<sup>F132</sup>(ga) the employee's sex,]
  - (h) the employee's job title or description,
  - (i) the employer's name, and
  - (j) the employer's address.
- (3) The employer must then send Part 3 of Form P45 to the employer's Inland Revenue office.
- (4) The employer must prepare a deductions working sheet (unless the employer has already prepared one) in accordance with the following information shown in Parts 2 and 3 of Form P45—
- (a) the employee's name,
  - (b) the employee's national insurance number, and
  - (c) the employee's code.
- (5) The employer must record in the deductions working sheet the sum of—
- (a) the total payments to date (if any) shown in Parts 2 and 3 of Form P45, and
  - (b) the relevant payments which have been made by the employer since the employment commenced which have not already been recorded in the deductions working sheet.
- (6) If Parts 2 and 3 of Form P45 show that the cumulative basis has been used, the employer must also record the following additional information in the deductions working sheet, or keep such records as enable its production.
- (7) If the code shown in Parts 2 and 3 of Form P45 is a K code, the additional information is—
- (a) the total additional pay to date,
  - (b) the total taxable payments to date, and
  - (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 or the total net tax deducted shown in it.
- (8) In any other case, the additional information is—
- (a) the total free pay to date,
  - (b) the total taxable payments to date, and
  - (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.
- (9) The employer must ascertain the amounts required by paragraphs (7)(a) and (b) and (8)(a) and (b) by reference solely to the information shown in Parts 2 and 3 of Form P45.
- (10) If Parts 2 and 3 of Form P45 show that the cumulative basis has been used, the employer, on making any subsequent relevant payment to the employee, must deduct or repay tax by reference to the code shown in Parts 2 and 3 of Form P45 on the cumulative basis.
- (11) For the purposes of—
- (a) paragraph (10), and
  - (b) item 8 of Table 2 in regulation 36(4) (Form P45), and
  - (c) regulation 55(4)(f) [<sup>F133</sup>(Form P46(Pen))],

the total payments to date recorded in the deductions working sheet in accordance with paragraph (5) and the figure recorded in accordance with paragraph (7)(c) or (8)(c) must be treated as if they were relevant payments made to the employee by, and tax deducted by, the new employer.

(12) For the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date), the figure recorded in accordance with paragraph (7)(c) or (8)(c) must be added to any actual previous total tax to date, and the total treated as the previous total tax to date when the employer next makes a relevant payment to the employee.

(13) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used, on making any relevant payment to the employee, the employer must, subject to regulation 32 (higher rate code: deductions), deduct tax by reference to the code shown in Parts 2 and 3 of Form P45 on the non-cumulative basis.

**F131** Reg. 52(1A) inserted (6.4.2012) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)*, regs. 1(1), **19**

**F132** Reg. 52(2)(ga) inserted (6.4.2009) by *The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)*, regs. 1(3), **9(a)(ii)**

**F133** Word in reg. 52(11) substituted (6.4.2009) by *The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)*, regs. 1(3), **9(b)**

**[<sup>F134</sup>No Form P45: subsequent procedure on issue of employee's code]**

**53.**—(1) On making any relevant payment to an employee falling within regulation 47 to [<sup>F135</sup>49E (procedure where no Form P45)] after the Inland Revenue have issued a code to the employer for use in respect of the employee, the employer must deduct or repay tax by reference to that code.

(2) For the purposes of paragraph (1) and regulation 66 (deductions working sheets)—

- (a) any total payments to date notified to the employer by the Inland Revenue are treated as if they represented relevant payments made by the employer; and
- (b) the total net tax deducted before the first payment made in accordance with this regulation is taken to be the sum of—
  - (i) the total net tax deducted, if any, notified to the employer by the Inland Revenue, and
  - (ii) any tax which the employer was liable to deduct from the employee's relevant payments under regulation 47, 48 [<sup>F136</sup>, 49, 49C, 49D or 49E].

(3) For the purposes of—

- (a) item 8 of Table 2 in regulation 36(4) (Form P45), and
- (b) regulation 55(4)(f) [<sup>F137</sup>(Form P46(Pen))],

any total payments to date and total net tax deducted which are notified to the employer by the Inland Revenue must be treated as if they were relevant payments made to the employee by, and tax deducted by, the employer.

(4) If the employee's previous code was used on the cumulative basis, any amount notified to the employer under paragraph (2)(b)(i) must be added to the previous total tax to date for the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date).

**F134** Reg. 53 heading substituted (6.4.2012) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)*, regs. 1(1), **20**

**F135** Words in reg. 53(1) substituted (6.4.2012) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)*, regs. 1(1), **21(a)**

**F136** Words in reg. 53(2)(b)(ii) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **21(b)**

**F137** Word in reg. 53(3) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **10**

## CHAPTER 3

### [<sup>F138</sup>NEW PENSIONERS: FORMS P45 AND P46(PEN)]

**F138** Pt. 3 Ch. 3 heading substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **11**

### Scope of Chapter 3

- [<sup>F139</sup>**54.** This Chapter applies (instead of Chapter 2) when a pension starts and either—
- (a) the pensioner will be continuing in employment and will be receiving relevant pension payments in addition to relevant payments from their employer, or
  - (b) the pensioner will not be receiving relevant payments other than relevant pension payments.]

**F139** Reg. 54 substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **12**

### [<sup>F140</sup>**Application of this Chapter to Real Time Information pension payers**

**54ZA.**—(1) Any requirement in this Chapter to complete (howsoever expressed) and send to HMRC Part 3 of Form P45 or Form P46(Pen) applies only to—

- (a) non-Real Time Information pension payers, and
- (b) Real Time Information pension payers to whom HMRC has given a notice requiring the pension payer to send to HMRC Form P45 or Form P46(Pen) on the commencement of a new pensioner's pension.

(2) Paragraph (1) is without prejudice to the requirement in regulation 55(3)(b) (PAYE pension income paid by former employer) to complete and give Form P46(Pen) to the pensioner.]

**F140** Reg. 54ZA inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **22**

### [<sup>F141</sup>**Relevant pension payments and relevant payments being received by a pensioner**

**54A.**—(1) This regulation applies if the pensioner begins to receive relevant pension payments whilst continuing to receive relevant payments from their employer.

(2) On making relevant pension payments to the pensioner, the pension payer must deduct tax on the non-cumulative basis using the 0T tax code.

- (3) The pension payer must send to HMRC the following information in the Form P46(Pen)—
- (a) the pensioner's national insurance number, if known,
  - (b) the pensioner's full name,
  - (c) the pensioner's sex,

- (d) the pensioner's date of birth,
- (e) the pensioner's full address including postcode,
- (f) the date upon which the pension payments started,
- (g) the pensioner's work payroll number and the department or branch (if any) in which the pensioner is employed,
- (h) confirmation that the recipient of the relevant payments is a pensioner,
- (i) the pension payer's PAYE reference,
- (j) the pension payer's name,
- (k) the pension payer's full address including postcode, and
- (l) the tax code used in relation to the pension.

(4) Before sending the Form P46(Pen), the pension payer must indicate in the form that code 0T is being used on a non-cumulative basis in respect of the pension.

**F141** Regs. 54A, 54B and cross-headings inserted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, 13

**[<sup>F142</sup>Procedure in regulation 54A cases: code treated as issued by HMRC]**

**54B.**—(1) The 0T code used by the pension payer in accordance with regulation 54A is treated, for the purposes of Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information), as having been issued by HMRC as the code for use in respect of the pensioner.

(2) This does not apply for the purposes of regulation 18 (objections and appeals) and regulations 58, 60 and 61 ... late presentation of Form P45 etc.)]

**F141** Regs. 54A, 54B and cross-headings inserted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, 13

**F142** Reg. 54B heading substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 23

**PAYE pension income paid by former employer**

**55.**—(1) This regulation applies if the pension payer was, immediately before the pensioner's retirement, the pensioner's employer and so, in accordance with regulation 36(3), no Form P45 was completed.

(2) On making relevant pension payments to the pensioner, the pension payer must deduct tax on the non-cumulative basis, subject to regulation 32 (higher rate code: deductions), for the remainder of the tax year in which the pension starts or until directed otherwise by the Inland Revenue.

(3) Within 14 days after the pensioner's retirement, the pension payer must prepare a [<sup>F143</sup>Form P46(Pen)] and—

- (a) send it to the Inland Revenue, and
- (b) give [<sup>F144</sup>a copy of the information] to the pensioner.

(4) The [<sup>F143</sup>Form P46(Pen)] must contain the following information—

- (a) the pensioner's name,
- (b) the pensioner's address, ...

[<sup>F145</sup>(ba) the pensioner's date of birth,

- (bb) the pensioner's sex,]
- (c) the pensioner's national insurance number, if known,
- (d) the pension payer's PAYE reference,
- (e) the date of retirement,
- (f) the total payments to date at the date of retirement,
- (g) the total payments to date relating to the employment in question at the date of retirement,
- (h) the total net tax deducted corresponding to the total payments to date relating to the employment in question,
- (i) the amount of pension payable [<sup>F146</sup>annually],
- (j) any number used to identify the pensioner,
- (k) whether the pensioner's code is use on the cumulative basis,
- (l) the pension payer's name, and
- (m) the pension payer's address.

(5) Paragraph (4) is subject to regulation 212 (modifications for electronic version of [<sup>F143</sup>Form P46(Pen)] ...).

**F143** Words in reg. 55(3)(4)(5) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(a)**

**F144** Words in reg. 55(3)(b) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(b)**

**F145** Reg. 55(4)(ba)(bb) inserted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(c)(ii)**

**F146** Word in reg. 55(4)(i) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(c)(iii)**

### **PAYE pension income paid by other pension payer**

**56.**—(1) This regulation applies if the pensioner gives Parts 2 and 3 of Form P45 to the pension payer when a pension starts.

(2) The pension payer must insert in Part 3 of Form P45—

- (a) the pensioner's address,
- (b) any number used to identify the pensioner, ...
- (c) the date on which the pension started.

[<sup>F147</sup>(d) the pensioner's date of birth, and

(e) the pensioner's sex.]

(3) The pension payer must then send Part 3 of Form P45 to the pension payer's Inland Revenue office.

(4) The receipt by the pension payer of Parts 2 and 3 of Form P45 under paragraph (1) is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the pensioner.

(5) On making relevant pension payments to the pensioner, the pension payer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax—

- (a) on the non-cumulative basis, for the remainder of the tax year to which Parts 2 and 3 of Form P45 relate;



- (b) on the cumulative basis, for subsequent tax years.
- (6) Paragraph (5) applies until the pension payer is directed otherwise by the Inland Revenue.

**F147** Reg. 56(2)(d)(e) added (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **13(b)**

**[<sup>F148</sup>Information to be provided in Form P46(Pen) if code not known: non UK residents]**

**57.**—(1) This regulation applies if a pension payer pays a pension, which does not arise wholly from an employment carried on abroad, to a pensioner—

- (a) who is not resident in the United Kingdom,
- (b) who has not given Parts 2 and 3 of Form P45 to the pension payer, and
- (c) in respect of whom a code has not otherwise been issued by the Inland Revenue.

(2) On making the first payment which exceeds the PAYE threshold, the pension payer must send to the Inland Revenue the following information in [<sup>F149</sup>Form P46(Pen)].

[<sup>F150</sup>(3) The information is—

- (a) the pensioner's national insurance number (if known),
- (b) the pensioner's full name,
- (c) the pensioner's sex,
- (d) the pensioner's date of birth,
- (e) the pensioner's full address including postcode,
- (f) date upon which payment of the pension started,
- (g) the pensioner's works payroll number and the department or branch (if any),
- (h) the fact that the recipient is a pensioner,
- (i) the pension payer's PAYE reference,
- (j) the pension payer's name,
- (k) the pension payer's full address, including the postcode.]

(4) For the purposes of paragraph (1)(c), the pension payer must ignore any code issued to the pension payer in respect of a previous pension of the pensioner which has ended.

**F148** Reg. 57 heading substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **14(a)**

**F149** Words in reg. 57(2) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **14(b)**

**F150** Reg. 57(3) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **7(2)**

**[<sup>F151</sup>Procedure if no Form P45 and code not known: UK pensioners]**

**58.**—(1) This regulation applies if—

- (a) a pension payer starts to make relevant pension payments to a pensioner,
- (b) the pensioner is resident in the United Kingdom,
- (c) the pensioner does not give to the pension payer Parts 2 and 3 of Form P45, and
- (d) a code in respect of the pensioner has not otherwise been issued to the pension payer.



[<sup>F152</sup>(1A) This regulation does not apply where the relevant pension payment is a relevant lump sum payment.]

(2) On making any relevant pension payments to the pensioner before the Inland Revenue issue a code for use in respect of the pensioner, the pension payer must deduct tax on the non-cumulative basis applying the emergency code.

(3) The pension payer must send the Inland Revenue the following information in [<sup>F153</sup>Form P46(Pen)].

[<sup>F154</sup>(4) The information is—

- (a) the pensioner's national insurance number (if known),
- (b) the pensioner's full name,
- (c) the pensioner's sex,
- (d) the pensioner's date of birth,
- (e) the pensioner's full address including postcode,
- (f) date upon which payment of the pension started,
- (g) the pensioner's works payroll number and the department or branch (if any),
- (h) the fact that the recipient is a pensioner,
- (i) the pension payer's PAYE reference,
- (j) the pension payer's name,
- (k) the pension payer's full address, including the postcode, and
- (l) the tax code used in relation to the pension.]

(5) The pension payer must also indicate in the Form that the emergency code is being used on the non-cumulative basis.

(6) For the purposes of paragraph (1)(d), the pension payer must ignore any code issued to the pension payer in respect of a previous pension of the pensioner which has ended.

[<sup>F155</sup>(7) In this regulation, and in regulation 58A (procedure if no Form P45 and code not known where payment is a relevant lump sum payment), a "relevant lump sum payment" is—

- (a) a payment of taxable pension income under section 636B or 636C of ITEPA, or treated as such a payment, and
- (b) which is made at a time when the pension payer is not making any other payments of PAYE pension income to the pensioner under the same registered pension scheme.]

**F151** Reg. 58 heading substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **25**

**F152** Reg. 58(1A) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **12(a)**

**F153** Words in reg. 58(3) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **15(b)**

**F154** Reg. 58(4) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **8(2)**

**F155** Reg. 58(7) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **12(b)**

**[<sup>F156</sup> Procedure if no Form P45 and code not known where payment is a relevant lump sum payment**

**58A.**—(1) This regulation applies if—

- (a) a pension payer makes a payment of a relevant lump sum payment,
- (b) the pensioner is resident in the United Kingdom,
- (c) the pensioner does not give to the pension payer Parts 2 and 3 of Form P45, and
- (d) a code in respect of the pensioner has not otherwise been issued to the pension payer.

(2) On making a relevant lump sum payment to the pensioner before HMRC issue a code for use in respect of the pensioner, the pension payer must deduct tax using the basic rate code on the non-cumulative basis.

(3) Where the pension payer is one to whom paragraph (6) applies on the day on which the relevant lump sum payment is made, or if that is not practicable, without unreasonable delay, the pension payer must complete Form P45 and provide—

- (a) Part 1 of Form P45 to HMRC, and
- (b) Parts 1A, 2 and 3 to the pensioner.

(4) Where paragraph (6) does not apply, on the day on which the relevant lump sum payment is made, or if that is not practicable, without unreasonable delay, the pension payer must complete and provide Parts 1A, 2 and 3 of Form P45 to the pensioner.

(5) The information listed in rows 1 to 6, and 10 to 16 of column 1 of Table 2 to regulation 36 must, subject to the conditions set out in column 2, be provided in the various Parts of Form P45 as indicated in columns 3 to 5, as if—

- (a) references to “employer” were to “pension payer”, and
- (b) references to “employee” were to “pensioner.

(6) This paragraph applies to—

- (a) a pension payer who is a non-Real Time Information pension payer, and
- (b) a Real Time Information pension payer to whom HMRC has given a notice requiring the pension payer to send to HMRC Form P45.]

**F156** Reg. 58A inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), 13

**UK resident pensioner’s code treated as issued by Inland Revenue**

**59.**—(1) The emergency code used by the pension payer in accordance with regulation 58 is treated, for the purposes of Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information) as having been issued by the Inland Revenue as the code for use in respect of the pensioner.

(2) This does not apply for the purposes of regulation 18 (objections and appeals) and regulations 58, 60 and 61 (... late presentation of Form P45 etc).

**Late presentation of Form P45**

**60.**—(1) Paragraphs (2) to (6) apply if the pensioner gives Parts 2 and 3 of Form P45 to the pension payer after the pension has started but before a code has been issued.

(2) The pension payer must insert in Part 3 of Form P45—

- (a) the pensioner's address,
  - (b) any number used to identify the pensioner, and
  - (c) the date on which the pension started.
- (3) The pension payer must then send Part 3 of Form P45 to the pension payer's Inland Revenue office.
- (4) The receipt by the pension payer of Parts 2 and 3 of Form P45 under paragraph (1) is treated, except for the purposes of paragraph (1), as the issue by the Inland Revenue of the code shown in that Form as the pensioner's code.
- (5) On making relevant pension payments to the pensioner, the pension payer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax—
- (a) on the non-cumulative basis, for the remainder of the tax year to which Parts 2 and 3 of Form P45 relate;
  - (b) on the cumulative basis, for subsequent tax years.
- (6) Paragraph (5) applies until the pension payer is directed otherwise by the Inland Revenue.
- (7) If Parts 2 and 3 of Form P45 are given to the pension payer after the pension has started and after a code has been issued by the Inland Revenue, they must be destroyed.

#### **Subsequent procedure on issue of UK resident pensioner's code**

**61.**—(1) On making any relevant pension payment to a pensioner falling within regulation 58 after the Inland Revenue have issued a code to the pension payer for use in respect of the pensioner, the pension payer must deduct or repay tax by reference to that code.

- (2) For the purposes of paragraph (1) and regulation 66 (deductions working sheets)—
  - (a) any total payments to date notified to the pension payer by the Inland Revenue are treated as if they represented relevant pension payments made by pension payer; and
  - (b) the total net tax deducted before the first payment made in accordance with this regulation is taken to be the sum of—
    - (i) the total net tax deducted, if any, notified to the pension payer by the Inland Revenue, and
    - (ii) any tax which the pension payer was liable to deduct from the pensioner's relevant pension payments under regulation 58.
- (3) For the purposes of—
  - (a) item 8 of Table 2 in regulation 36(4) (Form P45), and
  - (b) regulation 55(4)(f) [<sup>F157</sup>(P46(Pen))],

any total payments to date and total net tax deducted which are which are notified to the employer by the Inland Revenue must be treated as if they were relevant pension payments made to the pensioner by, and tax deducted by, the pension payer.

(4) If the pensioner's previous code was used on the cumulative basis, any amount notified to the pension payer under paragraph (2)(b)(i) must be added to the previous total tax to date for the purposes of regulation 23(8) (meaning of previous total tax to date).

<p><b>F157</b> Word in reg. 61(3)(b) substituted (6.4.2009) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)</a>, regs. 1(3), <b>17</b></p>
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[<sup>F158</sup>CHAPTER 3A  
BENEFITS IN KIND

**F158** Pt. 3 Ch. 3A inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), 6

**Interpretation**

**61A.** In this Chapter—

[<sup>F159</sup>“amount foregone” has the meaning given in section 69B of ITEPA;]

“authorised employer” has the meaning given by regulation 61C;

“main relevant payment” means the relevant payment normally made to the specified employee at regular intervals of a week or more;

“making good payment” means the payment referred to in regulation 61E(2) or 61G(2)(b);

[<sup>F160</sup>“optional remuneration arrangements” has the meaning given in section 69A of ITEPA;”

“relevant amount” means the amount calculated in accordance with section 87A, 94A, 120A, 154A or 203A of ITEPA, as the case may be;]

[<sup>F161</sup>“specified benefit” means any benefit treated as earnings under any of the following provisions of Part 3 of ITEPA (employment income: earnings and benefits etc. treated as earnings)—

(a) section 87 (non-cash vouchers) except where section 694 (non-cash vouchers: treated as payments of PAYE income) of ITEPA applies,

(aa) [<sup>F162</sup>section 87A (benefit of non-cash voucher treated as earnings: optional remuneration arrangements),]

(b) section 94 (credit-tokens) except where section 695 (credit-tokens: treated as payments of PAYE income) of ITEPA applies,

(ba) [<sup>F163</sup>section 94A (benefit of credit-token treated as earnings: optional remuneration arrangements),]

(c) section 120 (car),

(ca) [<sup>F164</sup>section 120A (benefit of car treated as earnings: optional remuneration arrangements),]

(d) section 149 (car fuel),

(da) [<sup>F165</sup>section 149A (benefit of car fuel treated as earnings: optional remuneration arrangements),]

(e) section 154 (van),

(ea) [<sup>F166</sup>section 154A (benefit of a van treated as earnings: optional remuneration arrangements),]

(f) section 160 (van fuel),

(fa) [<sup>F167</sup>section 160A (benefit of van fuel treated as earnings: optional remuneration arrangements),]

(g) section 203 (employment-related benefit);]

(ga) [<sup>F168</sup>section 203A (employment-related benefit provided under optional remuneration arrangements);]

“specified employee” means an employee to whom an authorised employer provides a specified benefit;

“Taxable Amount of the Benefit” has the meaning given in regulation 61D(1).

- F159** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(a)**
- F160** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(b)**
- F161** Words in reg. 61A substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137), regs. 1(1), **3**
- F162** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(i)**
- F163** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(ii)**
- F164** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(iii)**
- F165** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(iv)**
- F166** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(v)**
- F167** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(vi)**
- F168** Words in reg. 61A inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **3(c)(vii)**

#### **PAYE: benefits in kind**

**61B.**—(1) This Chapter applies where during a tax year an authorised employer provides a specified benefit to a specified employee.

(2) Where this Chapter applies—

- (a) the specified benefit is to be treated as a payment of PAYE income for the purposes of these Regulations; and
- (b) any reference (howsoever expressed) in these Regulations to relevant payment includes an amount in respect of the provision of a specified benefit, such amount to be determined in accordance with regulations 61D, 61H, 61I, 61J, [<sup>F169</sup>61K, 61L and 61LA], as the case may be;

but this is subject to paragraph (3).

(3) An amount determined in accordance with regulation 61D, 61H, 61I, 61J, [<sup>F170</sup>61K, 61L or 61LA], as the case may be, is not to be included as a relevant payment for the purpose of calculating whether the deduction of tax would exceed the overriding limit.

- F169** Words in reg. 61B(2)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137), regs. 1(1), **4(a)**
- F170** Words in reg. 61B(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137), regs. 1(1), **4(b)**

### Authorised employer

**61C.**—(1) An employer is an authorised employer in respect of a specified employee for a tax year for the purposes of this Chapter if—

(a) HMRC has authorised that employer to make—

(i) deductions of income tax in respect of the provision of a specified benefit from payments which that employer actually makes of, or on account of, PAYE income of that employee; or

(ii) repayments of such income tax; and

(b) such authorisation has not been withdrawn.

(2) An employer will be authorised by HMRC if the conditions set out in paragraph (3) are met.

(3) The conditions are that—

(a) before the start of the tax year the employer has made an application for authorisation in respect of one or more specified employees to HMRC; and

(b) such an application identifies the specified benefit or benefits that will be provided to the specified employees.

(4) But in cases falling within paragraph (5), an employer may make an application for authorisation in respect of one or more specified employees during a tax year.

(5) The cases are that—

(a) a specified benefit or benefits is to be provided to the specified employees referred to in the application for the first time during the tax year;

(b) a specified benefit or benefits is to be provided to an employee upon commencement of employment and the employer is already an authorised employer for the purposes of this Chapter; or

(c) the application made before the start of the tax year contained an error.

(6) If during the tax year an authorised employer notifies HMRC that the application for authorisation is withdrawn in respect of the specified employees identified in the notification, then the employer will cease to be an authorised employer in respect of those specified employees from the end of the tax year in which that notice is given.

(7) But in cases falling within paragraph (8), where an authorised employer notifies HMRC the application for authorisation is withdrawn in respect of the specified employees identified in the notification, then the employer will cease to be an authorised employer in respect of those employees from the date that the notification is received by HMRC.

(8) The cases are—

(a) the relevant payment actually made to the specified employee named in the withdrawal notification will be insufficient to enable the authorised employer to deduct the full amount of tax due in respect of the relevant payment;

(b) that during the tax year the authorised employer stops providing a specified benefit or benefits to the specified employees identified in the withdrawal notification and the Revised Taxable Amount of the Benefit provided is nil; or

(c) the application made before the start of the year contained an error.

(9) Any application or notice must be made to HMRC using an approved method of electronic communication unless the employer is one to whom regulation 67D applies.

(10) For the purposes of this regulation, “Revised Taxable Amount of the Benefit” means the result of the calculation at step 3 of regulation 61I(2), as applied by regulation 61J(2).

### **Deduction and repayments of tax: general rule**

**61D.**—(1) Where this Chapter applies an authorised employer must take the following steps—

#### *Step 1*

Before making the first main relevant payment to a specified employee in a tax year, the cash equivalent [<sup>F171</sup>, the relevant amount or amount foregone in respect] of the specified benefit or benefits to be provided in that tax year must be determined in accordance with regulation 61E, 61F or 61G (methods of calculating the cash equivalent [<sup>F172</sup>, the relevant amount or amount foregone in respect] of specified benefits), as the case may be.

#### *Step 2*

Determine the number of main relevant payments to be made to the specified employee in that tax year.

#### *Step 3*

Divide the amount obtained from step 1 by the number obtained from step 2.

The resulting amount is the Taxable Amount of the Benefit.

#### *Step 4*

Add the Taxable Amount of the Benefit to the first main relevant payment.

#### *Step 5*

Deduct or repay tax on the amount obtained at step 4 in accordance with these Regulations by reference to the employee's code if the employer has one for the employee, even if the code is the subject of an objection or appeal.

(2) On making any subsequent main relevant payment in the tax year the authorised employer must add the Taxable Amount of the Benefit to that payment and apply step 5 of paragraph (1) to that amount.

(3) This regulation is subject to regulations 61H, 61I, 61J, [<sup>F173</sup>61K, 61L and 61LA](modifications to the general rule).

**F171** Words in reg. 61D(1) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **4(a)**

**F172** Words in reg. 61D(1) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **4(b)**

**F173** Words in reg. 61D(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), regs. 1(1), **5**

### **Method of calculating the cash equivalent [<sup>F174</sup>or relevant amount in respect] of the benefit of a car or van**

**61E.**—(1) Where the specified benefit is the provision of a car or a van the cash equivalent [<sup>F175</sup>or relevant amount is calculated in accordance with section 121, 121A, 154A or 155 of ITEPA], as the case may be.

(2) For the purposes of paragraph (1), the authorised employer may take into account payments that the specified employee is required to make in the tax year as a condition of the car or van being available for that employee's private use.



**F174** Words in reg. 61E heading inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **5(a)**

**F175** Words in reg. 61E(1) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **5(b)**

### **Method of calculating the cash equivalent [<sup>F176</sup>or amount foregone in respect] of the benefit of fuel**

**61F.**—(1) Where the specified benefit is the provisions of car fuel or van fuel the cash equivalent [<sup>F177</sup>or amount foregone in respect of that benefit is calculated in accordance with section 149A, 150, 160A or 161 of ITEPA], as the case may be.

(2) For the purposes of paragraph (1), the authorised employer may take into account payments that the specified employee is required to make during the tax year in connection with the provision of fuel for that employee's private use.

**F176** Words in reg. 61F heading inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **6(a)**

**F177** Words in reg. 61F(1) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **6(b)**

### **Method of calculating the cash equivalent [<sup>F178</sup>or relevant amount] of [<sup>F179</sup>non-cash vouchers, credit-tokens and] employment-related benefits**

**61G.**—(1) Where the specified benefit is [<sup>F180</sup>a non-cash voucher, credit-token or] any employment-related benefit the [<sup>F181</sup>cash equivalent or relevant amount of the specified benefit is to be calculated in accordance with section 87, 87A, 94, 94A, 203 or 203A of ITEPA, as the case may be.]

(2) For the purposes of paragraph (1), the authorised employer may make reasonable assumptions about—

- (a) the cost of a specified benefit to be incurred in a tax year where the cost is not known at the start of the tax year; and
- (b) payments that a specified employee is expected to make in the tax year to make good any part of the cost incurred in providing the benefit to that employee.

**F178** Words in reg. 61G heading inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **7(a)**

**F179** Words in reg. 61G heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137), regs. 1(1), **6**

**F180** Words in reg. 61G(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137), regs. 1(1), **7(a)**

**F181** Words in reg. 61G(1) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **7(b)**



### **Modification of the general rule: cessation of employment but continuing benefit**

**61H.**—(1) This regulation applies instead of regulation 61D(2) if during a tax year the employment of a specified employee ceases but the authorised employer continues to provide the specified benefit to that employee.

(2) Before the employment ceases the authorised employer must take the following steps—

#### *Step 1*

Determine at that time the number of remaining main relevant payments to be made in the employment.

#### *Step 2*

If the cost to the authorised employer of the specified benefit has changed, redetermine the cash equivalent [<sup>F182</sup>, relevant amount or amount foregone] in accordance with regulations 61E, 61F or 61G, as the case may be, otherwise the cash equivalent [<sup>F183</sup>, relevant amount or amount foregone in respect] of the specified benefit is that previously determined for the tax year under step 1 of regulation 61D(1).

The result is the revised cash equivalent [<sup>F183</sup>, relevant amount or amount foregone in respect] of the specified benefit provided during the employment.

#### *Step 3*

Calculate the taxable amount of the benefit provided to date by—

- (a) determining the number of main relevant payments that have been made to date, then
- (b) multiplying that number by the Taxable Amount of the Benefit obtained under step 3 of regulation 61D(1).

#### *Step 4*

Subtract the taxable amount of the benefit provided to date (the amount obtained from step 3) from the revised cash equivalent [<sup>F183</sup>, relevant amount or amount foregone in respect] of the benefit provided during the employment (the amount obtained from step 2).

#### *Step 5*

Divide the amount obtained from step 4 by the number obtained at step 1.

The result is the Adjusted Taxable Amount of the Benefit.

#### *Step 6*

Add the Adjusted Taxable Amount of the Benefit to either—

- (a) the next main relevant payment, where that is the only main relevant payment remaining in the employment; or
- (b) each of the remaining main relevant payments, where the number of remaining main relevant payment determined under step 1 of paragraph (2) is more than one,

and apply step 5 of regulation 61D(1) to that amount or amounts, as the case may be.

**F182** Words in reg. 61H(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **8(a)**

**F183** Words in reg. 61H(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **8(b)**

**Modification of the general rule: in-year adjustments: change to the benefit during the year with effect from the date of the change**

**61I.**—(1) This regulation applies instead of regulation 61D(2) if during a tax year there is a change to the specified benefit provided to a specified employee and, for the purposes of calculating the cash equivalent [<sup>F184</sup>, relevant amount or amount foregone in respect] of that benefit under ITEPA, that change has effect from the date the revised benefit is provided to the employee.

(2) Subject to paragraph (4), the authorised employer must take the following steps—

*Step 1*

Before making the next main relevant payment after the change to the specified benefit has taken effect, calculate the revised cash equivalent [<sup>F185</sup>, relevant amount or amount foregone in respect] of the specified benefit by—

- (a) determining the [<sup>F186</sup> cash equivalent, relevant amount or amount foregone in respect of the specified benefit that has been provided in the tax year, in accordance with section 87, 87A, 94, 94A, 121, 121A, 149A, 150, 154A, 155, 160A, 161, 203 or 203A of ITEPA], as the case may be, then
- (b) determining the cash equivalent [<sup>F187</sup>, relevant amount or amount foregone in respect] of the specified benefit, that will be provided for the remainder of the tax year, in accordance with regulation 61E, 61F or 61G, as the case may be, and
- (c) adding these numbers together.

*Step 2*

Calculate the taxable amount of the benefit provided to date by—

- (a) determining the number of main relevant payments that have been made to date, then
- (b) multiplying that number by the Taxable Amount of the Benefit determined under step 3 of regulation 61D(1).

*Step 3*

Subtract the taxable amount of the benefit provided to date (the amount obtained from step 2) from the revised cash equivalent [<sup>F188</sup>, relevant amount or amount foregone in respect] of the specified benefit (the amount obtained from step 1).

*Step 4*

Determine the number of remaining main relevant payments to be made in the tax year.

*Step 5*

Divide the amount obtained from step 3 by the number obtained at step 4.

The result, where the amount is a positive value, is the Increased Taxable Amount of the Benefit.

The result, where the amount is a negative value, is the Reduced Taxable Amount of the Benefit.

*Step 6*

Add the Increased Taxable Amount of the Benefit to, or subtract the Reduced Taxable Amount of the Benefit from, the next main relevant payment and apply step 5 of regulation 61D(1) to that amount.

(3) On making any subsequent main relevant payment in that year, the employer must add the Increased Taxable Amount of the Benefit to, or subtract the Reduced Taxable Amount of the Benefit from, that payment and apply step 5 of regulation 61D(1) to that amount.

(4) Where the change to the specified benefit occurs in the final tax month of a tax year and the authorised employer is not able to take the steps set out in paragraph (2) before the final main relevant payment for that year is made that employer must—

- (a) comply with steps 1 to 5 of paragraph (2) before the first main relevant payment of the next tax year (“tax year 2”) is made;
- (b) add the Increased Taxable Amount of the Benefit to, or subtract the Reduced Taxable Amount of the Benefit from, the first main relevant payment to be made in tax year 2; and
- (c) apply step 5 of regulation 61D(1) to that amount.

<b>F184</b>	Words in reg. 61I(1) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>9(a)</b>
<b>F185</b>	Words in reg. 61I(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>9(b)(i)</b>
<b>F186</b>	Words in reg. 61I(2) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>9(b)(ii)</b>
<b>F187</b>	Words in reg. 61I(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>9(b)(iii)</b>
<b>F188</b>	Words in reg. 61I(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>9(b)(iv)</b>

**Modification of the general rule: in-year adjustments: change to the benefit during the year with effect from the start of tax year and other changes**

**61J.**—(1) This regulation applies if during a tax year:

- (a) there is a change to the specified benefit provided to a specified employee and, for the purposes of calculating the cash equivalent [<sup>F189</sup>, relevant amount or amount foregone in respect] of that benefit under ITEPA, that change has effect from the start of the tax year;
- (b) the employer becomes aware that the cash equivalent [<sup>F189</sup>, relevant amount or amount foregone in respect] of the specified benefit determined at the start of the year in accordance with regulation 61E, 61F or 61G (method of calculating the cash equivalent) is no longer accurate;
- (c) the employer will stop providing a specified benefit during the tax year; or
- (d) there is a change to the number of main relevant payments used to determine the Taxable Amount of the Benefit where the specified employee is paid at irregular intervals.

(2) Where this regulation applies, regulation 61D(2) no longer applies and regulation 61I applies but with the modification in paragraph (3).

(3) For the purposes of calculating the revised cash equivalent [<sup>F190</sup>, relevant amount or amount foregone] of the specified benefit, step 1 of regulation 61I(2) is modified as follows—

*Step 1*

In cases where regulation 61J(1)(a), (b) or (c) applies, redetermine the cash equivalent [<sup>F190</sup>, relevant amount or amount foregone] of the specified benefit in accordance with regulations 61E, 61F or 61G, as the case may be. In cases where regulation 61J(1)(d) applies, use the cash equivalent [<sup>F190</sup>, relevant amount or amount foregone] of the benefit determined at the start of the year under step 1 of regulation 61D(1).

(4) Any references in regulation 61I(2) to the revised cash equivalent [<sup>F191</sup>, relevant amount or amount foregone in respect] of the benefit or to the amount obtained under step 1 of 61I(2) are to be read in accordance with paragraph (3).

<b>F189</b>	Words in reg. 61J(1) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>10(a)</b>
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**F190** Words in reg. 61J(3) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **10(b)**

**F191** Words in reg. 61J(4) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **10(c)**

### **Modification of the general rule: making good**

**61K.**—(1) This regulation applies instead of regulation 61D(2) where immediately before the authorised employer makes the final main relevant payment of the tax year the specified employee has not made any or all of the making good payment.

(2) The authorised employer must—

(a) ascertain the difference between:

(i) the amount of the making good payment that has been taken into account when determining the cash equivalent [<sup>F192</sup>, relevant amount or amount foregone in respect] of the specified benefit at the start of the tax year; and

(ii) the amount the specified employee has actually paid at that time;

(b) add the amount obtained under sub-paragraph (a) to the final main relevant payment, and

(c) apply step 5 of regulation 61D(1) to that amount.

(3) Where this regulation applies the authorised employer may not take into account making good payments for the purposes of calculating the cash equivalent [<sup>F193</sup>, relevant amount or amount foregone in respect] of the same specified benefit provided to the same specified employee in the following tax year.

**F192** Words in reg. 61K(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **11(a)**

**F193** Words in reg. 61K(3) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **11(b)**

### **Modification of the general rule: failure to make good fuel benefit**

**61L.**—(1) This regulation applies if the specified employee has not made the payment referred to in regulation 61F(2) before 1st June following the end of the tax year (“tax year 1”) in which the specified benefit of car fuel or van fuel was provided.

(2) Before making the first main relevant payment after 1st June following the end of tax year 1 (“the first main relevant payment in tax year 2”) the authorised employer must take the following steps—

#### *Step 1*

Redetermine the cash equivalent of the specified benefit of car fuel or van fuel received in tax year 1 in accordance with section 150 or 161 of ITEPA on the basis that Condition A in section 151 or 162 of ITEPA (car fuel and van fuel: nil cash equivalent), as the case may be, has not been met.

The result is the Outstanding Taxable Amount of the Fuel Benefit for Tax Year 1.

#### *Step 2*

Add the Outstanding Taxable Amount of the Fuel Benefit for Tax Year 1 to the first main relevant payment in tax year 2 and apply step 5 of regulation 61D(1) to that amount.

(3) Where this regulation applies and the authorised employer is continuing to provide the specified benefit of car fuel or van fuel in tax year 2, the employer must make an in-year adjustment for that year, in accordance with regulation 61J(1)(b), and redetermine the cash equivalent of

the specified benefit without taking into account payments the employee is required to make, in connection with the private use of fuel, as referred to in regulation 61F(2).

**[<sup>F194</sup>Modification of the general rule: failure to make good benefit of credit-token**

**61LA.**—(1) This regulation applies where the specified benefit is a credit-token and the specified employee has not made all of the making good payments referred to in regulation 61G(2)(b) before 1st June following the end of the tax year (“tax year 1”) in which the credit-token was used.

(2) Before making the first main relevant payment after 1st June in the following tax year (“the first main relevant payment in tax year 2”) the authorised employer must take the following steps—

*Step 1*

Calculate the outstanding taxable amount of the benefit of the credit-token used in tax year 1 by—

- (a) determining the cash equivalent [<sup>F195</sup>or relevant amount] of the benefit of the credit-token used in that tax year in accordance with section 94 [<sup>F196</sup>or 94A][ITEPA];
- (b) subtracting from that amount the cash equivalent [<sup>F195</sup>or relevant amount] of the benefit of the credit-token used as determined under step 1 of regulation 61I(2) as modified by regulation 61J(3) during that tax year.

*Step 2*

Add the amount obtained from step 1 to the first main relevant payment in tax year 2 and apply step 5 of regulation 61D(1) to that amount.

(3) Where this regulation applies regulation 61G(2)(b) does not apply in respect of credit-tokens used in tax year 2.]

**F194** Reg. 61LA inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), regs. 1(1), **9**

**F195** Words in reg. 61LA(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **12(a)**

**F196** Words in reg. 61LA(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **12(b)**

**Information to specified employees**

**61M.**—(1) Before 1st June following the end of the tax year in which the specified benefits have been provided, an authorised employer must provide a statement to every specified employee identifying—

- (a) every specified benefit provided to that employee during that tax year; and
- (b) the cash equivalent [<sup>F197</sup>, relevant amount or amount foregone in respect] of the specified benefit provided during that tax year treated as a payment of PAYE income under this Chapter.

(2) In this regulation—

- (a) “authorised employer” includes an employer who ceased to be an authorised employer during or after the tax year; and
- (b) “specified employee” includes an employee who was a specified employee for only part of the tax year.]

**F197** Words in reg. 61M(1)(b) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **13**

## CHAPTER 4

### MISCELLANEOUS

#### Deductions in respect of notional payments

**62.**—(1) This regulation applies if an employer makes a relevant payment which is a notional payment [<sup>F198</sup>(including a notional payment arising by virtue of a retrospective tax provision)] to an employee.

(2) The employer must, so far as possible, deduct tax required to be deducted in respect of a notional payment in accordance with any of [<sup>F199</sup>the provisions listed in paragraph (3)] from any relevant payment or payments which the employer actually makes to the employee at the same time as the notional payment.

(3) [<sup>F200</sup>The provisions are—]

regulations 22 to 25	cumulative basis
regulations 26 to 31	non-cumulative basis
regulation 32	higher rate code: deductions
<b>F201</b>	<b>F201</b>
...	...
regulation 37	PAYE income paid after employment ceased.
[ <sup>F202</sup> paragraphs (2) and (3) of regulation 37A	Income paid after cessation of employment becoming subject to PAYE]

(4) If the employer cannot deduct the full amount of tax as required by paragraph (2) from another relevant payment made at the same time as the notional payment, the employer must, so far as possible, deduct the tax from any payment or payments which the employer makes later in the same tax period.

(5) If the relevant payments actually made are insufficient to enable the employer to deduct the full amount of tax due in respect of notional payments, the employer must account to the Board of Inland Revenue for any amount which the employer is unable to deduct.

(6) Regulations 23(5) and 28(5) (deductions on cumulative or non-cumulative basis not to exceed the overriding limit) do not apply to the extent that the tax to be deducted is in respect of a notional payment.

**F198** Words in reg. 62(1) inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **8(2)**

**F199** Words in reg. 62(2) substituted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **8(3)**

**F200** Words in reg. 62(3) substituted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **8(4)(a)**

**F201** Words in reg. 62(3) omitted (6.4.2014) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(4), **8**

**F202** Words in reg. 62(3) Table inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **8(4)(b)**

### Repayment during unpaid leave

63.—(1) This regulation applies if—

- (a) an employee is not entitled to receive any relevant payments on a normal pay day because of absence from work,
- (b) the cumulative basis would have been used in relation to a payment made on that day,
- (c) the employee does not fall within regulation 64(1) (absence from work due to participation in trade dispute), and
- (d) the employee, or the employee's authorised representative, makes an application in person to the employer.

(2) The employer must—

- (a) comply with regulation 23 (cumulative basis: deduction and repayment) and accordingly repay any tax due to the employee, and
- (b) comply with regulation 66(4) to (6) (completion of deductions working sheet),

as if the pay day were one on which relevant payments of nil had been made.

### Trade disputes

64.—(1) This regulation applies if an employee—

- (a) is absent from work because of a trade dispute at the employee's place of work, and
- (b) is participating or directly interested in the trade dispute.

(2) The employer must—

- (a) on making any relevant payment, calculate the amount of tax to be deducted or repaid, and
- (b) comply with paragraphs (5) to (8).

(3) If no relevant payments are to be made on the normal pay day but the employee's code would be used on the cumulative basis if a relevant payment were made on that day, the employer must—

- (a) calculate, in accordance with regulation 23 (cumulative basis: deduction and repayment) whether any tax is due to be repaid on that day as if it were a day on which relevant payments of nil had been paid, and
- (b) comply with paragraphs (5) to (8).

(4) Paragraphs (2) and (3) are subject to paragraphs (9) and (10).

(5) The employer—

- (a) must not repay any tax due to be repaid until the end of the employee's strike action, but
- (b) must deduct any tax due to be deducted, less any repayment for the tax year which has not been made.

(6) The amount of any repayment—

- (a) made at the end of the employee's strike action under paragraph (5)(a), or
- (b) set against tax due to be deducted under paragraph (5)(b),

must be reduced by any amount previously set off in accordance with paragraph (5)(b).

(7) If the absence of an employee extends beyond the end of the tax year, the employer must—

- (a) before 1st June following the end of the tax year, give notice to the employee of the amount of any repayment of tax for the tax year in question calculated in accordance with paragraph (2) which has not been set off against any tax due to be deducted under paragraph (5)(b); and

(b) complete the certificate which must be given under regulation 67 (Form P60) and the return which must be sent under regulation 73 (Form P35 and P14) as if that tax had been repaid to the employee.

(8) If the employer has not made any repayment of tax withheld under paragraph (5) within 42 days after the end of the employee's strike action, the employer must instead immediately pay the tax not repaid to the Inland Revenue, and regulation 69(2) (receipt where requested) applies to that payment.

(9) An employee from whom a repayment of tax has been withheld in accordance with paragraph (5) may request a benefit officer to certify that—

- (a) section 14 of the Jobseekers Act 1995(11), or
- (b) in Northern Ireland, article 16 of the Jobseekers (Northern Ireland) Order 1995(12),

(no allowance to those involved in trade dispute) does not disqualify the employee from receiving jobseeker's allowance, whether or not the employee is in fact entitled to receive jobseeker's allowance.

(10) If a benefit officer certifies in accordance with paragraph (9), the employer must make such repayment to the employee as may be due.

(11) In this regulation—

“benefit officer” means the appropriate officer—

- (a) of the Department for Work and Pensions or,
- (b) in Northern Ireland, of the Department for Social Development;

“end of the employee's strike action” means any of the following—

- (a) the employee is no longer absent from work because of the trade dispute,
- (b) the employer ceases to employ the employee,
- (c) the employee has become genuinely employed elsewhere in the occupation which the employee usually follows,
- (d) the employee has become regularly engaged in some other occupation, or
- (e) the employee dies;

“jobseeker's allowance” has the same meaning as in regulation 148;

“place of work” has the meaning given in section 14(4) of the Jobseekers Act 1995 or, in Northern Ireland, in article 16(4) of the Jobseekers (Northern Ireland) Order 1995.

### Repayment if no longer employed

**65.**—(1) This regulation applies if, in a tax year, a person (“P”)—

- (a) was employed,
- (b) is no longer employed, and
- (c) applies for a repayment of tax.

(2) P must give the Inland Revenue—

- (a) .....
- (b) either certificate A or B, depending on P's circumstances, and
- (c) such evidence of P's unemployment as the Inland Revenue may require.

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(11) 1995 c. 18.

(12) S.I. 1995/2705 (N.I. 15).



- (3) Certificate A is one which certifies that P is unemployed and, to the best of P's knowledge and belief, P—
- (a) will not be a claimant during the period starting with the date on which the application is made and ending at the end of the tax year, and
  - (b) will not be employed during that period.
- (4) Certificate B is one which certifies that P is unemployed and is not a claimant when the application is made.
- (5) On receiving P's application, the Inland Revenue must make any repayment of tax which is appropriate, having regard to P's employee's code and the following information.
- (6) If P gives certificate A the information is—
- (a) the total payments to date and the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 (or, if lower, the total net tax deducted shown in it),
  - (b) any other relevant payments received by P in the tax year to date, and
  - (c) any other payments P will receive in the tax year.
- (7) If P does not give certificate A the information is—
- (a) the total payments to date and the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 (or, if lower, the total net tax deducted shown in it), and
  - (b) any other relevant payments received by P in the tax year to date.
- (8) For the purposes of this regulation, "claimant" means a person who is—
- (a) a claimant as defined by regulation 148 (jobseeker's allowance), or
  - (b) a claimant in receipt of taxable benefit as defined by regulation 173 (incapacity benefit).

**[<sup>F203</sup>Relief from income tax on PAYE income: information about deductible expenses**

**65A.**—(1) This regulation applies if, in relation to a tax year—

- (a) an employee is entitled to relief from income tax in consequence of deductions allowed under Chapter 2 [<sup>F204</sup>or Chapter 4] of Part 5 of ITEPA (deductions for employee's expenses) ("the deductible expenses"),
- (b) the total amount of the deductible expenses for that employee in respect of all employments in that tax year does not exceed £2,500, and
- (c) the employee has not been given a notice under section 8 of TMA (personal return) or delivered a purported return within section 12D of TMA (returns made otherwise than pursuant to a notice) for the tax year to which the deductible expenses relate.

(2) For the purposes of paragraph (1)(c), a notice under section 8 of TMA is treated as not having been given to an employee if that notice has been withdrawn in accordance with section 8B of that Act (withdrawal by HMRC of notice under section 8 or 8A).

(3) Without prejudice to section 711 of ITEPA (right to make a return), the employee may notify HMRC of the deductible expenses by providing specified information relating to those expenses to HMRC in accordance with this regulation.

[<sup>F205</sup>(4) For the purposes of this regulation, the specified information means—

- (a) the tax year in relation to which the employee is entitled to relief from income tax as described in paragraph (1)(a) in respect of the deductible expenses notified;
- (b) in relation to that employee—
  - (i) the employee's full name,
  - (ii) the employee's date of birth,

- (iii) the employee's address (including postcode), and
- (iv) the employee's national insurance number (if any);
- (c) in relation to each of the deductible expenses notified—
  - (i) the amount of the deductible expense,
  - (ii) a description of the deductible expense,
  - (iii) the employer's PAYE reference of the relevant employer, and
  - (iv) in the case of a deductible expense allowed under Chapter 4 of Part 5 of ITEPA, a description of the industry or business sector of the relevant employer.
- (4A) The relevant employer in relation to a deductible expense is the person to whom paragraph (4B) applies.
- (4B) This paragraph applies to a person if—
  - (a) the person is the employee's employer in relation to an employment, and
  - (b) the deductible expense in question is allowed from the employee's taxable earnings from that employment.]
- (5) The specified information must be provided in the form and manner given in a direction made by the Commissioners for Her Majesty's Revenue and Customs for this purpose.
- (6) A direction made under paragraph (5) may also—
  - (a) authorise, or specify a requirement for, the delivery of information by an approved method of electronic communication, and
  - (b) where such a requirement is specified, specify the persons required to deliver information to HMRC by the approved method of electronic communication.
- (7) The specified information cannot be provided more than 4 years after the end of the tax year to which the information relates.]

- F203** Reg. 65A inserted (6.5.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(3), **3**
- F204** Words in reg. 65A(1)(a) inserted (20.12.2022) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2022 \(S.I. 2022/1243\)](#), regs. 1, **3(a)**
- F205** Reg. 65A(4)-(4B) substituted for reg. 65A(4) (20.12.2022) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2022 \(S.I. 2022/1243\)](#), regs. 1, **3(b)**

### Deductions working sheets

- 66.**—(1) Paragraph (2) applies if a code has been issued to an employer in respect of an employee.
- (2) The employer must, on making a relevant payment to the employee, prepare a deductions working sheet (unless the employer has already done so).
- (3) The employer must record in the deductions working sheet—
  - (a) the employee's name,
  - (b) the employee's national insurance number, if known,
  - (c) the employee's code, and
  - (d) the tax year to which the deductions working sheet relates.
- (4) The employer must record in the deductions working sheet in respect of every relevant payment which the employer makes to the employee—
  - (a) the date of the payment,

- (b) the amount of the payment, and
- (c) the amount of tax, if any, deducted or repaid on making the payment, or to be deducted or accounted for under regulation 62(4) or (5) (notional payments).

[<sup>F206</sup>(4A) For the purposes of paragraphs (4)(a) and (6)(a), (b), (c), and (e)(i), a relevant payment—

- (a) which comprises an amount of retrospective employment income, and
- (b) which was actually paid during a tax year which is not closed,

shall be treated, for the purpose of computing the amount of tax to be deducted, as paid at the earlier of the relevant time and the end of the last tax period in which the former employee was employed.]

(5) If the employee's code is used on the cumulative basis, the employer must, in respect of every relevant payment which the employer makes to the employee, either—

- (a) record the following information in the deductions working sheet, or
- (b) keep such records as enable its production.

(6) The information is—

- (a) the total payments to date in relation to the date of payment,
- (b) the total free pay to date or, as the case may be, the total additional pay to date, in relation to that date,
- (c) the total taxable payments to date in relation to that date,
- (d) the corresponding total tax to date,

[<sup>F207</sup>(e) the tax due to be deducted at that date (subject to the overriding limit),

- (ea) the overriding limit, if any, in relation to the payment,
- (eb) the amount of any tax not deducted at that date because of the overriding limit, and]
- (f) any amount of tax which is not to be repaid because of regulation 64 (trade disputes).

(7) If the employee's code is not used on the cumulative basis, the employer must, in respect of every relevant payment which the employer makes to the employee, either—

- (a) record the following information in the deductions working sheet, or
- (b) keep such records as enable its production.

(8) The information is—

- (a) the free pay, or, as the case may be, the additional pay for the employee's code,
- (b) the taxable payments, and
- (c) ... the tax due to be deducted and the overriding limit.

[<sup>F208</sup>(9) Nothing in this regulation applies to a closed tax year (see regulation 66A).]

**F206** Reg. 66(4A) inserted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **9(2)**

**F207** Reg. 66(6)(e)-(eb) substituted for reg. 66(6)(e) (6.4.2015) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2014 (S.I. 2014/2689), regs. 1(2), **6(a)**

**F208** Reg. 66(9) added (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **9(3)**

[<sup>F209</sup>**Deduction working sheets: retrospective employment income in closed tax year**

**66A.**—(1) Paragraph (2) applies if—

- (a) a code has been issued to an employer in respect of an employee for a tax year which has subsequently become a closed tax year (“the relevant tax year”); and
  - (b) after the end of that tax year a payment made during it to that employee becomes a qualifying payment.
- (2) The employer must at the relevant time —
- (a) in a case where there was a deductions working sheet for the employee for the relevant tax year, revise it to reflect the effect of the retrospective tax provision on the total PAYE income including the retrospective employment income for that year; and
  - (b) in a case where there was no deductions working sheet for the employee for the relevant year, produce one showing that effect on that income for that year.
- (3) In a case falling within paragraph (2)(b) the employer must record in the deductions working sheet—
- (a) the employee’s name,
  - (b) the employee’s national insurance number, if known,
  - (c) the employee’s final code for the relevant tax year, and
  - (d) details of the relevant tax year.
- (4) The employer must record in the deductions working sheet in respect of every qualifying payment—
- (a) the date on which the payment is made,
  - (b) the amount of the payment, and
  - (c) the amount of tax, if any, to be deducted or accounted for under regulation 62(4) or (5) (notional payments).
- (5) Despite paragraph (4)(a), in completing the deductions working sheet, the amount of any retrospective employment income shall be treated, for the purpose of computing the amount of tax to be deducted, as if it were paid in the final tax period, in which the employee was employed, in the relevant tax year.]

**F209** Reg. 66A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007](#) (S.I. 2007/1077), regs. 1, 10

### **Information to employees about payments and tax deducted (Form P60)**

- 67.**—(1) Before 1st June following the end of the tax year, an employer must give a certificate (Form P60) to every employee—
- (a) who was in the employer’s employment on the last day of the tax year, and
  - (b) from whose relevant payments the employer was required to deduct tax at any time during that tax year.
- (2) The certificate must show—
- (a) the tax year to which it relates,
  - (b) the employer’s PAYE reference,
  - (c) the employee’s name,
  - (d) the employee’s national insurance number, if known,
  - (e) any number used by the employer to identify the employee,
  - (f) the total amount of the relevant payments made by the employer to the employee during the tax year in respect of the employment in question,

- (g) the total net tax deducted in relation to those payments, subject to regulation 64(7)(b) (trade disputes),
  - (h) the employee's code,
  - (i) the employer's name, and
  - (j) the employer's address.
- (3) In the case of an employee taken into employment after the beginning of the tax year, the certificate must also show—
- (a) any amounts required by regulation 43(9), 52(11), 53(3) or 61(3) to be treated as relevant payments made by the employer to the employee during the tax year,
  - (b) any amounts treated as tax deducted by the employer at the end of the tax year by any of those regulations,
  - (c) the sum of the figures given under sub-paragraph (a) of this paragraph and paragraph (2)(f),
  - (d) the sum of the figures given under sub-paragraph (b) of this paragraph and paragraph (2) (g).

**[<sup>F210</sup>Revised information to employees about payments and tax deducted (Form P 60)**

**67A.**—(1) This regulation applies where—

- (a) an enactment containing a retrospective tax provision applicable to a closed tax year is passed; and
- (b) in consequence of the passing of that enactment an employee's employment income in that closed tax year is increased.

(2) Before 1<sup>st</sup> January next following the passing of the enactment—

- (a) if the employer has previously given the employee a certificate (Form P60), the employer must give the employee a revised certificate (Form P60); and
- (b) if the employer has not previously given the employee such a certificate, the employer must give the employee a copy of the revised form P14 completed in accordance with regulation 73A (amended return of relevant payments (Forms P14 and P35(RL))) .

(3) Paragraphs (2) and (3) of regulation 67 apply, in a case falling within paragraph (2)(a), for the purposes of this regulation as they apply for the purposes of that regulation, save that—

- (a) sub-paragraph (f) of paragraph (2) shall have effect as if for “the total amount” there were substituted “the revised total amount”; and
- (b) sub-paragraph (g) of that paragraph shall have effect as if for “total net tax” there were substituted “the revised total amount of net tax”;

with references to revised amounts being construed as references to the amounts of relevant payments and net tax deducted computed after the application of the retrospective tax provision.

(4) Where a revised certificate is given under this regulation—

- (a) the employer must endorse it to show that it supersedes an earlier certificate; and
- (b) the employee must not use the certificate which it supersedes.]

**F210** Reg. 67A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, 11

**PART 4**  
**PAYMENTS, RETURNS AND INFORMATION**  
**CHAPTER 1**  
**PAYMENT OF TAX AND ASSOCIATED RETURNS**

*[<sup>F211</sup>Real time returns*

**F211** Regs. 67B-67H and cross-headings inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **27(b)** (with regs. 54-57)

**Real time returns of information about relevant payments**

**67B.**—(1) [<sup>F212</sup>Subject to [<sup>F213</sup>paragraph (1A)],] on or before making a relevant payment to an employee, a Real Time Information employer must deliver to HMRC the information specified in Schedule A1 in accordance with this regulation unless the employer is not required by regulation 66 (deductions working sheets) to maintain a deductions working sheet for any employees.

[<sup>F214</sup>(1A) But a Real Time Information employer—

- (a) which for the tax year 2014-15 meets Conditions A and B, or
- (b) which for the tax year 2015-16 meets Conditions A and C,

may instead for that tax year deliver to HMRC the information specified in Schedule A1 (real time returns) in respect of all relevant payments made to an employee in a tax month on or before making the last relevant payment in that month.

(1B) Condition A is that, at 5th April 2014, the Real Time Information employer is one to whom HMRC has issued an employer’s PAYE reference.

(1C) Condition B is that, at 6th April 2014, the Real Time Information employer employs no more than 9 employees.

(1D) Condition C is that, at 6th April 2015, the Real Time Information employer employs no more than 9 employees.]

(2) The information must be included in a return.

(3) Subject to paragraph (4), if relevant payments are made to more than one employee at the same time, the return under paragraph (2) must include the information required by Schedule A1 in respect of each employee to whom a relevant payment is made at that time.

(4) If relevant payments are made to more than one employee at the same time but the employer operates more than one payroll, the employer must make a return in respect of each payroll.

(5) The return is to be made using an approved method of electronic communications.

(6) .....

(7) .....

**F212** Words in reg. 67B(1) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2013 \(S.I. 2013/2300\)](#), regs. 1(1), **2(a)**

**F213** Words in reg. 67B(1) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **4(a)**

**F214** Reg. 67B(1A)-(1D) substituted for reg. 67B(1A) (6.4.2014) by The Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2014 (S.I. 2014/472), regs. 1(2), **4(b)**

**[<sup>F215</sup>Employees in respect of whom employer is not required to maintain deductions working sheets**

**67BA.**—(1) This regulation applies if an employer makes a relevant payment to an employee in respect of whom the employer is not required by regulation 66 (deductions working sheets) to maintain a deductions working sheet.

(2) The employer need not deliver the information required by regulation 67B(1) on or before making the payment.

(3) The employer must deliver that information no later than the end of the period of 7 days starting with the day following the day on which the payment is made.

**F215** Regs. 67BA-67BC inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **19**

**Employees paid in specified circumstances**

**67BB.**—(1) This regulation applies if an employer makes a payment to an employee and all of the circumstances in paragraph (2) apply.

(2) The circumstances are that—

(a) the payment includes an amount which is a relevant payment for work undertaken by the employee on—

(i) the day the payment is made, or

(ii) provided that the payment is made before the employee leaves the place of work at the end of the employee's period of work, the day before the payment is made,

(b) in respect of the work mentioned in sub-paragraph (a), it was not reasonably practicable for the employer to calculate the payment due before the completion of the work, and

(c) it is not reasonably practicable for the employer to deliver the information required by regulation 67B(1) on making the payment.

(3) The employer need not deliver the information required by regulation 67B(1) on or before making the payment.

(4) The employer must deliver that information no later than the end of the period of 7 days starting with the day following the day on which the payment is made.

**F215** Regs. 67BA-67BC inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **19**

**Regulations 67BA and 67BB: supplementary**

**67BC** Where regulation 67BA or 67BB applies, the information required by regulation 67B(1) in respect of the relevant payment may be included in a return with the information for any other relevant payment.]

**F215** Regs. 67BA-67BC inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **19**

### **Modification of the requirements of regulation 67B: notional payments**

**67C.**—(1) This regulation applies if an employer makes a relevant payment which is a notional payment (including a notional payment arising by virtue of a retrospective tax provision) to an employee.

[<sup>F216</sup>(2) If the employer is unable to comply with the requirements in regulation 67B(1) to deliver the information required by that regulation on or before making the relevant payment, the employer must instead deliver the information as soon as reasonably practicable after the payment is made and in any event no later than 14 days after the end of the tax month in which the payment is made.]

**F216** Reg. 67C(2) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **20**

### **[<sup>F217</sup>Notifications of relevant payments to and by providers of certain electronic payment methods**

**67CA.**—(1) A Real Time Information employer who makes a relevant payment using an approved method of electronic communications which falls to be included in a return under regulation 67B must—

- (a) generate a reference under paragraph (3) and include it in that return,
- (b) notify the service provider that the payment is a relevant payment, and
- (c) generate a sub-reference under paragraph (3) in respect of the relevant payment and notify the service provider of that sub-reference.

(2) A service provider who receives a notification under paragraph (1)(b) must notify HMRC of the information it holds that is required for generating a reference under paragraph (3) in relation to the relevant payment.

(3) A reference and sub-reference under this paragraph is to be generated using the method specified by the Commissioners for Her Majesty's Revenue and Customs in a direction.

(4) In paragraphs (1) and (2), “service provider” means the provider of the approved method of electronic communications using which the payment is made.

(5) For the purposes of paragraphs (1) and (4), an “approved method of electronic communications” is any method of electronic communications which has been approved for the purposes of regulation 199 (large employers required to make specified payments electronically).

(6) A direction under paragraph (3) may also—

- (a) specify circumstances in which paragraphs (1) and (2) are not to apply, and
- (b) specify the form and manner of the notifications required by paragraphs (1)(b) and (c) and (2).]

**F217** Reg. 67CA inserted (9.8.2012 with effect in relation to relevant payments made on and after 1.9.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/1895\)](#), regs. 1, **2**



**Exceptions to regulation 67B**

**67D.**—(1) This regulation applies to—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a),
- (c) a company, if all the directors and the company secretary fall within sub-paragraph (a), ...
- (d) a care and support employer [F218], and
- (e) an employer to whom a direction has been given under paragraph (11)] ,

[F219]but this is subject to paragraph (2B).]

(2) A Real Time Information employer to whom this regulation applies may proceed in accordance this regulation instead of regulation 67B.

[ F220(2A) Before 6th April 2014, a Real Time Information employer to whom this regulation applies may proceed as if the employer were a non-Real Time Information employer and the provisions of these Regulations apply accordingly to such an employer.]

[ F221(2B) This regulation does not apply if a Real Time Information employer within paragraph (1) makes a return using an approved method of electronic communications.]

(3) [F222]On and after 6th April 2014, a] Real Time Information employer must deliver to HMRC the information specified in Schedule A1 in respect of each employee to whom relevant payments are made in a tax [F223]quarter] unless the employer is not required by regulation 66 (deductions working sheets) to maintain a deductions working sheet for any employees and, for the purposes of this regulation, references in Schedule A1 to a relevant payment shall be read as if they were references to all the relevant payments made to the employee in the tax [F223]quarter].

(4) The information must be included in a return.

(5) The return required under paragraph (4) must be delivered within 14 days after the end of the tax [F224]quarter] the return relates to.

(6) If relevant payments have been made to more than one employee in the tax [F225]quarter], the return under paragraph (4) must include the information required by Schedule A1 in respect of each employee to whom a relevant payment has been made.

(7) .....

(8) .....

(9) In paragraph (1)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

(10) In paragraph (1)(d), “a care and support employer” means an individual (“the employer”) who employs a person to provide domestic or personal services at or from the employer’s home where—

- (a) the services are provided to the employer or a member of the employer’s family,
- (b) the recipient of the services has a physical or mental disability, or is elderly or infirm, and
- (c) it is the employer who delivers the return (and not some other person on the employer’s behalf).

[ F226(11) Where the Commissioners for Her Majesty’s Revenue and Customs are satisfied that—

- (a) it is not reasonably practicable for an employer to make a return using an approved method of electronic communication, and
- (b) it is the employer who delivers the return (and not some other person on the employer's behalf)

they may make a direction specifying that the employer is not required to make a return using an approved method of electronic communication.]

- F218** Reg. 67D(1)(e) and word inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **21(a)(ii)**
- F219** Words in reg. 67D(1)(e) inserted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **5(a)**
- F220** Reg. 67D(2A) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **21(b)**
- F221** Reg. 67D(2B) inserted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **5(b)**
- F222** Words in reg. 67D(3) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **21(c)**
- F223** Word in reg. 67D(3) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **5(c)**
- F224** Word in reg. 67D(5) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **5(c)**
- F225** Word in reg. 67D(6) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **5(c)**
- F226** Reg. 67D(11) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **21(e)**

### Returns under regulations 67B and 67D: amendments

**67E.**—(1) This regulation applies where [<sup>F227</sup>there is an inaccuracy in a return] made under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) [<sup>F228</sup>, whether careless or deliberate,] and paragraph (2), (3) or (4) applies.

(2) This paragraph applies where the [<sup>F229</sup>inaccuracy] relates to the information given in the return in respect of an employee under paragraph 16 [<sup>F230</sup>, 16A] or 17 of Schedule A1 (real time returns).

(3) This paragraph applies where the [<sup>F229</sup>inaccuracy] was the omission of details of a relevant payment to an employee.

(4) This paragraph applies where the [<sup>F231</sup>inaccuracy] arises because, as a result of a retrospective tax provision, the total amount of the relevant payments made by an employer to an employee increases for any tax year in which the employer was a Real Time Information employer.

[<sup>F232</sup>(5) Where an employer becomes aware of an inaccuracy in a return submitted under regulation 67B or 67D, the employer must provide the correct information in the next return for the tax year in question.]

(6) But if the information has not been corrected before 20th April following the end of the tax year in question, the employer must make a return under this paragraph.

(7) A return under paragraph (6)—

- (a) must include the following—
  - (i) the information specified in paragraphs 2 to 4, 8 to <sup>F233</sup>13, 15 and 22A] of Schedule A1,
  - (ii) .....
  - (iii) [<sup>F234</sup>if the return relates to the tax year 2017-18 or to an earlier tax year,] the value of the adjustment to the information given under paragraphs 16 [<sup>F235</sup>, 16A] or 17 of Schedule A1 in the final return under regulation 67B or 67D containing information in respect of the employee in the tax year in question,
    - [ if the return relates to the tax year 2020-21 or a subsequent tax year, the amount
    - <sup>F236</sup>(iiia) which should have been given under paragraphs 16, 16A or 17 of Schedule A1 in the final return under regulation 67B or 67D containing information in respect of the employee in the tax year in question,
    - (iiib) if the return relates to the tax year 2018-19 or 2019-20—
      - (aa) the value of the adjustment to the information given under, or
      - (bb) the amount which should have been given under, paragraphs 16, 16A or 17 of Schedule A1 in the final return under regulation 67B or 67D containing information in respect of the employee in the tax year in question,]
      - <sup>F237</sup>(iv) the tax code used by the employer in respect of the employee in the tax year in question and,]
      - (v) if paragraph (8) applies, the information specified in paragraphs 36 to [<sup>F238</sup>43] of Schedule A1,
  - (b) must be made as soon as reasonably practicable after the [<sup>F239</sup>employer becomes aware of the inaccuracy], and
  - (c) must be made by an approved method of electronic communications.
- (8) This paragraph applies if—
  - (a) the [<sup>F240</sup>inaccuracy] is within paragraph (3),
  - (b) the relevant payment was the first relevant payment to the employee in the employment, and
  - (c) the information specified in paragraphs 36 to [<sup>F241</sup>43] of Schedule A1 has not otherwise been provided.
- (9) In the application of paragraphs (6) and (7) to cases within paragraph (3), if no information was given in any returns under regulation 67B or 67D in respect of the employee in the tax year, the value of the adjustments required [<sup>F242</sup>by paragraph (7)(a)(iii) or (iiib)] must be calculated as if there was a final return containing information for the employee in the year and the figure requiring adjustment was zero.
- (10) Paragraph (7)(c) does not apply if the employer is one to whom regulation 67D applies.

**F227** Words in reg. 67E(1) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **6(a)(i)**

**F228** Words in reg. 67E(1) inserted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **6(a)(ii)**

**F229** Word in reg. 67E(2)(3) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **6(b)**

- F230** Word in reg. 67E(2) inserted (6.4.2021) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2021 (S.I. 2021/218), regs. 1, **3(a)**
- F231** Word in reg. 67E(4) substituted (6.4.2014) by The Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2014 (S.I. 2014/472), regs. 1(2), **6(b)**
- F232** Reg. 67E(5) substituted (6.4.2014) by The Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2014 (S.I. 2014/472), regs. 1(2), **6(c)**
- F233** Words in reg. 67E(7)(a)(i) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **22(a)**
- F234** Words in reg. 67E(7)(a)(iii) inserted (6.4.2021) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2021 (S.I. 2021/218), regs. 1, **3(b)**
- F235** Word in reg. 67E(7)(a)(iii) inserted (6.4.2021) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2021 (S.I. 2021/218), regs. 1, **3(a)**
- F236** Reg. 67E(7)(a)(iii)(iib) inserted (6.4.2021) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2021 (S.I. 2021/218), regs. 1, **3(c)**
- F237** Reg. 67E(7)(a)(iv) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **22(c)**
- F238** Words in reg. 67E(7)(a)(v) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **22(d)**
- F239** Words in reg. 67E(7)(b) substituted (6.4.2014) by The Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2014 (S.I. 2014/472), regs. 1(2), **6(d)**
- F240** Word in reg. 67E(8)(a) substituted (6.4.2014) by The Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2014 (S.I. 2014/472), regs. 1(2), **6(b)**
- F241** Words in reg. 67E(8)(c) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **22(d)**
- F242** Words in reg. 67E(9) inserted (6.4.2021) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2021 (S.I. 2021/218), regs. 1, **3(d)**

### **[<sup>F243</sup>Failure to make a return under regulation 67B or 67D**

**67EA.**—(1) This regulation applies where an employer does not make a return as required by regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B).

(2) The employer must provide the information in the next return made under regulation 67B or 67D for the tax year in question.

(3) If the information has not been provided before 20th April following the end of the tax year in question, the employer must make a return under this paragraph.

(4) A return under paragraph (3) must—

- (a) include the information specified in Schedule A1,
- (b) be made as soon as reasonably practicable after the discovery of the failure to make the return, and
- (c) be made using an approved method of electronic communications.

(5) If a return under paragraph (3) is not made before 20th May following the end of the tax year in question section 98A of TMA 1970 (special penalties in case of certain returns) will apply to the return [<sup>F244</sup>, but this paragraph does not apply to a return in respect of the tax year 2014-15 or a subsequent tax year].]

**F243** Reg. 67EA inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **23**

**F244** Words in reg. 67EA(5) inserted (10.9.2014) by [The Finance Act 2009, Schedule 55 \(Penalties for failure to make returns\) \(Appointed Days and Consequential Provision\) Order 2014 \(S.I. 2014/2395\)](#), art. 3

**Additional information about payments**

- 67F.**—(1) A Real Time Information employer may send to HMRC a notification if—
- (a) for a tax period, the employer was not required to make any returns in accordance with regulation 67B or 67D because no relevant payments were made during the tax period, or
  - (b) the employer has sent the final return under regulation 67B or 67D that the employer expects to make—
    - (i) in the circumstances described in paragraph 5 of Schedule A1 (real time returns), or
    - (ii) for the tax year.
- (2) A notification under paragraph (1)(b) must—
- (a) .....
  - (b) be sent within 14 days of the end of final tax period of the tax year.
- [ if the notification is under paragraph (1)(b)(i), include the date on which the PAYE scheme <sup>F245</sup>(c) ceased]
- (3) A notification under this regulation must—
- (a) state—
    - (i) the tax year to which it relates,
    - (ii) the employer’s HMRC office number,
    - (iii) the employer’s PAYE reference, and
    - (iv) the employer’s accounts office reference, and
  - (b) be sent using an approved method of electronic communications unless the employer is one to whom regulation 67D applies.
- [ <sup>F246</sup>(4) This regulation applies in addition to the provisions set out in regulation 147D (duty to report amount of apprenticeship levy to be paid).]

**F245** Reg. 67F(2)(c) inserted (with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **24**

**F246** Reg. 67F(4) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(4)**

*Payment and recovery of tax by employer*

**Payments to and recoveries from HMRC for each tax period by Real Time Information employers**

**67G.**—(1) For each tax period, a Real Time Information employer must pay to, or may recover from, HMRC the amount arrived at under the formula in paragraph (4).

(2) If the amount arrived at under the formula in paragraph (4) is a positive amount, the employer must pay the excess to HMRC.

(3) If the amount arrived at under the formula in paragraph (4) is a negative amount, the employer may recover that amount either—

- (a) by deducting it from the amount which the employer is liable to pay under paragraph (2) for a later period in the tax year, or
- (b) from the Commissioners for Her Majesty's Revenue and Customs.

[  
F247(3A) Where a return for a tax period contains a correction under regulation 67E(5) (returns under regulations 67B and 67D: amendments)) and paragraph (3) of this regulation applies, the negative amount is treated as having been paid to HMRC—

- (a) 17 days after the end of the tax period in respect of which that return is delivered, where payment is made using an approved method of electronic communications, or
- (b) 14 days after the end of the tax period in respect of which that return is delivered, in any other case.]

(4) The formula in this paragraph is

A–B

, where—

A is the sum total of the relevant amounts for each of the employer's employees, and

B is amount A for the previous tax period in the tax year, if any.

(5) For the purposes of paragraph (4), a “relevant amount” is the amount shown under paragraph 17 of Schedule A1 (real time returns) for an employee in the most recent return made in the tax year by the employer under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) which contains information about that employee.

[  
F248(5A) If the employer makes a return under regulation 67EA(3) (failure to make a return under regulation 67B or 67D) a “relevant amount” for the purposes of paragraph (4) is the amount shown under paragraph 17 of Schedule A1 (real time returns) for an employee in that return for the tax year to which that return relates.]

(6) In paragraph (5) “the most recent return” means the return which, as at the end of the tax period, contains the most up to date information under paragraph 17 of Schedule A1 about the employee.

(7) This regulation is subject to regulations 67H (payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under regulation 67E(6)), 71 (modification of regulations 67G and 68 in case of trade dispute) and 75B (certificates under regulation 75A: excess payments).

**F247** Reg. 67G(3A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2014 \(S.I. 2014/1017\)](#), regs. 1(1), **2(a)**

**F248** Reg. 67G(5A) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **25**

### **Payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under regulation 67E(6)**

**67H.**—(1) This regulation applies if, during any tax period, an employer makes a return under regulation 67E(6) (returns under regulations 67B and 67D: amendments) other than by virtue of regulation 67E(4).

[<sup>F249</sup>(2) If the return shows—

- (a) an adjustment under regulation 67E(7)(a)(iii) or (iiib), or
- (b) an adjustment to the amount originally given under paragraph 17 of Schedule A1,

and the value of the adjustment is a positive amount, that amount is an amount due to be paid to HMRC for the final tax period of the tax year the return relates to.]

(3) [<sup>F250</sup>If the return shows such an adjustment and the value of the adjustment is a negative amount, that amount is an amount due to be repaid to the employer for the final tax period of the tax year the return relates to and], the employer may recover that amount—

- (a) by setting it off against the amount the employer is liable to pay under regulation 67G for the tax period the return was made in, or
- (b) from the Commissioners for Her Majesty's Revenue and Customs.

[<sup>F251</sup>(4) Where the value of the adjustment is a negative amount, that amount is treated as having been paid to HMRC—

- (a) 17 days after the end of the final tax period of the tax year the return relates to, if payment is made using an approved method of electronic communications, or
- (b) 14 days after the end of the final tax period of the tax year the return relates to, in any other case.]]

**F249** Reg. 67H(2) substituted (6.4.2021) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2021 \(S.I. 2021/218\)](#), regs. 1, 4

**F250** Words in reg. 67H(3) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **26(b)**

**F251** Reg. 67H(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2014 \(S.I. 2014/1017\)](#), regs. 1(1), **2(b)**

### *[<sup>F252</sup>Penalties under Schedule 55 to the Finance Act 2009*

**F252** [Regs. 67I-67K](#) and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2014 \(S.I. 2014/2396\)](#), regs. 1(1), **2**

### **Penalty: failure to comply with regulation 67B or 67D**

**67I.**—(1) For the purposes of paragraph 6C of Schedule 55 to the Finance Act 2009 (amount of penalty: real time information for PAYE), a Real Time Information employer which fails to deliver a return falling within item 4 in the Table in paragraph 1 of that Schedule in accordance with—

- (a) regulation 67B (real time returns of information about relevant payments);
- (b) regulation 67BA (employees in respect of whom employer is not required to maintain a deductions working sheet);



- (c) regulation 67BB (employees paid in specific circumstances);
- (d) regulation 67C (modification of the requirements of regulation 67B: notional payments);  
or
- (e) regulation 67D (exceptions to regulation 67B)

as the case may be, is liable to a penalty of the amount set out in paragraph (2).

(2) Where a Real Time Information employer fails to deliver such a return and the number of persons employed in the period to which the return relates is—

- (a) no more than 9, the penalty is £100;
- (b) at least 10 but no more than 49, the penalty is £200;
- (c) at least 50 but no more than 249, the penalty is £300; and
- (d) at least 250, the penalty is £400.

**Penalty: initial period**

**67J.** For the purposes of paragraph 6C(3), (4) and (5) of Schedule 55 to the Finance Act 2009 (initial period), the duration of the initial period is thirty days.

**Penalty: first failure to deliver a return in a tax year**

**67K.**—(1) Paragraph 6C(4) of Schedule 55 to the Finance Act 2009 (unpenalised default) does not apply to any failure to deliver a return falling within item 4 in the Table in paragraph 1 of that Schedule in accordance with regulation 67B, regulation 67BA, regulation 67BB, regulation 67C or regulation 67D, as the case may be,—

- (a) by a small existing Real Time Information employer or a new Real Time Information employer in the period 6th March 2015 to 5th April 2015; or
- (b) for any tax year for which a Real Time Information employer operates an annual PAYE Scheme.

(2) For the purposes of paragraph (1)(a)—

- (a) an employer is a small existing Real Time Information employer if at 6th October 2014 that employer employed no more than 49 employees; and
- (b) an employer is a new Real Time Information employer if it is issued with an employer's PAYE reference after 6th October 2014.

(3) For the purposes of paragraph (1)(b), a Real Time Information employer operates an annual PAYE Scheme for a tax year if for that year—

- (a) all the employees are paid annually;
- (b) all the employees are paid on the same date; and
- (c) the Real Time Information employer is only required under regulation 69 (due date and receipts for payment of tax) to pay HMRC annually.]

F253 ...

**F253** Reg. 68 cross-heading omitted (6.4.2012) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **27(a)**



**[<sup>F254</sup>Periodic payments to and recoveries from HMRC: non-Real Time Information employers]**

**68.**—(1) This regulation applies to determine how much [<sup>F255</sup>a non-Real Time Information employer] must pay or can recover for a tax period.

(2) If A exceeds B, the employer must pay the excess to the Inland Revenue.

(3) But if B exceeds A, the employer may recover the excess either—

- (a) by deducting it from the amount which the employer is liable to pay under paragraph (2) for a later tax period in the tax year, or
- (b) from the Board of Inland Revenue.

(4) In this Regulation—

A is—

- (a) the total amount of tax which the employer was liable to deduct from relevant payments made by the employer in the tax period, plus
- (b) the total amount of tax for which the employer was liable to account in respect of notional payments made [<sup>F256</sup>or treated by virtue of a retrospective tax provision as made,] by the employer in that period under regulation 62(5) (notional payments);

B is the total amount which the employer was liable to repay in the tax period.

(5) Paragraphs (2) and (3) are subject to regulation 71 (modification in case of trade disputes).

(6) Paragraph (2) is also subject to regulation 78(11) (entitlement to set off excess payments).

[<sup>F257</sup>(7) In the application of paragraph (4) to notional payments arising by reason of the coming into force of the Finance Act 2006, the reference to section 710(7A)(a) of ITEPA 2003 shall be modified as mentioned in section 94(5)(c) of the Finance Act 2006.]

**F254** Reg. 68 heading substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **28**

**F255** Words in reg. 68(1) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **29**

**F256** Words in reg. 68(4)(b) inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **12(2)**

**F257** Reg. 68(7) added (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **12(3)**

**Due date and receipts for payment of tax**

**69.**—(1) An employer must pay amounts due under regulation [<sup>F258</sup>67G(2) [<sup>F259</sup>, as adjusted by regulation 67H(2) where appropriate,] or] 68(2)—

- (a) within 17 days after the end of the tax period, where payment is made by an approved method of electronic communications, or
- (b) within 14 days after the end of the tax period, in any other case.

[<sup>F260</sup>(1A) In paragraph (1), the reference to amounts due under regulation 67G(2) includes any amount the employer was liable to deduct from employees during the tax period whether or not that amount was included in any return under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B).]

(2) The Inland Revenue must give a receipt to the employer for the total amount paid under regulation [<sup>F258</sup>67G(2) [<sup>F259</sup>, as adjusted by regulation 67H(2) where appropriate,] or] 68(2) if asked.

(3) But no separate receipt for tax only need be given if a receipt is given for the total amount of tax and any earnings-related contributions (as defined by regulation 1(2) of [<sup>F261</sup>the SSC Regulations])(13) paid at the same time.

[<sup>F262</sup>(4) In paragraph (1) “the tax period”, in relation to an amount of retrospective employment income, means the tax period immediately following the relevant time.]

- F258** Words in reg. 69 inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **30**
- F259** Words in reg. 69(1)(2) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **27**
- F260** Reg. 69(1A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2014 \(S.I. 2014/1017\)](#), regs. 1(1), **2(e)**
- F261** Words in reg. 69(3) substituted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **13(2)**
- F262** Reg. 69(4) added (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **13(3)**

[<sup>F263</sup>**Circumstances in which payment of a lesser amount is to be treated as payment in full for the purposes of paragraph 6(2) of Schedule 56 to the Finance Act 2009**

**69A.**—(1) A payment that is less than the full amount due under regulation 67G(2) (payments to and recoveries from HMRC for each tax period), as adjusted by regulation 67H (payments due and recoveries from HMRC for each tax period: returns under regulation 67E(6)) where appropriate, will for the purposes of paragraph 6(2) of Schedule 56 to the Finance Act 2009 (amount of penalty: PAYE and CIS) be treated as payment of the full amount if the difference between the full amount and the amount paid is no more than £100 (“the tolerance”), but this is subject to paragraphs (2) and (3).

(2) Paragraph (1) does not apply where—

- (a) the payment relates to a return which is correcting information given in a return filed in respect of a relevant payment made in an earlier tax month, and
- (b) the return is delivered after 19th April following the end of the tax year in question.

(3) If the total sum paid by the employer to HMRC for the tax period includes not only the amount due under regulation 67G(2), as adjusted by regulation 67H where appropriate, but also one or more of—

- (a) any earnings-related contributions (as defined by regulation 1(2) of the SSC Regulations 2001),
- (b) any payment under regulation 7(1) of the Income Tax (Construction Industry Scheme) Regulations 2005, or
- (c) any repayment due under the Student Loans Regulations,

the tolerance is applied to the total sum paid to HMRC for the tax period to which the payments relate.]

- F263** Reg. 69A inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **7**

## Quarterly tax periods

- 70.—(1) This regulation applies, so that the tax period is a tax quarter, if an employer—
- (a) has reasonable grounds for believing that the average monthly amount will be less than £1,500, and
  - (b) chooses to pay tax quarterly.

[<sup>F264</sup>(1A) But this regulation does not apply, so that the tax period remains a month, in respect of amounts of retrospective employment income.]

(2) “The average monthly amount” is the average, for tax months falling within the current tax year, of the amounts found by the formula—

[<sup>F265</sup>(P + N + L + S) – (SP + CD)]

(3) In paragraph (2)—

P is the amount which would be payable to the Inland Revenue under regulation [<sup>F266</sup>67G [<sup>F267</sup>, as adjusted by regulation 67H(2) where appropriate,] or] 68 [<sup>F268</sup>but disregarding any amount payable in respect of retrospective employment income] ...;

N is the amount which would be payable to the Inland Revenue under the SSCBA and the SSC Regulations disregarding—

- (a) any amount of secondary Class 1 contributions in respect of which liability has been transferred to the employed earner by an election made jointly by the employed earner and the secondary contributor for the purposes of paragraph 3B(1) of Schedule 1 to the SSCBA (transfer of liability to be borne by earner)(**14**); ...
- (aa) [<sup>F269</sup>any amount payable under retrospective contributions regulations (see paragraph 1(2) of Schedule 4 to the SSC Regulations) in respect of retrospective earnings (within the meaning of those Regulations);]
- (c) ...

L is the amount which would be payable to the Inland Revenue under regulation [<sup>F270</sup>54(1) or, in Northern Ireland, 49(1)] of the Student Loans Regulations (payment of repayments deducted to the Inland Revenue) disregarding—

- (a) the reduction referred to in paragraph (3) of [<sup>F270</sup>those regulations], ...
- (b) ...

S is the amount which would be payable by the employer to the Inland Revenue under sections 559 and 559A of ICTA(**15**) (deduction on account of tax etc from payments to certain sub-contractors) and regulation 8 of the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993(**16**)...;

...

SP is the amount which would be payable by the employer to employees by way of statutory sick pay, statutory maternity pay, [<sup>F271</sup>statutory paternity pay][<sup>F272</sup>, statutory shared parental pay][<sup>F273</sup>, statutory adoption pay and statutory parental bereavement pay] under the SSCBA; and

CD is—

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(14) Paragraph 3B was inserted in Schedule 1 to the Social Security Contributions and Benefits Act 1992 (c. 4) by section 77(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19), and in Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) by section 81(2) of the Child Support, Pensions and Social Security Act 2000.

(15) Section 559 was amended by section 139 of, and paragraph 1 of Schedule 27 to, the Finance Act 1995 (c. 4), section 55(2) of the Finance Act 1998 (c. 36), Part 3(1) of Schedule 40 to the Finance Act 2002 (c. 23), paragraph 58 of Schedule 6 to ITEPA and by S.I. 1989/2405 (N.I. 19); section 559A was inserted by section 40(1) of the Finance Act 2002.

(16) S.I. 1993/743.

- (a) if the employer is a company, the amount which others would deduct from payments to it, in its position as a sub-contractor, under section 559 of ICTA (deduction on account of tax etc from payments to certain sub-contractors);
  - (b) in any other case, nil.
- (4) In this regulation—
- “employed earner” has the same meaning as in the SSCBA;
- “SSCBA” means the Social Security Contributions and Benefits Act 1992(17) or, in Northern Ireland, the Social Security Contribution and Benefits (Northern Ireland) Act 1992(18);
- ...
- ...
- ...
- ...

<p><b>F264</b> Reg. 70(1A) inserted (6.4.2007) by <a href="#">The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077)</a>, regs. 1, <b>14(2)</b></p> <p><b>F265</b> Formula in reg. 70(2) substituted (6.4.2006) by <a href="#">The Income Tax (Pay As You Earn, etc.), (Amendment) Regulations 2006 (S.I. 2006/777)</a>, regs. 1(1), <b>3(a)</b></p> <p><b>F266</b> Words in reg. 70(3) inserted (6.4.2012) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)</a>, regs. 1(1), <b>31</b></p> <p><b>F267</b> Words in reg. 70(3) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521)</a>, regs. 1(2), <b>28</b></p> <p><b>F268</b> Words in reg. 70(3) inserted (6.4.2007) by <a href="#">The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077)</a>, regs. 1, <b>14(3)(a)</b></p> <p><b>F269</b> Words in reg. 70(3) inserted (6.4.2007) by <a href="#">The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077)</a>, regs. 1, <b>14(3)(b)</b></p> <p><b>F270</b> Words in reg. 70(3) substituted (6.4.2012) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)</a>, regs. 1(1), <b>63</b></p> <p><b>F271</b> Words in reg. 70(3) substituted (5.4.2015) by <a href="#">The Statutory Shared Parental Pay (Miscellaneous Amendments) Regulations 2015 (S.I. 2015/125)</a>, regs. 1(3), <b>3(a)</b> (with reg. 6)</p> <p><b>F272</b> Words in reg. 70(3) inserted (26.2.2015) by <a href="#">The Statutory Shared Parental Pay (Miscellaneous Amendments) Regulations 2015 (S.I. 2015/125)</a>, regs. 1(2), <b>3(b)</b>, 5 (with reg. 6)</p> <p><b>F273</b> Words in reg. 70(3) substituted (6.4.2020) by <a href="#">The Statutory Parental Bereavement Pay (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/240)</a>, regs. 1, <b>3(2)</b></p>
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**Modification of [F274 regulations 67G and 68] in case of trade dispute**

- 71.—(1) This regulation modifies the amount payable or recoverable by an employer under [F275 regulations 67G and 68] in cases where regulation 64 (trade disputes) applies—
- (a) by providing for the amount which would otherwise be payable by the employer for a tax period to be reduced by an amount of repayments (“R”) that cannot be made to employees in the tax period, and
  - (b) by providing—
    - (i) for amounts which would otherwise be payable in later tax periods to be increased, or
    - (ii) for amounts which would otherwise be recoverable in later tax periods to be reduced,

(17) 1992 c. 4.  
(18) 1992 c. 7.

by a total of R.

(2) This regulation applies for consecutive tax periods—

- (a) starting with the first tax period at the end of which there is an amount calculated as due to be repaid but which is required to be withheld by regulation 64(5) (tax to be withheld during strike action), and
- (b) ending with the next tax period at the end of which no amount is required to be withheld by that regulation.

(3) Column 3 of Table 3 shows the amount payable under regulation [F276]67G(2) [F277], as adjusted by regulation 67H(2) where appropriate,] or, as the case may be,] 68(2) in the cases set out in column 2 for the first and subsequent tax periods.

**Table 3**

Modified amount payable under regulation [F278]67G or] 68

<i>1. Tax period</i>	<i>2. Case</i>	<i>3. Amount payable</i>
First tax period	if B equals or exceeds A	nil
First tax period	any other case	A – B, reduced by P (or by so much of P as reduces the amount payable to nil)
Subsequent tax periods	if B equals or exceeds (A + Q)	nil
Subsequent tax periods	any other case	(A + Q) – B, reduced by P (or by so much of P as reduces the amount payable to nil).

(4) The amount (if any) recoverable under regulation [F279]67G [F280], as adjusted by regulation 67H(2) where appropriate,] or, as the case may be,] 68(3) must be reduced to the extent that it includes amounts—

- (a) for which reduction was made under paragraph (3) in an earlier tax period, or
- (b) which are otherwise being recovered.

(5) In this regulation—

A is—

- (a) the total amount of tax which the employer was liable to deduct from relevant payments made by the employer in the tax period, plus
- (b) the total amount of tax for which the employer was liable to account in respect of notional payments made by the employer in that period under regulation 62(5) (notional payments);

B is the total amount which the employer is liable to repay in the tax period, not including any amounts—

- (a) for which a reduction was made under paragraph (3) in an earlier tax period; or
- (b) which are being recovered under paragraph (4);

P is the total of amounts calculated as due to be repaid in the tax period but required to be withheld during that tax period by regulation 64(5);

Q is the total of amounts—

- (a) which, because of regulation 64(5)(b), are set off against tax due to be deducted in the tax period, and
- (b) which also, under paragraph (3), have reduced the amount payable in an earlier tax period.

- F274** Words in reg. 71 heading substituted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **32**
- F275** Words in reg. 71(1) substituted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **33(a)**
- F276** Words in reg. 71(3) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **33(b)(i)**
- F277** Words in reg. 71(3) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **29(a)**
- F278** Words in reg. 71(3) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **33(b)(ii)**
- F279** Words in reg. 71(4) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **33(c)**
- F280** Words in reg. 71(4) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(2), **29(b)**

### Recovery from employee of tax not deducted by employer

**72.**—(1) This regulation applies if—

- (a) it appears to the Inland Revenue that the deductible amount exceeds the amount actually deducted, and
- (b) condition A or B is met.

(2) In this regulation [<sup>F281</sup>and regulations 72A and 72B]—

“the deductible amount” is the amount which an employer was liable to deduct from relevant payments made to an employee in a tax period;

“the amount actually deducted” is the amount actually deducted by the employer from relevant payments made to that employee during that tax period;

“the excess” means the amount by which the deductible amount exceeds the amount actually deducted.

(3) Condition A is that the employer satisfies the Inland Revenue—

- (a) that the employer took reasonable care to comply with these Regulations, and
- (b) that the failure to deduct the excess was due to an error made in good faith.

(4) Condition B is that the Inland Revenue are of the opinion that the employee has received relevant payments knowing that the employer wilfully failed to deduct the amount of tax which should have been deducted from those payments.

(5) The Inland Revenue may direct that the employer is not liable to pay the excess to the Inland Revenue.

[<sup>F282</sup>(5A) Any direction under paragraph (5) must be made by notice (“the direction notice”), stating the date the notice was issued, to—

- (a) the employer and the employee if condition A is met;
- (b) the employee if condition B is met.

(5B) A notice need not be issued to the employee under paragraph (5A)(a) if neither the Inland Revenue nor the employer are aware of the employee’s address or last known address.]

(6) If a direction is made, the excess must not be added under regulation 185(5) or 188(3)(a) (adjustments to total net tax deducted for self-assessments and other assessments) in relation to the employee.

(7) If condition B is met, tax payable by an employee as a result of a direction carries interest, as if it were unpaid tax due from an employer, in accordance with [<sup>F283</sup>section 101 of the Finance Act 2009].

(8) .....

**F281** Words in reg. 72(2) inserted (12.4.2004) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2004 (S.I. 2004/851), regs. 1, **3(2)**

**F282** Reg. 72(5A)(5B) inserted (12.4.2004) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2004 (S.I. 2004/851), regs. 1, **3(3)**

**F283** Words in reg. 72(7) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014 (S.I. 2014/992), arts. 1(1), **9(3)(a)**

#### <sup>F284</sup>**Employer’s request for a direction and appeal against refusal**

**72A.**—(1) In relation to condition A in regulation 72(3), the employer may by notice to the Inland Revenue (“the notice of request”) request that the Inland Revenue make a direction under regulation 72(5).

(2) The notice of request must—

(a) state—

- (i) how the employer took reasonable care to comply with these Regulations; and
- (ii) how the error resulting in the failure to deduct the excess occurred;

(b) specify the relevant payments to which the request relates;

(c) specify the employee or employees to whom those relevant payments were made; and

(d) state the excess in relation to each employee.

(3) The Inland Revenue may refuse the employer’s request under paragraph (1) by notice to the employer (“the refusal notice”) stating—

(a) the grounds for the refusal, and

(b) the date on which the refusal notice was issued.

(4) The employer may appeal against the refusal notice—

(a) by notice to the Inland Revenue,

(b) within 30 days of the issue of the refusal notice,

(c) specifying the grounds of the appeal.

(5) For the purpose of paragraph (4) the grounds of appeal are that—

(a) the employer did take reasonable care to comply with these Regulations, and

(b) the failure to deduct the excess was due to an error made in good faith.

(6) If on appeal under paragraph (4) [<sup>F285</sup>that is notified to the tribunal] it appears to the [<sup>F286</sup>tribunal] that the refusal notice should not have been issued [<sup>F287</sup>the tribunal] may direct that the



Inland Revenue make a direction under regulation 72(5) in an amount the [<sup>F288</sup>tribunal determines] is the excess for one or more tax periods falling within the relevant tax year.

- F284** Regs. 72A-72D inserted (12.4.2004) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2004 \(S.I. 2004/851\)](#), regs. 1, 4
- F285** Words in reg. 72A(6) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 96(2)**
- F286** Word in reg. 72A(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 96(3)**
- F287** Words in reg. 72A(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 96(4)**
- F288** Words in reg. 72A(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 96(5)**

### Employee's appeal against a direction notice where condition A is met

- 72B.**—(1) An employee may appeal against a direction notice under regulation 72(5A)(a)—
- (a) by notice to the Inland Revenue,
  - (b) within 30 days of the issue of the direction notice,
  - (c) specifying the grounds of the appeal
- (2) For the purpose of paragraph (1) the grounds of appeal are that—
- (a) the employer did not act in good faith,
  - (b) the employer did not take reasonable care, or
  - (c) the excess is incorrect.
- (3) On an appeal under paragraph (1) [<sup>F289</sup>that is notified to the tribunal, the tribunal] may—
- (a) if it appears ... that the direction notice should not have been made, set aside the direction notice; or
  - (b) if it appears ... that the excess specified in the direction notice is incorrect, increase or reduce the excess specified in the notice accordingly.

- F284** Regs. 72A-72D inserted (12.4.2004) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2004 \(S.I. 2004/851\)](#), regs. 1, 4
- F289** Words in reg. 72B(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 97(2)**

### Employee's appeal against a direction notice where condition B is met

- 72C.**—(1) An employee may appeal against a direction notice under regulation 72(5A)(b)—
- (a) by notice to the Inland Revenue,
  - (b) within 30 days of the issue of the direction notice,
  - (c) specifying the grounds of the appeal.
- (2) For the purpose of paragraph (1) the grounds of appeal are that—
- (a) the employee did not receive the payments knowing that the employer wilfully failed to deduct the amount of tax which should have been deducted from those payments, or
  - (b) the excess is incorrect.



*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)*

- (3) On an appeal under paragraph (1) [<sup>F290</sup>that is notified to the tribunal, the tribunal] may—
  - (a) if it appears ... that the direction notice should not have been made, set aside the direction notice; or
  - (b) if it appears ... that the excess specified in the direction notice is incorrect, increase or reduce the excess specified in the notice accordingly.

**F284** Regs. 72A-72D inserted (12.4.2004) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2004 \(S.I. 2004/851\)](#), regs. 1, 4

**F290** Words in reg. 72C(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 98(2)**

**Appeals: supplementary provisions**

**72D.**—(1) This regulation applies to appeals under regulations 72A(4), 72B, [<sup>F291</sup>72C, 72G and 81A].

- (2) .....
- (3) .....

(4) [<sup>F292</sup>This paragraph applies if] in respect of the same error by an employer in relation to condition A in regulation 72(3)—

- (a) more than one employee is appealing under regulation 72B; or
- (b) there is an appeal by an employer under regulation 72A(4) and by an employee under regulation 72B

...

- (5) .....
- (6) .....
- (7) .....

[<sup>F293</sup>(8) Where paragraph (4) applies or the appeal is material to the liability to tax of the employer and the employee, all the persons concerned are entitled to be parties to the appeal.]

- (9) .....]

**F284** Regs. 72A-72D inserted (12.4.2004) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2004 \(S.I. 2004/851\)](#), regs. 1, 4

**F291** Words in 72D(1) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, 6

**F292** Words in reg. 72D(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 99(3)(a)**

**F293** Reg. 72D(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 99(4)**

**[<sup>F294</sup>Conditions where regulation 72F applies**

**72E.**—(1) Regulation 72F applies where—

- (a) [<sup>F295</sup>one or more employees have] received a relevant payment;
- (b) it appears to HMRC that an amount intended to represent tax on the payment—
  - [<sup>F296</sup>(i) is likely to have been self-assessed by one or more of the employees, or]

- (ii) has not been self-assessed, but has been paid under section 59A TMA (payments on account of income tax), section 559A of ICTA (treatment of sums deducted under s.559 (sub-contractors)) or section 62 of the Finance Act 2004 (treatment of sums deducted (sub-contractors));
  - (c) any of conditions A, B and C is met;
  - (d) a trigger event has occurred; and
  - (e) a trigger event did not occur before 6th April 2008.
- (2) Condition A is that it appears to HMRC that the amount which the employer was liable to deduct—
- (a) from the relevant payment; or
  - (b) in the case of a notional payment, from other relevant payments,
- exceeds the amount actually deducted.
- (3) Condition B is that it appears to HMRC that the amount for which the employer was required to account under regulation 62(5) (notional payments) in respect of the relevant payment exceeds the amount actually accounted for.
- (4) Condition C is that—
- (a) tax on the relevant payment was included in a determination under regulation 80 (determination of unpaid tax and appeal against determination); and
  - (b) the full amount of the determination is not paid within 30 days from the date on which the determination became final and conclusive.
- (5) The following are trigger events—
- (a) HMRC serve notice of a determination under regulation 80 that includes tax on the relevant payment;
  - (b) HMRC receive a return under section 8 of TMA (personal return) which includes a self-assessment which includes tax on the relevant payment as tax treated as deducted;
  - (c) HMRC receive—
    - (i) an amended return under section 9ZA of TMA (amendment of personal or trustee return by taxpayer), or
    - (ii) a claim under section 33 of TMA (error or mistake),which includes tax on the relevant payment as tax treated as deducted;
  - (d) HMRC receive a letter of offer.
- (6) In paragraph (5)—
- “letter of offer” means an offer in writing by the employer to agree an amount in settlement of the employer’s liability to pay an amount that includes tax on the relevant payment;
- “tax treated as deducted” has the meaning given by regulation 185(6).
- (7) For the purposes of this regulation tax is self-assessed if—
- (a) it is included in a return under section 8 of TMA which includes a self-assessment; and
  - (b) ignoring any relevant credit, the tax is or would be assessed as payable by way of income tax.
- (8) In paragraph (7), “relevant credit” means—
- (a) a payment made under section 59A of TMA (payments on account of income tax) or 59B (payment of income tax and capital gains tax); or

- (b) tax deducted at source or tax treated as deducted (within the meaning given by regulation 185(6)).

- F294** Regs. 72E-72G inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, 7
- F295** Words in reg. 72E(1)(a) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **8(a)**
- F296** Reg. 72E(1)(b)(i) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **8(b)**

### Recovery from employee of tax that has been self-assessed etc.

**72F.**—(1) Where this regulation applies, HMRC may direct that the employer is not liable to pay an amount of tax to them.

(2) The direction may be in respect of one or more amounts that appear to HMRC to fall within regulation 72E(1)(b)(i) and (ii).

(3) A direction must be made by notice to both the employer and the employee, stating—

(a) the date the notice was issued;

[<sup>F297</sup>(b) the—

(i) amount (or amounts) within regulation 72E(1)(b) to which it relates, or

(ii) employment in respect of which the relevant payment within regulation 72E(1)(a) was received and in respect of which the amount within regulation 72E(1)(b)(i) is likely to have been self-assessed, and]

(c) which of conditions A, B and C in regulation 72E have been met.

(4) A direction may be combined with one or more other directions relating to the same employer and may be made by issuing one notice to the employer, but each employee must be issued with a separate notice.

(5) A notice need not be issued to the employee if neither HMRC nor the employer are aware of the employee's address or last known address.

(6) The amount specified in a notice to the employee must not be added under regulation 185(5) or 188(3)(a) (adjustments to total net tax deducted for self-assessments and other assessments) in relation to the employee.

- F294** Regs. 72E-72G inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, 7
- F297** Reg. 72F(3)(b) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **9**

### Employee's appeal against a direction notice

**72G.**—(1) An employee may appeal against a direction notice under regulation 72F—

(a) by notice to HMRC,

(b) within 30 days of the issue of the direction notice,

(c) specifying the grounds of the appeal.

(2) For the purposes of paragraph (1) the grounds of appeal are that—

(a) the employee did not receive a relevant payment;

- (b) the amount specified in the notice is incorrect, because all or part of it did not fall within regulation 72E(1)(b)(i) or (ii);
  - (c) no trigger event within regulation 72E(5) occurred; or
  - (d) a trigger event within regulation 72E(5) occurred before 6th April 2008.
- (3) On an appeal under paragraph (1) [<sup>F298</sup>that is notified to the tribunal, the tribunal] may—
- (a) if it appears ... that the direction should not have been made, set aside the direction; or
  - (b) if it appears ... that the amount specified in the notice is incorrect, increase or reduce the amount accordingly.]

**F294** Regs. 72E-72G inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, 7

**F298** Words in reg. 72G(3) substituted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 100(2)**

#### *Annual returns of relevant payments and tax*

#### <sup>F299</sup>**Application of regulations 73 to 75**

**72H.** Regulations 73 to 75 apply to—

- (a) non-Real Time Information employers,
- (b) Real Time Information employers in relation to tax years in which they were, for the whole of the tax year, non-Real Time Information employers, and
- (c) Real Time Information employers to whom HMRC has given a notice requiring a return under regulation 73 in respect of a tax year.]

**F299** [Reg. 72H](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **34**

#### **Annual return of relevant payments liable to deduction of tax (Forms P35 and P14)**

**73.**—(1) Before 20th May following the end of a tax year, an employer must deliver to the Inland Revenue a return containing the following information.

- (2) The information is—
- (a) the tax year to which the return relates,
  - (b) the total amount of the relevant payments made by the employer during the tax year to all employees in respect of whom the employer was required at any time during that year to prepare or maintain deductions working sheets, and
  - (c) the total net tax deducted in relation to those payments.
- (3) The return must be supported by the following information in respect of each of the employees mentioned in paragraph (2)(b).
- (4) The supporting information is—
- (a) the employee's name,
  - (b) the employee's address, if known,
  - (c) either—
    - (i) the employee's national insurance number, or

- (ii) if that number is not known, the employee's date of birth, if known, and sex,
  - (d) the employee's code,
  - (e) the tax year to which the return relates,
  - (f) the total amount of the relevant payments made by the employer to the employee during that tax year, and
  - (g) the total net tax deducted in relation to those payments.
- (5) Paragraphs (2)(c) and (4)(g) are subject to regulation 64(7) (trade disputes).
- (6) If an employee was taken into employment after the beginning of the tax year, the employer must also provide the total amounts of—
- (a) any amounts required by regulation 43(9), 52(11), 53(3) or 61(3) to be treated as relevant payments made by the employer to the employee during the tax year,
  - (b) any amounts treated as tax deducted by the employer by any of those regulations,
  - (c) the sum of the figures given under sub-paragraph (a) of this paragraph and paragraph (4)(f),
  - (d) the sum of the figures given under sub-paragraph (b) of this paragraph and paragraph (4)(g).
- (7) The return must include—
- (a) a statement and declaration containing a list of all deductions working sheets which the employer was required to prepare or maintain at any time during that tax year; and
  - (b) a certificate showing—
    - (i) the total net tax deducted or the total net tax repaid in the case of each employee, and
    - (ii) the total net tax deducted or repaid in respect of all the employees, during that tax year.
- (8) The statement and declaration and the certificate must be—
- (a) signed by the employer, or
  - (b) if the employer is a body corporate, signed either by the secretary or by a director.
- (9) Paragraph (8) is subject to regulation 211(5) (authentication in approved manner if return sent electronically).
- (10) Section 98A of TMA(19) (special penalties in case of certain returns) applies to paragraph (1).

**[<sup>F300</sup>Amended returns of relevant payments and tax (Forms P14 and P35(RL))**

**73A.—**(1) This regulation applies where, as a result of a retrospective tax provision, the total amount of the relevant payments made by an employer to employees increases for any closed tax year.

(2) Where this regulation applies, before 20<sup>th</sup> May following the end of the tax year in which the enactment containing the retrospective tax provision is passed, the employer must deliver to HMRC a return containing the following information.

- (3) The information is—
  - (a) the tax year to which the return relates,

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(19) Section 98A was inserted by section 165(1) of the Finance Act 1989 (c. 26) and amended by paragraph 138 of Schedule 6 to ITEPA.

- (b) the revised total amounts of the relevant payments made, or treated as made, during the tax year to all employees in respect of whom the employer was required, or has subsequently become required, to prepare or maintain deductions working sheets for any time during that year,
  - (c) the total net tax deducted in respect of those payments.
- (4) The return must be supported by the same information in respect of each of the employees mentioned in paragraph (3)(b) as is required by regulation 73(3) to support a return under that regulation.
- (5) The return must include—
- (a) a statement and declaration containing a list of all deductions working sheets which the employer was required to prepare or maintain at any time during that year, and
  - (b) a certificate showing —
    - (i) the total original net tax deducted or repaid in the case of each employee,
    - (ii) the revised total net tax deducted or repaid in the case of each employee;
    - (iii) the total original net tax deducted or repaid in respect of all the employees,
    - (iv) the revised total net tax deducted or repaid in respect of all the employees, and
    - (v) the difference between the figures given in paragraphs (iii) and (iv) above.
- (6) The statement and declaration and the certificate must be—
- (a) signed by the employer, or
  - (b) if the employer is a body corporate, signed either by the secretary or by a director.
- (7) Section 98A of TMA (special penalties in case of certain returns) applies to a return under paragraph (2).]

**F300** Reg. 73A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007](#) (S.I. 2007/1077), regs. 1, 15

### **Annual return of relevant payments not liable to deduction of tax (Form P38A)**

**74.**—(1) Before 20th May following the end of a tax year, an employer must deliver a return to the Inland Revenue in respect of every relevant employee.

- (2) The return must contain the following information—
- (a) the employee’s name,
  - (b) the employee’s address, if known,
  - (c) the employee’s national insurance number, if known,
  - (d) the employee’s job title or description,
  - (e) the tax year to which the return relates,
  - (f) the dates during which the employee was employed in the tax year, and
  - (g) the total amount of the relevant payments made by the employer to the employee during the tax year.
- (3) A “relevant employee” is one—
- (a) to whom relevant payments exceeding the PAYE threshold were made at any time during the tax year,
  - (b) who was employed for more than a week, or
  - (c) who was paid more than £100 during the tax year.

- (4) But the following are not relevant employees—
- (a) an employee included on a return under regulation 73 (Forms P35 and P14),
  - (b) an employee who has indicated that statement A or statement B [<sup>F301</sup>applies] on Form P46 (see regulation 46), and to whom the employer has not made relevant payments exceeding the PAYE threshold at any time during that tax year.

**F301** Word in reg. 74(4)(b) substituted (6.4.2006) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2005 (S.I. 2005/2691), regs. 1, 9(2)

### **Additional return in case of trade dispute**

**75.**—(1) An employer must immediately deliver an additional return to the Inland Revenue on each occasion that—

- (a) the employer has not made any repayment of tax withheld under regulation 64(5) (trade disputes) within 42 days after the end of the employee's strike action, and
  - (b) a return has been made under regulation 73 which, in accordance with regulation 64(7) (b), treats that tax as if it were repaid.
- (2) The return must contain the following information—
- (a) the tax year to which it relates,
  - (b) such information as the Board of Inland Revenue may require for identifying each of the employees in question, and
  - (c) the amount of tax not repaid to each of those employees.
- (3) The return must be accompanied by a statement containing the following information—
- (a) a list of all employees in respect of whom the additional return is made,
  - (b) the amount of tax not repaid to each of those employees,
  - (c) the total tax not repaid by the employer to those employees for that tax year.

### *Failure to account for deductible tax*

### **[<sup>F302</sup>Power of HMRC to issue a notice and certificate in cases where regulation 67B or 67D returns are not made, etc**

**75A.**—(1) This regulation applies if, 17 days or more after the end of a tax period, condition A or B or C is met.

- (2) Condition A is that a Real Time Information employer—
- (a) has not paid to HMRC any tax for that tax period,
  - (b) has not made any returns under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) in respect of the tax period, and
  - (c) has not sent HMRC a notification under regulation 67F(1)(a) (additional information about payments),

and HMRC are not satisfied that no relevant payments have been made in the tax period.

- (3) Condition B is that—
- (a) a Real Time Information employer has paid an amount of tax for that tax period, whether or not the amount is the amount due under regulation 67G (payments to and recoveries

from HMRC for each tax period by Real Time Information employers) [<sup>F303</sup> as adjusted by regulation 67H(2) where appropriate,] but

- (b) HMRC are not satisfied, after seeking the employer's explanation, that the amount due under regulation 67G [<sup>F304</sup>, as adjusted by regulation 67H(2) where appropriate] is the amount which would have been due had any tax returned under regulation 67B or 67D as deducted from each of the employer's employees during the period been the amount that the employer was liable to deduct.
- (4) Condition C is that a Real Time Information employer has not paid to HMRC the amount of tax due under regulation 67G [<sup>F305</sup>, as adjusted by regulation 67H(2) where appropriate,].
- (5) HMRC, on consideration of the matters specified in paragraph (6), may—
- (a) specify to the best of their judgment, the amount of tax, or a combined amount, they consider the employer is liable to pay, and
  - (b) serve notice on the employer requiring payment of that amount within 7 days of the issue of the notice ("the notice period").
- (6) The matters specified in this paragraph are—
- (a) the employer's record of past payments, whether of tax or combined amounts,
  - (b) any returns made by the employer under regulation 67B or 67D in respect of the tax period,
  - (c) any returns made by the employer under regulation 67B or 67D in respect of earlier tax periods,
  - (d) any returns made by the employer under regulation 67E(6),
  - (e) any returns made by the employer under regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)) in relation to previous tax years.
- (7) If the notice extends to two or more consecutive tax periods in a tax year, this regulation has effect as if they were the latest period specified in the notice.
- (8) If, during the notice period, the employer—
- (a) claims that the amount paid in respect of the tax period specified in the notice represents the full amount of tax the employer was liable to deduct from each of the employer's employees during the period, but
  - (b) does not satisfy HMRC that this is the case,
- the employer may require HMRC to inspect the employer's PAYE records as if the employer had been required to produce those records under Schedule 36 to the Finance Act 2008 (information and inspection powers).
- (9) If there is an inspection by virtue of paragraph (8), the notice given by HMRC under paragraph (5) must be disregarded.
- (10) If the amount specified in the notice, or any part of it, is not paid during the notice period—
- (a) the amount unpaid is treated as an amount of tax or as including an amount of tax which the employer was liable to pay for that tax period under regulation 67G [<sup>F306</sup>, where appropriate], and
  - (b) HMRC may prepare a certificate showing how much of that amount remains unpaid.
- (11) Regulation 218 deals with the use of certificates as evidence that sums are due and unpaid.

**F302** Regs. 75A, 75B inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 35



- F303** Words in [reg. 75A\(3\)\(a\)](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\)](#), [30\(a\)\(i\)](#)
- F304** Words in [reg. 75A\(3\)\(b\)](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\)](#), [30\(a\)\(ii\)](#)
- F305** Words in [reg. 75A\(4\)](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\)](#), [30\(b\)](#)
- F306** Words in [reg. 75A\(10\)\(a\)](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\)](#), [30\(c\)](#)

### Certificates under [<sup>F307</sup> regulation] 75A: excess payments

**75B.**—(1) This regulation applies if, as a consequence of paying a certified amount of tax under regulation 75A in relation to the tax year, the total amount of tax paid to HMRC for the tax year under these Regulations by an employer exceeds the amount which would have been paid had it not been necessary for HMRC to prepare the certificate.

(2) The employer is entitled to set off the excess tax against any amount which the employer is liable to pay under regulation 67G [<sup>F308</sup>, as adjusted by regulation 67H(2) where appropriate,] for any subsequent tax period or, if the tax year in question has ended, the excess of tax paid may be repaid.]

- F302** [Regs. 75A, 75B](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), [regs. 1\(1\)](#), [35](#)
- F307** Word in [reg. 75B](#) heading substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\)](#), [31\(a\)](#)
- F308** Words in [reg. 75B](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\)](#), [31\(b\)](#)

### Certificate if tax in regulation 73 return is unpaid

**76.**—(1) Paragraph (2) applies if an employer—

- (a) delivers a return under regulation 73 showing an amount of total net tax deducted by the employer for a tax year, and
- (b) does not pay that amount to the Inland Revenue before 20th April following the end of the tax year.

(2) The Inland Revenue may prepare a certificate showing how much of that amount remains unpaid.

(3) Regulation 218 deals with the use of certificates as evidence that sums are due and unpaid.

### Return and certificate if tax may be unpaid [<sup>F309</sup>: amounts due under regulation 68]

**77.**—(1) This regulation applies if, 17 days or more after the end of a tax period, condition A or B is met.

(2) Condition A is that—

- (a) an employer has not paid any tax under regulation 68 for that tax period, and

- (b) the Inland Revenue are unaware of the amount (if any) which the employer is liable to pay.
- (3) Condition B is that—
  - (a) an employer has paid an amount of tax under regulation 68 for that period, but
  - (b) the Inland Revenue are not satisfied that it is the full amount which the employer is liable to pay for that period.
- (4) The Inland Revenue may give notice to the employer requiring the employer within 14 days of the issue of the notice to deliver a return showing the amount of tax which the employer is liable to pay under regulation 68 in respect of the tax period.
- (5) If the notice extends to two or more consecutive tax periods in a tax year, this regulation has effect as if they were one tax period.
- (6) On receiving a return made by the employer under paragraph (4), the Inland Revenue may prepare a certificate showing the amount of tax which the employer is liable to pay for the tax period and how much (if any) of that amount remains unpaid.
- (7) Regulation 218 deals with the use of certificates as evidence that sums are due and unpaid.

**F309** Words in [reg. 77 heading](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), [regs. 1\(1\), 36](#)

**Notice and certificate if tax may be unpaid [F310: amounts due under regulation 68]**

**78.**—(1) This regulation applies if, 17 days or more after the end of a tax period, condition A or B is met.

- (2) Condition A is that—
  - (a) an employer has not paid any tax under regulation 68 for that tax period, and
  - (b) [F311HMRC] have reason to believe that the employer is liable to pay an amount of tax.
- (3) Condition B is that—
  - (a) an employer has paid an amount of tax under regulation 68 for that tax period, but
  - (b) [F312HMRC] are not satisfied, after seeking the employer’s explanation, that it is the full amount which the employer is liable to pay for that period.
- (4) [F313HMRC], on consideration of the employer’s record of past payments [F314whether of tax or of combined amounts], may—
  - (a) specify, to the best of their judgment, the amount of tax [F315or a combined amount] which they consider the employer is liable to pay, and
  - (b) serve notice on the employer requiring payment of that amount within 7 days of the issue of the notice (“the notice period”).
- (5) If the notice extends to two or more consecutive tax periods in a tax year, this regulation has effect as if they were the latest tax period specified in the notice.
- (6) If, during the notice period, the employer—
  - (a) claims that any payment made in respect of the tax period specified in the notice is [F316or includes] the full amount [F317of tax] the employer is liable to pay, but
  - (b) does not satisfy [F318HMRC] that this is the case,

the employer may require [F318HMRC] to inspect the employer’s PAYE records as if the employer had been required to produce those records [F319under Schedule 36 to the Finance Act 2008 (information and inspection powers)].

- (7) If there is an inspection by virtue of paragraph (6) ... the notice given by [F320HMRC] under paragraph (4) must be disregarded.
- (8) If the amount ... specified in the notice, or any part of it, is not paid during the notice period—
- (a) the amount unpaid is treated as an amount of tax [F321] or as including an amount of tax] which the employer was liable to pay for that tax period under regulation 68, and
  - (b) [F322HMRC] may prepare a certificate showing how much of that [F323amount] remains unpaid.
- (9) But paragraph (8) does not apply if during the notice period—
- (a) the employer pays the full amount of tax which the employer is liable to pay under regulation 68 for that tax period, or
  - (b) the employer satisfies [F324HMRC] that no amount, or no further amount, is due for that tax period.
- (10) Paragraph (11) applies if the employer pays an amount [F325] of tax, whether separately or as part of a combined amount, which is] certified under this regulation [F326] and] which exceeds the amount the employer would have been liable to pay in respect of that tax period apart from this regulation.
- (11) The employer is entitled to set off the excess [F327] tax] against any amount which the employer is liable to pay under regulation 68 for any subsequent tax period in the tax year.
- (12) Paragraph (13) applies if the employer—
- (a) delivers the return required by regulation 73(1) after the end of the tax year, and
  - (b) pays the total net tax which the employer is liable to pay.
- (13) Any excess of tax paid, and not otherwise recovered by set-off in accordance with this regulation, must be repaid.
- (14) Regulation 218 deals with the use of certificates as evidence that sums are due and unpaid.

- F310** Words in reg. 78 heading inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **37**
- F311** Word in reg. 78(2)(b) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(2)**
- F312** Word in reg. 78(3)(b) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(3)**
- F313** Word in reg. 78(4) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(4)(a)**
- F314** Words in reg. 78(4) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(4)(b)**
- F315** Words in reg. 78(4)(a) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(4)(c)**
- F316** Words in reg. 78(6)(a) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(5)(a)(i)**
- F317** Words in reg. 78(6)(a) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(5)(a)(ii)**
- F318** Word in reg. 78(6) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(5)(b)**
- F319** Words in reg. 78(6) substituted (1.4.2009) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **4(a)**
- F320** Word in reg. 78(7) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(6)**

- F321** Words in reg. 78(8)(a) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(7)(b)**
- F322** Word in reg. 78(8)(b) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(7)(c)(i)**
- F323** Word in reg. 78(8)(b) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(7)(c)(ii)**
- F324** Word in reg. 78(9) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(8)**
- F325** Words in reg. 78(10) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(9)(a)**
- F326** Word in reg. 78(10) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(9)(b)**
- F327** Word in reg. 78(11) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782), regs. 1, **8(10)**

### Certificate after inspection of PAYE records

**79.**—(1) This regulation applies if there is an inspection of an employer's PAYE records under [F328 Schedule 36 to the Finance Act 2008 (information and inspection powers)].

(2) The Inland Revenue may, by reference to the information obtained from the inspection, prepare a certificate showing—

- (a) the amount of tax which it appears that the employer is liable to pay for the tax years or tax periods covered by the inspection; and
  - (b) any amount of that tax which remains unpaid.
- (3) Regulation 218 deals with the use of certificates as evidence that sums are due and unpaid.

- F328** Words in reg. 79(1) substituted (1.4.2009) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **5**

### Determination of unpaid tax and appeal against determination

**80.**—(1) This regulation applies if it appears to [F329 HMRC] that there may be tax payable for a tax year under regulation [F330 67G [F331, as adjusted by regulation 67H(2) where appropriate,] or] 68 by an employer which has neither been—

- (a) paid to [F329 HMRC], nor
- (b) certified by [F329 HMRC] under regulation [F332 75A,] 76, 77, 78 or 79.

[F333 (1A) In paragraph (1), the reference to tax payable for a tax year under regulation 67G includes references to—

- (a) any amount the employer was liable to deduct from employees during the tax year, and
- (b) any amount the employer must account for under regulation 62(5) (notional payments) in respect of notional payments made by the employer during the tax year,

whether or not those amounts were included in any return under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B).]

(2) [F334 HMRC] may determine the amount of that tax to the best of their judgment, and serve notice of their determination on the employer.

(3) A determination under this regulation must not include tax in respect of which a direction under regulation 72(5) has been made; and directions under that regulation do not apply to tax determined under this regulation.

[<sup>F335</sup>(3A) A determination under this regulation must not include tax in respect of which a direction under regulation 72F has been made.]

(4) A determination under this regulation may—

- (a) cover <sup>F336</sup> ... any one or more tax periods in a tax year, and
- (b) extend to the whole of [<sup>F337</sup> the amount of tax determined by HMRC under paragraph (2)], or to such part of it as is payable in respect of—
  - (i) a class or classes of employees specified in the notice of determination (without naming the individual employees), or
  - (ii) one or more named employees specified in the notice.

(5) A determination under this regulation is subject to Parts 4, 5 [<sup>F338</sup>, 5A] ... and 6 of TMA (assessment, appeals, collection and recovery) as if—

- (a) the determination were an assessment, and
- (b) the amount of tax determined were income tax charged on the employer,

and those Parts of that Act apply accordingly with any necessary modifications.

(6) .....

<b>F329</b>	Word in reg. 80(1) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>9(a)</b>
<b>F330</b>	Words in reg. 80(1) inserted (6.4.2012) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)</a> , regs. 1(1), <b>38(a)(i)</b>
<b>F331</b>	Words in reg. 80(1) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521)</a> , regs. 1(2), <b>32</b>
<b>F332</b>	Words in reg. 80(1) inserted (6.4.2012) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)</a> , regs. 1(1), <b>38(a)(ii)</b>
<b>F333</b>	Reg. 80(1A) substituted (13.2.2019) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2019 (S.I. 2019/83)</a> , regs. 1, <b>3(a)</b>
<b>F334</b>	Word in reg. 80(2) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>9(b)</b>
<b>F335</b>	Reg. 80(3A) inserted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>9(c)</b>
<b>F336</b>	Words in reg. 80(4)(a) omitted (13.2.2019) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2019 (S.I. 2019/83)</a> , regs. 1, <b>3(b)(i)</b>
<b>F337</b>	Words in reg. 80(4)(b) substituted (13.2.2019) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2019 (S.I. 2019/83)</a> , regs. 1, <b>3(b)(ii)</b>
<b>F338</b>	Word in reg. 80(5) inserted (in relation to the tax year 2010-11 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668)</a> , regs. 1(3), <b>3</b>

**Employee liability if tax unpaid after regulation 80 determination**

**81.**—(1) This regulation applies if—

- (a) any part of the tax determined under regulation 80 is not paid within 30 days from the date on which the determination became final and conclusive, and
- (b) condition A or B is met in relation to an employee.

(2) Condition A is that the Inland Revenue are of the opinion that the employee in respect of whose relevant payments the determination was made has received those payments knowing that the employer has wilfully failed to deduct the amount of tax which should have been deducted from those payments.

(3) Condition B is that the unpaid tax represents an amount for which the employer was required to account under regulation 62(5) (notional payments) in relation to a notional payment to the employee.

(4) The Inland Revenue may direct that the employer is not liable to pay the amount of tax which appears to them should have been but was not—

- (a) deducted on making those relevant payments, or
- (b) accounted for under regulation 62(5).

[<sup>F339</sup>(4A) If condition A or B is met, any direction under paragraph (4) must be made by notice (“the direction notice”) to the employee stating the date the notice was issued.]

(5) If a direction is made, the amount of tax must not be added under regulation 185(5) or 188(3) (a) (adjustments for self-assessments and other assessments) in relation to the employee.

(6) Tax payable by an employee as a result of a direction carries interest, as if it were unpaid tax due from an employer, in accordance with [<sup>F340</sup>section 101 of the Finance Act 2009].

(7) .....

**F339** Reg. 81(4A) inserted (12.4.2004) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2004 \(S.I. 2004/851\)](#), regs. 1, 5

**F340** Words in reg. 81(6) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2009, Sections 101 and 102 \(Interest on Late Payments and Repayments\), Appointed Days and Consequential Provisions Order 2014 \(S.I. 2014/992\)](#), arts. 1(1), **9(4)(a)**

### [<sup>F341</sup>**Employee’s appeal against direction notice**

**81A.**—(1) An employee may appeal against a direction notice under regulation 81(4A)—

- (a) by notice to the Inland Revenue,
- (b) within 30 days of the issue of the direction notice,
- (c) specifying the grounds of the appeal.

(2) For the purpose of paragraph (1) the grounds of appeal are that—

- (a) in relation to condition A in regulation 81, the employee did not receive the payments knowing that the employer wilfully failed to deduct the amount of tax which should have been deducted from those payments,
- (b) in relation to condition B in regulation 81, the relevant payment was not a notional payment, or
- (c) the excess is incorrect.

(3) On an appeal under paragraph (1) [<sup>F342</sup>that is notified to the tribunal, the tribunal] may—

- (a) if it appears ... that the direction notice should not have been made, set aside the notice; or
- (b) if it appears ... that the amount of tax specified in the direction notice is incorrect, increase or reduce the amount specified in the notice accordingly.

(4) Regulation 72D applies to appeals under this regulation.]



**F341** Reg. 81A inserted (12.4.2004) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2004 \(S.I. 2004/851\)](#), regs. 1, **6**

**F342** Words in [reg. 81A\(3\)](#) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 102(2)**

*Interest*

**Interest on tax overdue**

**82.** .....

**Interest on tax overpaid**

**83.** .....

*Recovery*

**Recovery of tax and interest**

- 84.**—(1) In this regulation, “the unpaid amount” means any amount of tax or interest which—
- (a) an employer is liable to pay under regulation [<sup>F343</sup>75A(10),] 76(2), 77(6), 78(8) [<sup>F344</sup>or 79(2)(b)];
  - (b) an employee is liable to pay under regulation 72(7) or regulation 81(6).
- (2) Part 6 of TMA (collection and recovery) applies to the recovery of the unpaid amount [<sup>F345</sup>or combined amount and any interest on it] as if it were income tax charged on the employer or employee (as the case may be) but with the modification indicated in paragraph (3).
- (3) Summary proceedings for the recovery of the unpaid amount may be brought in England and Wales or Northern Ireland at any time before the end of the period which applies for the purposes of the regulation in question, as shown in Table 4.

**Table 4**

Period for summary proceedings for the recovery of unpaid amount

<i>1. Regulation</i>	<i>2. Period</i>
Regulation 76(2)	<ul style="list-style-type: none"> <li>(a) (a) 12 months after the date by which the statement specified in regulation 73(7) must be delivered, or</li> <li>(b) if that statement is delivered after that date, 12 months after its delivery.</li> </ul>
Regulations [ <sup>F346</sup> 75A(10),] 77(6) [ <sup>F347</sup> and] 78(8) <small>F348</small>	<ul style="list-style-type: none"> <li>(a) (a) 12 months after the date on which the unpaid amount [<sup>F349</sup>or combined amount and any interest on it] became payable, or</li> <li>(b) if a return has been required under regulation 77, 12 months after the date of the delivery of that return to the Inland Revenue.</li> </ul>
...	

<i>1. Regulation</i>	<i>2. Period</i>
Regulation 79(2)(b)	12 months after the date of the certificate.
Regulations 72(7) and 81(6)	12 months after the date on which the unpaid amount became payable.

(4) Proceedings against an employer may be brought for the recovery of the unpaid amount [<sup>F350</sup>or combined amount and any interest on it] without distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question.

(5) The unpaid amount [<sup>F351</sup>or combined amount and any interest on it] is one cause of action or one matter of complaint for the purposes of proceedings under sections 65, 66 and 67 of TMA(20) (magistrates' courts, county courts and inferior courts in Scotland).

(6) But paragraphs (4) and (5) do not prevent the bringing of separate proceedings for the recovery of each of the amounts which the employer is liable to pay for any tax period in respect of each of the employees.

- F343** Word in reg. 84(1)(a) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **40(a)**
- F344** Words in reg. 84(1)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2009, Sections 101 and 102 \(Interest on Late Payments and Repayments\), Appointed Days and Consequential Provisions Order 2014 \(S.I. 2014/992\)](#), arts. 1(1), **9(6)(a)**
- F345** Words in reg. 84(2) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **11(2)**
- F346** Word in reg. 84(3) Table 4 inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **40(b)**
- F347** Word in reg. 84(3) Table 4 inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2009, Sections 101 and 102 \(Interest on Late Payments and Repayments\), Appointed Days and Consequential Provisions Order 2014 \(S.I. 2014/992\)](#), arts. 1(1), **9(6)(b)(i)**
- F348** Word in reg. 84(3) Table 4 omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Interest on Late Payments and Repayments\), Appointed Days and Consequential Provisions Order 2014 \(S.I. 2014/992\)](#), arts. 1(1), **9(6)(b)(ii)**
- F349** Words in reg. 84(3) Table 4 inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **11(3)**
- F350** Words in reg. 84(4) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **11(4)**
- F351** Words in reg. 84(5) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **11(5)**

*[<sup>F352</sup>Continental shelf workers: provisions relating to certificates*

- F352** [Regs. 84A-84D and cross-heading inserted \(6.4.2014\) by The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2014 \(S.I. 2014/474\)](#), regs. 1, **2(2)**

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(20) Section 65 was amended by section 57(1) of the Finance Act 1984 (c. 43) and paragraph 30 of Schedule 19 to the Finance Act 1998 (c. 36); section 66 was amended by section 57(2) of the Finance Act 1984, section 89(1) of the Finance Act 2001 (c. 9), S.I. 1980/397 (N.I. 3) and S.I. 1991/724; section 67 was amended by section 58 of the Finance Act 1976 (c. 40), section 156 of the Finance Act 1995 (c. 4) and section 89(1) of the Finance Act 2001.



### Application for certificate

**84A.**—(1) An employer who meets the conditions in paragraph (2) may apply to HMRC for the issue of a UKCS continental shelf workers certificate.

(2) The conditions are that—

- (a) the employer supplies or intends to supply a continental shelf worker for whom the oil field licensee is the relevant person;
- (b) the employer has or intends to have a contractual relationship under which the employer acts, directly or indirectly, as an agent of the oil field licensee in connection with these Regulations; and
- (c) the employer or an associated company has not had a certificate cancelled previously for a failure to comply with their obligations under regulation 84B.

(3) An application under this regulation must be made in writing and must include—

- (a) the name and address of the employer and employer's PAYE reference;
- (b) the name and address of a person in the United Kingdom who is authorised to accept service on behalf of the employer;
- (c) confirmation that the employer understands and intends to comply with their obligations contained in regulation 84B; and
- (d) the name, address, and employer's PAYE reference of any associated company which is a current or former holder of a UKCS continental shelf workers certificate.

(4) When the employer makes the first application under this regulation, the employer may also comply with the obligation under regulation 84B(e) by including those details (if known) in the application.

(5) An application made under this regulation may be combined with an application made under regulation 114A of the SSC Regulations.

(6) Upon receipt of an application under this regulation, an officer of Revenue and Customs may, if they are satisfied the conditions in paragraph (2) are met, issue a UKCS continental shelf workers certificate.

(7) A UKCS continental shelf workers certificate must include—

- (a) the name of the UKCS continental shelf workers certificate holder;
- (b) the employer's PAYE reference of the UKCS continental shelf workers certificate holder; and
- (c) the date on which the certificate is issued.

(8) A UKCS continental shelf workers certificate may be issued to—

- (a) the person authorised to accept service on behalf of the employer;
- (b) the employer; or
- (c) both the person authorised to accept service on behalf of the employer and the employer.

(9) A certificate may be combined with a certificate issued under regulation 114A of the SSC Regulations.

(10) Where an employer ceases to meet the conditions in paragraph (2) or to comply with its obligations under regulation 84B, or regulation 114B of the SSC Regulations, an officer of Revenue and Customs may, by notice in writing to the person authorised to accept service on behalf of the employer, cancel the UKCS continental shelf workers certificate from the date specified in the notice of cancellation.

(11) The date specified in paragraph (10) may not be earlier than 10 working days after the date of the notice.

(12) A notice under paragraph (10) may be combined with a notice under regulation 114A of the SSC Regulations.

(13) In this regulation “associated company” means any company within the meaning of section 449 of the Corporation Tax Act 2010.

#### **UKCS continental shelf workers certificate holder: obligations**

**84B.**—(1) A UKCS continental shelf workers certificate holder must—

- (a) make such deductions, returns and repayments as are required of a relevant person;
- (b) keep written records of—
  - (i) the name, date of birth, and national insurance number of the continental shelf workers supplied;
  - (ii) the name, registered office and oil field licence number of the oil field licensee to whom each of the workers were supplied;
  - (iii) the offshore installation to which each of the workers were supplied; and
  - (iv) the dates between which the workers worked on the offshore installation;
- (c) keep the records required by sub-paragraph (b) for a period of 6 years from the end of the tax year to which they relate;
- (d) where an officer of Revenue and Customs requires them in writing to do so, provide copies of the records required by sub-paragraph (b) to HMRC within 30 days of the date of the request; and
- (e) before supplying the oil field licensee with continental shelf workers for the first time, inform HMRC in writing of the details of the oil field licensee including name, business address, and oil field licence number of the oil field licensee.

(2) In this regulation “offshore installation” means a structure which is, is to be, or has been, put to a relevant use while in water but a structure is not an offshore installation if—

- (a) it has permanently ceased to be put to a relevant use,
- (b) it is not, and is not to be, put to any other relevant use, and
- (c) since permanently ceasing to be put to a relevant use, it has been put to a use which is not a relevant use.

(3) In paragraph (2) a use is a relevant use if it is—

- (a) for the purposes of exploiting mineral resources,
- (b) for the purposes of exploration with a view to exploiting mineral resources,
- (c) for the storage of gas in or under the shore or the bed of any waters,
- (d) for the recovery of gas so stored,
- (e) for the conveyance of things by means of a pipe,
- (f) mainly for the provision of accommodation for individuals who work on or from a structure which is, is to be, or has been put to any of the above uses while in the water,
- (g) for the purposes of decommissioning any structure which has been used for or in connection with any of the relevant uses above.

(4) For the purposes of paragraphs (3) and (4) a structure is put to use while in water if it is put to use while—

- (i) standing in any waters,
- (ii) stationed (by whatever means) in any waters, or

(iii) standing on the foreshore or other land intermittently covered with water.

(5) For the purposes of paragraphs (2), (3) and (4) a “structure” includes a ship or other vessel except where it is used wholly or mainly—

- (a) for the transport of supplies;
- (b) as a safety vessel;
- (c) for a combination of (a) and (b); or
- (d) for the laying of cables.

#### **UKCS oil field licensee certificate**

**84C.**—(1) Where a UKCS continental shelf workers certificate holder has notified HMRC that the employer intends to supply continental shelf workers to an oil field licensee an officer of Revenue and Customs must issue a UKCS oil field licensee certificate to the oil field licensee.

(2) The UKCS oil field licensee certificate must include—

- (a) the name of the oil field licensee;
- (b) the registered office of that oil field licensee;
- (c) the oil field licence number;
- (d) the name of the UKCS continental shelf workers certificate holder;
- (e) the date on which it is issued; and
- (f) a description of the continental shelf workers to whom it applies.

(3) Where a UKCS oil field licensee certificate is in force the holder of that certificate is not liable to make deductions in respect of any continental shelf worker of a description set out in the certificate.

(4) If a UKCS continental shelf workers certificate is cancelled by an officer of Revenue and Customs that officer must also, by notice in writing, cancel the UKCS oil field licensee certificate.

(5) A notice under paragraph (4) must—

- (a) be sent on the same day as the notice cancelling the UKCS continental shelf workers certificate;
- (b) specify the date of cancellation of the UKCS oil field licensee certificate; and
- (c) notify the oil field licensee that it is liable to meet its obligations as a relevant person.

(6) The date of cancellation of the UKCS oil field licensee certificate must be the same date as that specified in the UKCS continental shelf workers certificate cancellation notice.

(7) In this regulation “UKCS oil field licensee certificate” means a certificate issued under paragraph (1).

#### **Interpretation of regulations 84A to 114C**

**84D.** In regulations 84A to 84C—

“oil field licensee” means the holder of a licence under Part 1 of the Petroleum Act 1998 in respect of the area in which the duties of the continental shelf worker’s employment are performed;

“UKCS continental shelf workers certificate” means a certificate issued under regulation 84A.]

*<sup>F353</sup>Employment Intermediaries: return of information relating to agency workers for whom they have not operated PAYE*

**F353** Regs. 84E-84H and cross-heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015 (S.I. 2015/171), regs. 1(2), **2(3)**

**Specified employment intermediaries**

**84E.** An employment intermediary is a specified employment intermediary if at any time during a tax quarter—

- (a) the employment intermediary is an agency;
- (b) more than one individual provides services to a client under or in consequence of a contract between the employment intermediary and one or more clients;
- (c) those services are not provided exclusively on the United Kingdom continental shelf; and
- (d) the employment intermediary makes one or more payments in respect of, or connected with, the services provided by one or more individuals that—
  - (i) is required by regulation 67B to be included in a return delivered to HMRC by the employment intermediary when the payment is made but has not been (“a reporting failure”); or
  - (ii) is not required by regulation 67B to be included in a return delivered to HMRC by the employment intermediary when the payment is made because the individual is not an employee or treated as an employee under regulation 10 (“no reporting requirement”).

**Returns by specified employment intermediaries**

**84F.**—(1) A specified employment intermediary must, for each tax quarter, provide to HMRC the information specified in regulation 84G no later than the end of the tax month following that quarter.

(2) The information must be included in a return in a form prescribed by HMRC and include a declaration that the information provided in the return is correct and complete to the best of the knowledge and belief of the person completing it.

(3) The return is to be made using an approved method of electronic communication.

(4) The return may be amended until the end of the tax month following the tax quarter after the tax quarter to which the return relates.

(5) Where a return is made in relation to a tax quarter, the specified employment intermediary shall continue to provide a return to HMRC in relation to every subsequent tax quarter until either—

- (a) regulation 84E(b) to 84E(d) has not been satisfied for 4 consecutive tax quarters in respect of the specified intermediary; or
- (b) the specified employment intermediary notifies HMRC that it is no longer an employment intermediary.

**Specified information**

**84G.** The specified information is—

- (a) in respect of the specified employment intermediary making the return its—
  - (i) name;

- (ii) address;
- (iii) postcode;
- (iv) employer's PAYE reference number where it is required to have one;
- (b) in respect of each individual providing the services referred to in regulation 84E—
  - (i) the individual's—
    - (aa) full name;
    - (bb) address;
    - (cc) postcode;
    - (dd) national insurance number (if the individual has one) or gender and date of birth (where the individual does not have a national insurance number);
    - (ee) Unique Taxpayer Reference issued by HMRC (if self-employed or a member of a partnership);
  - (ii) the date on which the individual began providing the services referred to in regulation 84E;
  - (iii) the date (if any) on which the individual stopped providing the services referred to in regulation 84E; and
- (c) where a payment is made to an individual in respect of, or in connection with, the services referred to in regulation 84E, but that payment is not included in a return delivered to HMRC under regulation 67B at the time the payment was made because there is no reporting requirement or there is a reporting failure—
  - (i) the full name (or if a partnership the name under which they trade) and address of the person receiving the payment made by the specified employment intermediary (if not the same as in 84G(b)(i)(aa) and (bb));
  - (ii) the total of the payments made by the specified employment intermediary to the person in the tax quarter;
  - (iii) the reason why the specified employment intermediary has not deducted income tax from those payments;
  - (iv) where the reason for the non deduction given in (iii) is that the payments made are to a limited company the full name of the company and company registration number of that company; and
  - (v) whether the payments included amounts in respect of Value Added Tax.

### **Retention of records**

**84H.**—(1) A specified employment intermediary must keep and preserve non-PAYE records which are not required to be sent to HMRC under any other provision of these Regulations for not less than three years after the end of the tax year to which they relate.

(2) The duty under paragraph (1) to keep and preserve non-PAYE records may be discharged by preserving them in any form or by any means.

(3) In this regulation “non-PAYE records” means information, records and documents which evidence the specified information.]

## CHAPTER 2

### OTHER RETURNS AND INFORMATION

#### *Returns involving PAYE income other than payments*

#### **Employers: annual return of other earnings (['<sup>F354</sup>form P11D])**

**85.**—(1) Before 7th July following the end of a tax year, the employer must provide the Inland Revenue—

- (a) with the information listed in regulation 86 for each employee, and
- (b) with the additional information listed in regulation 87 for each employee whose employment is subject to the benefits code.

(2) At the same time and in the same manner as the employer provides that information, the employer must also provide a declaration stating that—

- (a) all information required to be provided has been provided, and
- (b) the information is complete and accurate to the best of the employer's knowledge and belief.

(3) For the purposes of this regulation an employment is “subject to the benefits code” if, for the purposes of the benefits code in ITEPA, it is a taxable employment under Part 2 of ITEPA (as defined by section 66(3) of ITEPA) ....

['<sup>F355</sup>(4) But this regulation does not apply in relation to a benefit provided in a tax year which has been treated as a payment of PAYE income under Chapter 3A of the Regulations.]

**F354** Words in [reg. 85](#) heading substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), [regs. 1\(1\), 7\(a\)](#)

**F355** [Reg. 85\(4\)](#) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), [regs. 1\(1\), 7\(c\)](#)

#### **Information employer must provide for each employee**

**86.**—(1) Particulars of the following information must be provided in the case of each employee—

- (a) any earnings which the employee receives from the employer or related third party otherwise than in money, including the amount of those earnings;
- (b) any payments made on behalf of the employee by the employer or related third party and not repaid, including the amounts;
- (c) any non-cash voucher provided by the employer or related third party by reason of which the employee is treated by [<sup>F356</sup>section 87(1) (benefit of non-cash voucher treated as earnings) or 87A(1) (benefit of non-cash voucher treated as earnings: optional remuneration arrangements) of ITEPA] as receiving earnings in that tax year, including the amount of those earnings;
- (d) any use of a credit-token provided by the employer or related third party by reason of which the employee is treated by [<sup>F357</sup>section 94(1) (benefit of credit-token treated as earnings) or 94A(1) (benefit of credit-token treated as earnings: optional remuneration arrangements) of ITEPA] as receiving earnings in that tax year, including the amount of those earnings;

- (e) the due amount in respect of any notional payment where that amount is treated by section 222 of ITEPA(21) (payments on account of tax where deduction not possible) as earnings of the employee received in that tax year;
  - (f) any living accommodation which has been provided for the employee or a member of the employee’s family or household by the employer or related third party, including the amount that is treated as earnings for that tax year by [<sup>F358</sup>section 102 (benefit of living accommodation treated as earnings) or 103A (accommodation provided pursuant to optional remuneration arrangements: relevant amount) of ITEPA];
  - (g) any earnings consisting of the amount by which the value of the exemption under subsection (2) of section 287 of ITEPA (limit on exemption of removal expenses and removal benefits) exceeds the limit specified in subsection (1) of that section and having effect in relation to the employee.
- (2) Particulars of removal expenses and removal benefits to which section 271 of ITEPA (limited exemption of removal benefits and expenses) applies are required—
- (a) only under paragraph (1)(g), and
  - (b) only to the extent that they exceed the limit in section 287(1) of ITEPA which applies to the change of residence of the employee in question.
- (3) In the case of any earnings relating to business entertainment, as defined by section [<sup>F359</sup>356(1) of ITEPA], the employer must also inform the Inland Revenue whether the amount of the earnings has been or will be disallowed as a deduction or inclusion <sup>F360</sup>... in any tax computation relating to the trade, business, profession or vocation of the employer.
- (4) “Related third party” means a person making payments or providing benefits to an employee, if the making or provision of the payments or benefits by that person has been arranged, guaranteed or in any way facilitated by the employer.

<b>F356</b>	Words in reg. 86(1)(c) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>14(a)(i)</b>
<b>F357</b>	Words in reg. 86(1)(d) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>14(a)(ii)</b>
<b>F358</b>	Words in reg. 86(1)(f) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>14(a)(iii)</b>
<b>F359</b>	Words in reg. 86(3) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>14(b)(i)</b>
<b>F360</b>	Words in reg. 86(3) omitted (6.4.2018) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, <b>14(b)(ii)</b>

**Information employer must also provide for benefits code employees**

- 87.—**(1) Particulars of the following information must also be provided in the case of each employee whose employment is subject to the benefits code—
- (a) .....
  - (b) any sums put by the employer or related third party at the disposal of the employee by reason of the employment and paid away by the employee;
  - (c) any benefits provided by the employer or related third party for the employee such as give rise to any amount treated by Chapters 6 to 10 of Part 3, and section 223, of ITEPA(22)

(21) Section 222 was amended by section 144 of the Finance Act 2003 (c. 14).  
 (22) Relevant amendments were made to Chapters 8 and 9 of Part 3 of ITEPA by paragraphs 22 and 23 of Schedule 22 to the Finance Act 2003 (c. 14).

(cars and vans, loans, shares, other benefits and payments on account of director's tax) as earnings of the employee received in that tax year, including the amount of those earnings.

- [<sup>F361</sup>(d) any mileage allowance payments which are not approved mileage allowance payments;  
(e) any passenger payments which are not approved passenger payments.]

(2) Particulars are not required under paragraph (1) of removal expenses and removal benefits to which section 271 of ITEPA (limited exemption of removal benefits and expenses) applies (as to which see regulation 86(2)).

(3) In the case of any earnings relating to business entertainment, as defined by section 577 of ICTA, the employer must also inform the Inland Revenue whether the amount of the earnings has been or will be disallowed as a deduction or inclusion as mentioned in section 577(1)(a) of that Act in any tax computation relating to the trade, business, profession or vocation of the employer.

- (4) [<sup>F362</sup>In this regulation—]

[<sup>F363</sup>“approved mileage allowance payments” are mileage allowance payments that are approved in accordance with section 229(3) of ITEPA;

“approved passenger payments” are passenger payments that are approved in accordance with section 233(4) of ITEPA;

“mileage allowance payments” have the meaning given by section 229(2) of ITEPA;

“passenger payments” have the meaning given by section 233(3) of ITEPA.]

“[<sup>F364</sup>related] third party” has the meaning given in regulation 86(4).

(5) Regulation 85(3) (meaning of employment “subject to benefits code”) applies for the purposes of this regulation.

**F361** Reg. 87(1)(d)(e) inserted (8.8.2016) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2016 \(S.I. 2016/747\)](#), regs. 1, **2(2)**

**F362** Words in reg. 87(4) inserted (19.12.2016) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), regs. 1(1), **10(a)**

**F363** Words in reg. 87(4) inserted (8.8.2016) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2016 \(S.I. 2016/747\)](#), regs. 1, **2(3)**

**F364** Word in reg. 87(4) substituted (19.12.2016) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), regs. 1(1), **10(b)**

### **Annual return of other earnings: amounts**

**88.**—(1) Paragraph (2) applies if an employer is required by regulations 85 to 87 to provide an amount which is or is treated as earnings.

(2) The employer must make all deductions and other adjustments which the employer is able to show, by reference to information in the employer's possession or otherwise available to the employer, are authorised or required by Part 3 of ITEPA (earnings and benefits etc treated as earnings).

### **Annual return of other earnings: exclusion for notional payments**

**89.** The employer is not required to provide particulars in the return under regulation 85 of any notional payment which is a relevant payment made by the employer to the employee (as particulars of it may be [<sup>F365</sup>required under regulation 67B (real time returns of information about relevant payments)] or 74 (annual returns of relevant payments)).



**F365** Words in [reg. 89](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **15**

### Quarterly return if a car becomes available or unavailable (Form P46 (Car))

**90.**—(1) This regulation applies if—

- (a) [<sup>F366</sup>section 120 (benefit of car treated as earnings) or 120A (benefit of a car treated as earnings: optional remuneration arrangements) of ITEPA treat] the benefit of a car as giving rise to an amount as earnings of an employee received in a tax year, and
- (b) one or more of the following occurs in a tax quarter—
  - (i) the car becomes available;
  - (ii) the car becomes unavailable;
  - (iii) the car is available and the employee’s employment becomes subject to the benefits code (as defined by regulation 85(3)).

[<sup>F367</sup>(1A) This regulation does not apply if—

- (a) the reason a car becomes available or unavailable is that one is replaced with another; or
- (b) Chapter 3A of these Regulations applies.]

(2) The employer must provide the [<sup>F368</sup>HMRC] with the following information in respect of the employee not later than 28 days after the end of the tax quarter.

(3) The information is—

- (a) the employee’s name,
- (b) the employee’s national insurance number, if known,
- (c) details of the car in question,

[<sup>F369</sup>(d) any provisional sum as calculated pursuant to section 121A(1) of ITEPA]

- (e) any capital sum contributed by the employee to expenditure on the provision of the car or on any qualifying accessory which is taken into account in so determining the interim sum in respect of the car,
- (f) any amount which, as a condition of the car being available for the employee’s private use, the employee is required to pay in the tax year concerned for that use (whether by way of deduction from relevant payments or otherwise),
- (g) whether any fuel is provided for private use.

(4) In this regulation—

“available” and “unavailable” are to be read in accordance with sections 116(1) and 143(2) of ITEPA (meaning of when car is available and unavailable to employee);

“qualifying accessory” has the meaning given in section 125 of ITEPA (meaning of accessory etc).

**F366** Words in [reg. 90\(1\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **16(a)**

**F367** [Reg. 90\(1A\)](#) substituted (with effect in accordance with [reg. 1\(4\)](#) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), **9**

**F368** Words in [reg. 90\(2\)](#) substituted (with effect in accordance with [reg. 1\(2\)\(b\)](#) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **9(b)**

**F369** Words in reg. 90(3)(d) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **16(b)**

### **Termination awards: information to be provided**

**91.**—(1) Before 7th July following the end of the tax year, an employer must, in respect of each employee who received a termination award, provide the Inland Revenue with the information specified in paragraph (3) relating to that award.

(2) “Termination award” means an award consisting of payments combined with other benefits, or consisting solely of other benefits—

- (a) which were awarded in that tax year in connection with the termination of the employee’s employment with the employer, or any change in the duties of or earnings from that employment,
- (b) which when provided (whether in that or a subsequent tax year) would constitute payments and other benefits received to which Chapter 3 of Part 6 of ITEPA applies (payments and benefits on termination of employment etc), and
- (c) the total amount of which is estimated by the employer to exceed £30,000, when aggregated with other payments and other benefits provided or to be provided (whether in that or a subsequent tax year) in respect of the same person as mentioned in section 404(1) of ITEPA (aggregation of payments in respect of other related employments).

(3) The information to be provided is—

- (a) the total amount of the payments and other benefits awarded;
- (b) the total amount of the payments made in that tax year in connection with the award;
- (c) details of the non-cash benefits provided in that tax year in connection with the award, other than benefits previously contained in a return for that tax year under regulation 85, and the total amount of their amounts calculated in accordance with section 415(2) of ITEPA (valuation of benefits);
- (d) the estimated total number of the tax years in which payments and non-cash benefits are to be provided in connection with the award and, if the duration of any of those payments and non-cash benefits is capable of being reduced in certain circumstances, details of those circumstances;
- (e) the estimated total amount of the payments to be made in subsequent tax years in connection with the award;
- (f) a description of each of the other benefits to be provided in subsequent tax years in connection with the award, and the terms of their provision.

(4) In calculating the cash equivalents of non-cash benefits for the purposes of this regulation, the employer must make all deductions and other adjustments which the employer is able to show, by reference to information in the employer’s possession or otherwise available to the employer, are authorised or required by any of the provisions of the benefits code as applied by section 415 of ITEPA.

(5) In calculating the total amount of payments and other benefits for the purposes of paragraphs (2)(c) and (3)(a), the employer—

- (a) must have regard to the provisions of Chapter 3 of Part 6 of ITEPA,
- (b) must take into account the matters referred to in paragraph (3)(d),(e) and (f), and
- (c) in valuing the amount of non-cash benefits for future tax years in connection with the award, must assume that the provisions of ITEPA relating to those benefits will remain unchanged with respect to those years.

(6) Information required to be provided by an employer in accordance with paragraphs (1) and (3) may be provided after the termination award is made but before the end of the tax year in which it is made.

(7) If information is provided in accordance with paragraph (6), paragraph (3)(b) and (c) have effect, so far as concerns the providing of information relating to the tax year, as if they required the amounts and benefits there specified to be estimated by the employer as accurately as possible.

(8) This regulation is subject to regulation 93 (return if more than one employer).

(9) In this regulation and regulations 92, 93 and 96 (further provisions about termination awards)

“employee” includes a former employee; and

“employer” includes a former employer.

### **Termination awards: return if award changes**

**92.**—(1) Paragraph (3) applies if—

(a) information has not been provided by the employer under regulation 91(1) solely because either—

(i) the total amount of payments and other benefits awarded in the tax year in respect of the employee is estimated in accordance with regulation 91(2)(c) not to exceed £30,000, or

(ii) the award made in the tax year consisted of payments only, and

(b) there is a change in the award in a subsequent tax year.

(2) “Change in the award” means—

(a) that there is a change in—

(i) the amount of the payments awarded, or

(ii) the nature and amounts of the other benefits awarded,

so that the total amount of those payments and other benefits is estimated in accordance with regulation 91(2)(c) to exceed £30,000; or

(b) that the nature of the award is changed so that it consists—

(i) of payments combined with other benefits, or

(ii) solely of other benefits,

estimated in accordance with regulation 91(2)(c) to exceed £30,000.

(3) The employer must, before 7th July following the tax year in which the change in the award occurred, provide the Inland Revenue with the information specified in regulation 91(3) with respect to those payments and other benefits.

(4) Paragraph (5) applies if, after the employer has provided information in accordance with regulation 91(1) or paragraph (3) above, there is a material change—

(a) in the amount of the payments awarded, or

(b) in the nature and amounts of the other benefits awarded,

in relation to the employee.

(5) The employer must, before 7th July following the end of the tax year in which the material change occurred, give details of the material change to the Inland Revenue.

(6) For the avoidance of doubt, an employer is not required to provide details under this regulation of a change which arises solely because of amendments to the provisions of ITEPA which relate to non-cash benefits.

(7) This regulation is subject to regulation 93 (return if more than one employer).

**Termination awards: return if more than one employer**

**93.**—(1) This regulation applies if the payments and other benefits aggregated in accordance with regulation 91(2)(c) include amounts in respect of different employments with more than one employer.

(2) The person who must provide information to the Inland Revenue under regulation 91 or 92, or to the employee under regulation 96, is the employer providing the greatest amount of payments and other benefits so aggregated.

*Information to be given to employees*

**Employers: information to employees of other earnings (F<sup>370</sup>Form P11D)**

**94.**—(1) Before 7th July following the end of a tax year, the employer must give a statement to every current employee in respect of whom particulars are to be provided under regulation 85(1) by the employer for that tax year.

(2) The statement must contain the particulars provided under regulations 86 and 87 in so far as they relate to the employee.

(3) If a person who was a current employee ceases to be an employee at any time before 7th July following the end of the tax year, the statement is given to the employee if it is sent or delivered to, or left at, that person's usual or last known address.

(4) A former employee in respect of whom particulars are to be provided under regulation 85(1) by the employer for a tax year may by notice require the employer to give the statement specified in paragraph (2) to that former employee—

- (a) before 7th July following the end of the tax year, or
- (b) within 30 days of receiving the notice,

whichever is the later.

(5) The notice may be given to the employer at any time up to 3 years after the end of the tax year.

(6) A former employee who has received a statement from the employer under paragraph (4) in respect of a tax year may not require a further statement from the employer under that paragraph in respect of the same tax year.

(7) In this regulation—

“current employee” means a person who was an employee on 5th April in the tax year to which the particulars provided under regulation 85(1) relate;

“former employee” means a person who was an employee during a part of the tax year to which the particulars provided under regulation 85(1) relate, but who was no longer an employee on 5th April in that tax year.

**F370** Words in reg. 94 heading substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 (S.I. 2015/1927), regs. 1(1), 10

**Third parties: information to employees of other earnings**

**95.**—(1) This regulation applies if a person (“the third party”) has, in a tax year—

- (a) made any unrelated payments to, or on behalf of, another person's employee, or

- (b) provided any unrelated benefits to, or in respect of, another person's employee.
- (2) Before 7th July following the end of the tax year, the third party must give the employee a statement containing such of the particulars specified by regulations 86 and 87 as relate to the unrelated payments or unrelated benefits.
- (3) A benefit or payment is "unrelated" if—
  - (a) the employee's employer is not required to provide particulars about it under regulation 85(1), and
  - (b) the third party would have been required to provide particulars about it under regulation 85(1) had the third party been the employee's employer.

### **Termination awards: information to employees**

- 96.**—(1) This regulation applies if an employer is required to provide the information specified in regulation 91(3) to the Inland Revenue by—
- (a) regulation 91(1) (termination award), or
  - (b) regulation 92(3) (change in termination award).
- (2) The employer must also give a copy of that information to the employee before 7th July following the end of the tax year.
- (3) A copy of the information is given to the employee if it is sent or delivered to, or left at, the employee's usual or last known address.
- (4) As to the person who is the employer in cases where there is more than one employer, see regulation 93.

## CHAPTER 3

### PAYE RECORDS

#### **[<sup>F371</sup>Retention by employer of PAYE records**

- 97.**—(1) An employer must keep and preserve for not less than three years after the end of the tax year to which they relate all PAYE records which are not required to be sent to HMRC by other provisions in these Regulations.
- (2) The duty under paragraph (1) to keep and preserve PAYE records may be discharged by preserving them in any form or by any means.
- (3) "PAYE records" means the following documents and records—
- (a) all wages sheets, deductions working sheets, documents completed under regulation 46 (Form P46) [<sup>F372</sup>, information provided under regulation 40A(1) (duty of employee to assist with completion of new employee fields in returns under regulations 67B and 67D)] and other documents and records relating to—
    - (i) the calculation of the PAYE income of the employees,
    - (ii) relevant payments to the employees, or
    - (iii) the deduction of tax from, or accounting for tax in respect of, such payments, and
  - (b) all documents relating to any information which an employer is required to provide to HMRC under regulation 85 ([<sup>F373</sup>Form P11D]).]

<p><b>F371</b> Reg. 97 substituted (1.4.2009) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588)</a>, regs. 1(1), 6</p>
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- F372** Words in reg. 97(3)(a) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), 41
- F373** Words in reg. 97(3)(b) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 (S.I. 2015/1927), regs. 1(1), 11

### [<sup>F374</sup>CHAPTER 3A

Certain debts of companies under Chapter 7 of Part 2 of ITEPA (agencies)

- F374** Pt. 4 Ch. 3A inserted (with effect in accordance with s. 17(6) of the amending Act) by Finance Act 2014 (c. 26), s. 17(1)(5)

### Interpretation of Chapter 3A

**97ZA** In this Chapter—

- “company” includes a limited liability partnership;
- “HMRC” means Her Majesty's Revenue and Customs;
- “director” has the meaning given by section 67 of ITEPA;
- “personal liability notice” has the meaning given by regulation 97ZB(2);
- “relevant PAYE debt”, in relation to a company, means—
- (a) any amount that the company is to deduct, or account for, in accordance with these Regulations by virtue of—
- (i) section 44(4) to (6) of ITEPA (persons providing fraudulent documents), or
- (ii) section 46A of that Act (anti-avoidance), and
- (b) any interest or penalty, in respect of an amount within paragraph (a), for which the company is liable;
- “the relevant date”, in relation to a relevant PAYE debt, means—
- (a) in a case where the relevant PAYE debt is to be deducted or accounted for, or arises, by virtue of subsections (4) to (6) of section 44 of ITEPA, the date on which the fraudulent document was provided as mentioned in subsection (4) of that section, or
- (b) in a case where the relevant PAYE debt is to be deducted or accounted for, or arises, by virtue of section 46A of ITEPA, the date the arrangements mentioned in subsection (1) (b) of that section were entered into;
- “the specified amount” has the meaning given by regulation 97ZB(2)(a).

### Liability of directors for relevant PAYE debts

**97ZB.**—(1) This regulation applies in relation to an amount of relevant PAYE debt of a company if the company does not deduct, account for or (as the case may be) pay that amount by the time by which the company is required to do so.

(2) HMRC may serve a notice (a “personal liability notice”) on any person who was, on the relevant date, a director of the company—

- (a) specifying the amount of relevant PAYE debt in relation to which this regulation applies (“the specified amount”), and
- (b) requiring the director to pay to HMRC—
- (i) the specified amount, and

(ii) specified interest on that amount.

(3) The interest specified in the personal liability notice—

(a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA, and

(b) is to run from the date the notice is served.

(4) A director who is served with a personal liability notice is liable to pay to HMRC the specified amount and the interest specified in the notice within 30 days beginning with the day the notice is served.

(5) If HMRC serve personal liability notices on more than one director of the company in respect of the same amount of relevant PAYE debt, the directors are jointly and severally liable to pay to HMRC the specified amount and the interest specified in the notices.

### **Appeals in relation to personal liability notices**

**97ZC.**—(1) A person who is served with a personal liability notice in relation to an amount of relevant PAYE debt of a company may appeal against the notice.

(2) A notice of appeal must—

(a) be given to HMRC within 30 days beginning with the day the personal liability notice is served, and

(b) specify the grounds of the appeal.

(3) The grounds of appeal are —

(a) that all or part of the specified amount does not represent an amount of relevant PAYE debt, of the company, to which regulation 97ZB applies, or

(b) that the person was not a director of the company on the relevant date.

(4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal by the company, that—

(a) the specified amount is a relevant PAYE debt of the company, and

(b) the company did not deduct, account for, or (as the case may be) pay the debt by the time by which the company was required to do so.

(5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal is to uphold or quash the personal liability notice.

(6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the specified amount so that it does represent an amount of relevant PAYE debt, of the company, to which regulation 97ZB applies.

### **Withdrawal of personal liability notices**

**97ZD.**—(1) A personal liability notice is withdrawn if the tribunal quashes it.

(2) An officer of Revenue and Customs may withdraw a personal liability notice if the officer considers it appropriate to do so.

(3) If a personal liability notice is withdrawn, HMRC must give notice of that fact to the person upon whom the notice was served.

### **Recovery of sums due under personal liability notice: application of Part 6 of TMA**

**97ZE.**—(1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—

(a) the personal liability notice were an assessment, and  
(b) the specified amount, and any interest on that amount under regulation 97ZB(2)(b)(ii), were income tax charged on the director upon whom the notice is served,  
and that Part of that Act applies with the modification in paragraph (2) and any other necessary modifications.

(2) Summary proceedings for the recovery of the specified amount, and any interest on that amount under regulation 97ZB(2)(b)(ii), may be brought in England and Wales or Northern Ireland at any time before the end of the period of 12 months beginning with the day after the day on which personal liability notice is served.

### Repayment of surplus amounts

**97ZF.**—(1) This regulation applies if—

- (a) one or more personal liability notices are served in respect of an amount of relevant PAYE debt of a company, and
  - (b) the amounts paid to HMRC (whether by directors upon whom notices are served or the company) exceed the aggregate of the specified amount and any interest on it under regulation 97ZB(2)(b)(ii).
- (2) HMRC is to repay the difference on a just and equitable basis and without unreasonable delay.
- (3) HMRC is to pay interest on any sum repaid.
- (4) The interest—
- (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA, and
  - (b) is to run from the date the amounts paid to HMRC come to exceed the aggregate mentioned in subsection (1)(b).]

### [<sup>F375</sup>CHAPTER 3B

Certain debts of companies under section 339A of ITEPA (travel expenses of workers providing services through employment intermediaries)

**F375** Pt. 4 Ch. 3B inserted (with effect in accordance with s. 14(7) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 14\(4\)\(5\)](#)

### Interpretation of Chapter 3B: “relevant PAYE debt” and “relevant date”

**97ZG.**—(1) In this Chapter “relevant PAYE debt”, in relation to a company means an amount within any of paragraphs (2) to (5).

(2) An amount within this paragraph is an amount that the company is to account for in accordance with these Regulations by virtue of section 339A(7) to (9) of ITEPA (persons providing fraudulent documents).

(3) An amount within this paragraph is an amount which a company is to deduct and pay in accordance with these Regulations by virtue of section 339A of ITEPA in circumstances where—

- (a) the company is an employment intermediary,
- (b) on the basis that section 339A of ITEPA does not apply by virtue of subsection (3) of that section the company has not deducted and paid the amount, but
- (c) the company has not been provided by any other person with evidence from which it would be reasonable in all the circumstances to conclude that subsection (3) of that section



applied (and the mere assertion by a person that the manner in which the worker provided the services was not subject to (or to the right of) supervision, direction or control by any person is not such evidence).

(4) An amount within this paragraph is an amount that the company is to deduct and pay in accordance with these Regulations by virtue of section 339A of ITEPA in a case where subsection (4) of that section applies (services provided under arrangements made by intermediaries).

(5) An amount within this paragraph is any interest or penalty in respect of an amount within any of paragraphs (2) to (4) for which the company is liable.

(6) In this Chapter “the relevant date” in relation to a relevant PAYE debt means the date on which the first payment is due on which PAYE is not accounted for.

### **Interpretation of Chapter 3B: general**

**97ZH** In this Chapter—

“company” includes a limited liability partnership;

“director” has the meaning given by section 67 of ITEPA;

“personal liability notice” has the meaning given by regulation 97ZI(2);

“the specified amount” has the meaning given by regulation 97ZI(2)(a).

### **Liability of directors for relevant PAYE debts**

**97ZI.**—(1) This regulation applies in relation to an amount of relevant PAYE debt of a company if the company does not deduct that amount by the time by which the company is required to do so.

(2) HMRC may serve a notice (a “personal liability notice”) on any person who was, on the relevant date, a director of the company—

(a) specifying the amount of relevant PAYE debt in relation to which this regulation applies (“the specified amount”), and

(b) requiring the director to pay to HMRC—

(i) the specified amount, and

(ii) specified interest on that amount.

(3) The interest specified in the personal liability notice—

(a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA, and

(b) is to run from the date the notice is served.

(4) A director who is served with a personal liability notice is liable to pay to HMRC the specified amount and the interest specified in the notice within 30 days beginning with the day the notice is served.

(5) If HMRC serve personal liability notices on more than one director of the company in respect of the same amount of relevant PAYE debt, the directors are jointly and severally liable to pay to HMRC the specified amount and the interest specified in the notices.

### **Appeals in relation to personal liability notices**

**97ZJ.**—(1) A person who is served with a personal liability notice in relation to an amount of relevant PAYE debt of a company may appeal against the notice.

(2) A notice of appeal must—

- (a) be given to HMRC within 30 days beginning with the day the personal liability notice is served, and
  - (b) specify the grounds of the appeal.
- (3) The grounds of appeal are —
- (a) that all or part of the specified amount does not represent an amount of relevant PAYE debt, of the company, to which regulation 97ZI applies, or
  - (b) that the person was not a director of the company on the relevant date.
- (4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal by the company, that—
- (a) the specified amount is a relevant PAYE debt of the company, and
  - (b) the company did not deduct, account for, or (as the case may be) pay the debt by the time by which the company was required to do so.
- (5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal is to uphold or quash the personal liability notice.
- (6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the specified amount so that it does represent an amount of relevant PAYE debt, of the company, to which regulation 97ZI applies.

#### **Withdrawal of personal liability notices**

- 97ZK.**—(1) A personal liability notice is withdrawn if the tribunal quashes it.
- (2) An officer of Revenue and Customs may withdraw a personal liability notice if the officer considers it appropriate to do so.
- (3) If a personal liability notice is withdrawn, HMRC must give notice of that fact to the person upon whom the notice was served.

#### **Recovery of sums due under personal liability notice: application of Part 6 of TMA**

- 97ZL.**—(1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—
- (a) the personal liability notice were an assessment, and
  - (b) the specified amount, and any interest on that amount under regulation 97ZI(2)(b)(ii), were income tax charged on the director upon whom the notice is served,
- and that Part of that Act applies with the modification in paragraph (2) and any other necessary modifications.
- (2) Summary proceedings for the recovery of the specified amount, and any interest on that amount under regulation 97ZI(2)(b)(ii), may be brought in England and Wales or Northern Ireland at any time before the end of the period of 12 months beginning with the day after the day on which the personal liability notice is served.

#### **Repayment of surplus amounts**

- 97ZM.**—(1) This regulation applies if—
- (a) one or more personal liability notices are served in respect of an amount of relevant PAYE debt of a company, and
  - (b) the amounts paid to HMRC (whether by directors upon whom notices are served or the company) exceed the aggregate of the specified amount and any interest on it under regulation 97ZI(2)(b)(ii).

- (2) HMRC is to repay the difference on a just and equitable basis and without unreasonable delay.
- (3) HMRC is to pay interest on any sum repaid.
- (4) The interest—
  - (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA, and
  - (b) is to run from the date the amounts paid to HMRC come to exceed the aggregate mentioned in subsection (1)(b).]

## [<sup>F376</sup>CHAPTER 4

### DEBTS OF MANAGED SERVICE COMPANIES

**F376** Pt. 4 Ch. 4 inserted (6.8.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/2069\)](#), regs. 1, 2

#### Interpretation of Chapter 4

**97A.**—(1) In this Chapter—

“HM Revenue and Customs” means Her Majesty’s Revenue and Customs;

“lower amount” means the amount mentioned in regulation 97C(5);

“managed service company” has the meaning given by section 61B of ITEPA;

“paragraph (b) associate” means a person who—

(a) is within section 688A(2)(d), and

(b) is within that provision by virtue of a connection with a person who is within section 688A(2)(b);

“paragraph (c) associate” means a person who—

(a) is within section 688A(2)(d), and

(b) is within that provision by virtue of a connection with a person who is within section 688A(2)(c);

“qualifying period” means a tax period beginning on or after 6th August 2007;

[<sup>F377</sup>“relevant apprenticeship levy debt” means a debt specified in regulation 97B;]

“relevant PAYE debt” means a debt specified in regulation 97B;

“specified amount” means the amount mentioned in regulation 97C(1)(b);

“transfer notice” means the notice mentioned in regulation 97C(4);

“transferee” means the person mentioned in regulation 97C(4).

(2) In this Chapter references to section 688A, however expressed, are references to section 688A of ITEPA.

**F377** Words in [reg. 97A\(1\)](#) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, 2(5)

**Relevant PAYE<sup>F378</sup> and apprenticeship levy] debts of managed service companies**

**97B.**—<sup>F379</sup>(1) A managed service company has a relevant PAYE debt or a relevant apprenticeship levy debt if a managed service company must pay an amount of tax or apprenticeship levy for a qualifying period, and—

- (a) in the case of a relevant PAYE debt one of conditions A to E is met, and
- (b) in the case of a relevant apprenticeship levy debt one of conditions F or G is met.]

(2) Condition A is met if—

- (a) an amount of tax for a qualifying period has been determined in accordance with regulation 80 (determination of unpaid tax and appeal against determination), and
- (b) any part of the tax determined has not been paid within 14 days from the date on which the determination became final and conclusive.

[<sup>F380</sup>(2A) Condition A2 is met if—

- (a) HMRC serve a notice on an employer under regulation 75A(5) (power of HMRC to issue a notice and certificate in cases where regulation 67B or 67D returns are not made, etc) requiring payment of the amount of tax they consider the employer is liable to pay, and
- (b) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the notice is prepared.]

(3) Condition B is met if—

- (a) an employer delivers a return under regulation 73 (annual return of relevant payments) for the tax year 2007-08, or any later tax year, showing an amount of total net tax deducted by the employer for that tax year,
- (b) HM Revenue and Customs prepare a certificate under regulation 76 (certificate if tax in regulation 73 return is unpaid) showing how much of that amount remains unpaid, and
- (c) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the certificate is prepared.

(4) Condition C is met if—

- (a) HM Revenue and Customs prepare a certificate under regulation 77(6) (return and certificate if tax may be unpaid) showing an amount of tax which the employer is liable to pay for a qualifying period, and
- (b) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the certificate is prepared.

(5) Condition D is met if—

- (a) HM Revenue and Customs serve notice on an employer under regulation 78(4) (notice and certificate if tax may be unpaid) requiring payment of the amount of tax which they consider the employer is liable to pay, and
- (b) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the notice is prepared.

(6) Condition E is met if—

- (a) HM Revenue and Customs prepare a certificate under regulation 79(2) (certificate after inspection of PAYE records) showing an amount of tax which it appears that the employer is liable to pay for a qualifying period,
- (b) HM Revenue and Customs make a written demand for payment of that amount of tax, and
- (c) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the written demand for payment is made.

- <sup>F381</sup> (7) Condition F is met if—
- (a) an amount of apprenticeship levy for a qualifying period has been assessed in accordance with regulation 147L (assessment of unpaid apprenticeship levy), and
  - (b) any part of the apprenticeship levy assessed has not been paid within 14 days beginning with the date on which the assessment is served.
- (8) Condition G is met if—
- (a) an employer delivers a return under regulation 147D (duty to report the amount of apprenticeship levy to be paid), showing an amount of apprenticeship levy payable by the employer for the tax year,
  - (b) HM Revenue and Customs assesses the amount of apprenticeship levy under regulation 147L showing how much of that amount remains unpaid, and
  - (c) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the assessment is served.]

- F378** Words in reg. 97B heading inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(6)(a)**
- F379** Reg. 97B(1) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(6)(b)**
- F380** Reg. 97B(2A) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **42**
- F381** Reg. 97B(7)(8) added (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(6)(c)**

### Transfer of debt of managed service company

**97C.**—(1) This regulation applies if—

- (a) a managed service company has a relevant PAYE debt [<sup>F382</sup>or a relevant apprenticeship levy debt], and
- (b) an officer of Revenue and Customs is of the opinion that the relevant PAYE debt [<sup>F383</sup>or the relevant apprenticeship levy debt] or a part of the relevant PAYE debt [<sup>F383</sup>or part of the relevant apprenticeship levy debt] (the “specified amount”) is irrecoverable from the managed service company within a reasonable period.

(2) HM Revenue and Customs may make a direction authorising the recovery of the specified amount from the persons specified in section 688A(2) (managed service companies: recovery from other persons).

(3) Upon the making of a direction under paragraph (2), the persons specified in section 688A(2) become jointly and severally liable for the relevant PAYE debt [<sup>F384</sup>or the relevant apprenticeship levy debt], but subject to what follows.

(4) HM Revenue and Customs may not recover the specified amount from any person in accordance with a direction made under paragraph (2) until they have served a notice (a “transfer notice”) on the person in question (the “transferee”).

(5) If an officer of Revenue and Customs is of the opinion that it is appropriate to do so, HM Revenue and Customs may accept an amount less than the specified amount (the “lower amount”) from a transferee; but this acceptance shall not prejudice the recovery of the specified amount from any other transferee.

(6) HM Revenue and Customs may not serve a transfer notice on a person mentioned in section 688A(2)(c), or on a paragraph (c) associate, if the relevant PAYE debt is incurred before 6th January 2008.

(7) HM Revenue and Customs may not serve a transfer notice on a person mentioned in section 688A(2)(c), or on a paragraph (c) associate, unless an officer of Revenue and Customs certifies that, in his opinion, it is impracticable to recover the specified amount from persons mentioned in paragraphs (a) and (b) of section 688A(2) and from paragraph (b) associates.

(8) In determining, for the purposes of paragraph (7), whether it is impracticable to recover the specified amount from persons mentioned in paragraphs (a) and (b) of section 688A(2) and from paragraph (b) associates, the officer of Revenue and Customs may have regard to all managed service companies in relation to which a person is a person mentioned in paragraph (a) or (b) of section 688A(2) or a paragraph (b) associate.

(9) In determining which of the persons mentioned in section 688A(2)(c) and which of the paragraph (c) associates are to be served with transfer notices and the amount of those notices, HM Revenue and Customs must have regard to the degree and extent to which those persons are persons who (directly or indirectly) have encouraged or been actively involved in the provision by the managed service company of the services of the individual mentioned in that provision.

- F382** Words in [reg. 97C\(1\)\(a\)](#) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, [2\(7\)\(a\)](#)
- F383** Words in [reg. 97C\(1\)\(b\)](#) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, [2\(7\)\(b\)](#)
- F384** Words in [reg. 97C\(3\)](#) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, [2\(7\)\(c\)](#)

### Time limits for issue of transfer notices

**97D.**—(1) A transfer notice must be served before the end of the period determined in accordance with this regulation.

(2) Paragraphs [<sup>F385</sup>(3) to (7B)] apply if the transfer notice is served on a person mentioned in paragraph (a) or (b) of section 688A(2) or on a paragraph (b) associate.

(3) In a case in which condition A in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which the determination became final and conclusive.

[<sup>F386</sup>(3A) In a case in which condition A2 in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HMRC serve notice to the employer under regulation 75A(5).]

(4) In a case in which condition B in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HM Revenue and Customs received the return delivered under regulation 73.

(5) In a case in which condition C in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HM Revenue and Customs prepare the certificate under regulation 77(6).

(6) In a case in which condition D in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HM Revenue and Customs serve notice to the employer under regulation 78(4).

(7) In a case in which condition E in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HM Revenue and Customs carry out the inspection of the employer's PAYE records.

[<sup>F387</sup>(7A) In a case in which condition F in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which the assessment became final and conclusive.

(7B) In a case in which condition G in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HM Revenue and Customs serves the assessment under regulation 147L.]

(8) If the transfer notice is served on a person mentioned in paragraph (c) of section 688A(2) or on a paragraph (c) associate, the transfer notice must be served before the end of a period of [<sup>F388</sup>three months] beginning with the date on which the officer of Revenue and Customs certifies the matters specified in regulation 97C(7).

- F385** Words in reg. 97D(2) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(8)(a)**
- F386** Reg. 97D(3A) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **43**
- F387** Reg. 97D(7A)(7B) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(8)(b)**
- F388** Words in reg. 97D(8) substituted (6.8.2007) by [The Income Tax \(Pay As You Earn\) \(Amendment\) No. 3\) Regulations 2007 \(S.I. 2007/2296\)](#), regs. 1, **2**

### Contents of transfer notice

**97E.**—(1) A transfer notice must contain the following information—

- (a) the name of the managed service company to which the relevant PAYE debt [<sup>F389</sup>or the relevant apprenticeship levy debt] relates;
- (b) the address of the managed service company to which the relevant PAYE debt [<sup>F389</sup>or the relevant apprenticeship levy debt] relates;
- (c) the amount of the relevant PAYE debt [<sup>F389</sup>or the relevant apprenticeship levy debt];
- (d) the tax periods to which the relevant PAYE debt [<sup>F389</sup>or the relevant apprenticeship levy debt] relates;
- (e) if the tax periods to which the relevant PAYE debt [<sup>F389</sup>or the relevant apprenticeship levy debt] relates are comprised in more than one tax year, the apportionment of the relevant PAYE debt among those tax years;
- (f) which of the [<sup>F390</sup>conditions A to G] specified in regulation 97B is met;
- (g) the transferee's name;
- (h) the transferee's address;
- (j) whether the transferee is a person mentioned in paragraph (a), (b) or (c) of section 688A, a paragraph (b) associate or a paragraph (c) associate;
- (k) if the transferee is a person mentioned in paragraph (c) of section 688A or a paragraph (c) associate—
  - (i) the date on which the officer of Revenue and Customs certified the matters specified in regulation 97C(7), and

- (ii) the names of the persons from whom it has been impracticable to recover the specified amount;
  - (l) the specified amount;
  - (m) the tax periods to which the specified amount relates;
  - (n) if the tax periods to which the specified amount relates are comprised in more than one tax year, the apportionment of the specified amount among those tax years;
  - (o) the address to which payment must be sent;
  - (p) the address to which an appeal must be sent.
- (2) The transfer notice may specify the lower amount if HM Revenue and Customs are prepared to accept the lower amount from the transferee.
- (3) The transfer notice must also contain a statement, made by the officer of Revenue and Customs serving the notice, that in his opinion the specified amount is irrecoverable from the managed service company within a reasonable period.

**F389** Words in reg. 97E(1)(a)-(e) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(9)(a)**

**F390** Words in reg. 97E(1)(f) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(9)(b)**

### Payment of the specified amount

- 97F.**—(1) If a transfer notice is served, the transferee must pay the specified amount to HM Revenue and Customs at the address specified in the transfer notice.
- (2) The transferee must pay the specified amount within 30 days beginning with the date on which the transfer notice is served (the “specified period”).
- (3) If a transfer notice is served on a person mentioned in paragraph (a) or (b) of section 688A(2), or on a paragraph (b) associate, the specified amount carries interest from the reckonable date until the date on which payment is made.
- (4) If a transfer notice is served on a person mentioned in paragraph (c) of section 688A(2), or on a paragraph (c) associate, the specified amount carries interest from the day following the expiry of the specified period until the date on which payment is made.

### Appeals

- 97G.**—(1) A transferee may appeal against the transfer notice.
- (2) A notice of appeal must—
- (a) be given to HM Revenue and Customs at the address specified in the transfer notice within 30 days beginning with the date on which the transfer notice was served, and
  - (b) specify the grounds of the appeal.
- (3) The grounds of appeal are any of the following—
- (a) that the relevant PAYE debt (or part of the relevant PAYE debt) [<sup>F391</sup>or the relevant apprenticeship levy debt (or part of the relevant apprenticeship levy debt)] is not due from the managed service company to HM Revenue and Customs;
  - (b) that the specified amount does not relate to a company which is a managed service company;



- (c) that the specified amount is not irrecoverable from the managed service company within a reasonable period;
  - (d) that the transferee is not a person mentioned in section 688A(2);
  - (e) that the transferee was not a person mentioned in section 688A(2) during the tax periods to which the specified amount relates;
  - (f) that the transferee was not a person mentioned in section 688A(2) during some part of the tax periods to which the specified amount relates
  - (g) that the transfer notice was not served before the end of the period specified in regulation 97D;
  - (h) that the transfer notice does not satisfy the requirements specified in regulation 97E;
  - (j) in the case of a transferee mentioned in section 688A(2)(c) or of a paragraph (c) associate, that it is not impracticable to recover the specified amount from persons mentioned in paragraphs (a) and (b) of section 688A(2) or from paragraph (b) associates;
  - (k) in the case of a transferee mentioned in section 688A(2)(c) or of a paragraph (c) associate, that the amount specified in the transfer notice does not have regard to the degree and extent to which the transferee is a person who (directly or indirectly) has encouraged or been actively involved in the provision by the managed service company of the services of the individual mentioned in that provision.
- (4) Paragraph (3)(a) is subject to regulation 97H(4).
- (5) .....

**F391** Words in [reg. 97G\(3\)\(a\)](#) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(10)**

**Procedure on appeals**

**97H.**—(1) On an appeal [<sup>F392</sup>that is notified to the tribunal, the tribunal] shall uphold or quash the transfer notice.

(2) The general rule in paragraph (1) is subject to the following qualifications.

(3) In the case of the ground of appeal specified in regulation 97G(3)(a), the [<sup>F393</sup>tribunal] shall investigate the matter and shall—

- (a) uphold the amount of the relevant PAYE debt [<sup>F394</sup>or the relevant apprenticeship levy debt] specified in the transfer notice, or
- (b) reduce or increase the amount of the relevant PAYE debt [<sup>F395</sup>or the relevant apprenticeship levy debt] specified in the transfer notice to such amount as in [<sup>F396</sup>the tribunal’s opinion] is just and reasonable.

(4) If the [<sup>F397</sup>tribunal determines] the amount of the relevant PAYE debt of a managed service company under paragraph (3), that amount is conclusive as to the amount of that relevant PAYE debt [<sup>F398</sup>or the relevant apprenticeship levy debt] in any later appeal relating to that debt.

(5) In the case of the ground of appeal specified in regulation 97G(3)(f), the [<sup>F399</sup>tribunal] may reduce the amount specified in the transfer notice to an amount determined in accordance with the equation—

$$RA=PTP \times AS$$

(6) In paragraph (5)—

RA means the reduced amount;

P means the number of days in the tax periods specified in the transfer notice during which the transferee was a person mentioned in section 688A(2);

TP means the number of days in the tax periods specified in the transfer notice;

AS means the amount specified in the transfer notice.

(7) In the case of the ground of appeal specified in regulation 97G(3)(k), the [<sup>F400</sup>tribunal] may reduce the amount specified in the transfer notice to such amount as in [<sup>F401</sup>the tribunal's opinion] is just and reasonable.

- F392** Words in reg. 97H(1) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(2)**
- F393** Word in reg. 97H(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(3)(a)**
- F394** Words in reg. 97H(3)(a) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414), regs. 1, **2(11)**
- F395** Words in reg. 97H(3)(b) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414), regs. 1, **2(11)**
- F396** Words in reg. 97H(3)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(3)(b)**
- F397** Words in reg. 97H(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(4)**
- F398** Words in reg. 97H(4) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414), regs. 1, **2(11)**
- F399** Word in reg. 97H(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(5)**
- F400** Word in reg. 97H(7) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(6)(a)**
- F401** Words in reg. 97H(7) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 104(6)(b)**

### Withdrawal of transfer notices

**97J.**—(1) A transfer notice shall be withdrawn if the [<sup>F402</sup>tribunal quashes] it.

(2) A transfer notice may be withdrawn if, in the opinion of an officer of Revenue and Customs, it is appropriate to do so.

(3) If a transfer notice is withdrawn, HM Revenue and Customs must give written notice of that fact to the transferee.

- F402** Words in reg. 97J substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 105**

### Application of Part 6 of TMA

**97K.**—(1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—

- (a) the transfer notice were an assessment, and
- (b) the amount specified in the transfer notice, and any interest payable on that amount under paragraph (3) or (4) of regulation 97F, were income tax charged on the transferee;

and that Part of that Act applies with the modification specified in paragraph (2) and any other necessary modifications.

(2) Summary proceedings for the recovery of the specified amount may be brought in England and Wales or Northern Ireland at any time before the end of a period of 12 months beginning immediately after the expiry of the period mentioned in regulation 97F(2).

(3) The specified amount is one cause of action or one matter of complaint for the purposes of proceedings under sections 65, 66 and 67 of TMA (magistrates' courts, county courts and inferior courts in Scotland).

(4) But paragraph (3) does not prevent the bringing of separate proceedings for the recovery of each of the amounts which the transferee is liable to pay for any tax period.

### Repayment of surplus amounts

**97L.**—(1) This regulation applies if the amounts paid to HM Revenue and Customs in respect of a relevant PAYE debt [<sup>F403</sup>or a relevant apprenticeship levy debt] exceed the specified amount.

(2) HM Revenue and Customs shall repay the difference on a just and equitable basis and without unreasonable delay.

(3) Interest on any sum repaid shall be paid in accordance with [<sup>F404</sup>section 102 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC).]

**F403** Words in reg. 97L(1) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(12)(a)**

**F404** Words in reg. 97L(3) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **2(12)(b)**

## [<sup>F405</sup>CHAPTER 5

### DEBTS ARISING UNDER CHAPTER 10 OF PART 2 OF ITEPA (INTERMEDIARIES)

**F405** Pt. 4 Ch. 5 inserted (6.4.2021) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2020 \(S.I. 2020/1150\)](#), regs. 1, **3**

### Recovery from relevant persons

**97LA.**—(1) In this Chapter, references to a “PAYE debt” must be construed as references to a deemed employer PAYE debt.

(2) A PAYE debt may be recovered from a relevant person but this is subject to paragraph (3).

(3) A PAYE debt may only be recovered from a person described in section 688AA(3)(a) ITEPA if an officer of Revenue and Customs considers there is no realistic prospect of recovery of all or part of it within a reasonable period of time from a person described in section 688AA(3)(b).

### Recovery of PAYE debt

**97LB.**—(1) HMRC may not recover a PAYE debt in accordance with regulation 97LA(2) unless it has given a recovery notice to the relevant person during the relevant period.

(2) No recovery of a PAYE debt may be made—

- (a) if the PAYE debt relates to tax payable in a tax year commencing before 6th April 2021, or
- (b) if the deemed employer is also “the client” described in section 61M(1)(a) of ITEPA.

(2) In this Chapter, a “recovery notice” means a notice which complies with regulation 97LD.

### **The relevant period**

**97LC.**—(1) In this Chapter, the “relevant period” in relation to a PAYE debt means the period beginning in accordance with paragraph (2) and ending in accordance with paragraph (3).

(2) The relevant period begins—

- (a) upon the expiry of the period of 30 days beginning with the day on which the determination made in accordance with regulation 80 of the amount referred to in section 688AA(2)(a) of ITEPA becomes final and conclusive, or
- (b) when an officer of Revenue and Customs becomes aware of sufficient information to make a determination in accordance with regulation 80 in relation to the amount referred to in section 688AA(2)(a) of ITEPA but considers that it would be impractical to make such a determination on account of the liquidation, dissolution or other incapacity of the deemed employer, provided that time is not after the latest time allowed for the making of a determination in accordance with regulation 80 in relation to the PAYE debt.

(3) The relevant period ends upon the expiry of the period of 12 months beginning with the day on which the period begins.

### **Contents of recovery notice**

**97LD.**—(1) A recovery notice must contain the following information—

- (a) the name and address of the deemed employer to whom the PAYE debt relates;
- (b) the name of “the worker” for the purposes of section 61M(1)(a) ITEPA to whom the PAYE debt relates;
- (c) the amount of the PAYE debt;
- (d) the tax periods to which the PAYE debt relates;
- (e) if the tax periods to which the PAYE debt relates are comprised in more than one tax year, the apportionment of the PAYE debt between those tax years;
- (f) the date on which the relevant period in relation to the PAYE debt began and whether the period began in accordance with regulation 97LC(2)(a) or (b);
- (g) the relevant person’s name and address;
- (h) whether the relevant person is a person described in paragraph (a) or (b) of the definition of relevant person in section 688AA(3) of ITEPA.

(2) The recovery notice must also contain a statement, made by the officer of Revenue and Customs giving the notice, that the officer is of the view that there is no realistic prospect of recovering the PAYE debt within a reasonable period from—

- (a) the deemed employer;
- (b) the person mentioned in section 688AA(3)(b) of ITEPA in the case of a recovery notice given to a person mentioned in section 688AA(3)(a) of that Act.

### **Payment of deemed employer PAYE debt and interest**

**97LE.**—(1) The relevant person must pay the amount of the PAYE debt to HMRC within 30 days beginning with the date on which the notice is given.

(2) Interest accruing on the PAYE debt by virtue of section 101 of the Finance Act 2009 after expiry of the period of time mentioned in paragraph (1) shall be treated as chargeable to the relevant person under that section.

## Appeals

**97LF.**—(1) A person who is given a recovery notice in relation to a PAYE debt may appeal against the notice on one or more of the grounds set out in paragraph (3).

(2) A notice of appeal must—

- (a) be given to HMRC within 30 days beginning with the day the recovery notice is given, and
- (b) specify the grounds of the appeal.

(3) The grounds of appeal are—

- (a) that all or part of the amount specified in the notice in accordance with regulation 97LD(1)(c) does not relate to a PAYE debt;
- (b) that there is a realistic prospect of recovering the PAYE debt from the deemed employer within a reasonable period of time;
- (c) that there is a realistic prospect of recovering the relevant PAYE debt from the person described in section 688AA(3)(b) of ITEPA within a reasonable period of time;
- (d) that the person is not a relevant person in respect of the PAYE debt;
- (e) that the recovery notice was not given within the relevant period;
- (f) that the recovery notice does not satisfy the requirements specified in regulation 97LD.

(4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal, that the PAYE debt is payable by the deemed employer.

(5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal may uphold or quash the recovery notice.

(6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the amount specified in accordance with regulation 97LD(1)(c) so that it does relate to a PAYE debt.

## Withdrawal of recovery notices

**97LG.**—(1) A recovery notice is withdrawn if the tribunal quashes it.

(2) An officer of Revenue and Customs may withdraw a recovery notice if the officer considers it appropriate to do so.

(3) If a recovery notice is withdrawn in accordance with paragraph (2), HMRC must give notice of that fact to the person to whom the notice was given.

## Application of Part 6 of TMA

**97LH.** Part 6 of TMA (collection and recovery) applies as if—

- (a) the amount of the PAYE debt were income tax charged on the relevant person,
- (b) the recovery notice were an assessment, and
- (c) the giving of the recovery notice were the matter complained of for the purposes of section 65(3) TMA (Magistrates' court).]

## [<sup>F406</sup>PART 4A

### Security for payment of PAYE

**F406** Pt. 4A inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **58**

#### Interpretation

**97M.** In this Part—

- “a further notice” has the meaning given in regulation 97U(3); and
- “PGS” has the meaning given in regulation 97S(1).

#### Requirement for security

**97N.**—(1) In circumstances where an officer of Revenue and Customs considers it necessary for the protection of the revenue, the officer may require a person described in regulation 97P(1) (persons from whom security can be required) to give security or further security for the payment of amounts in respect of which an employer described in regulation 97O (employers) is or may be accountable to HMRC under regulation 67G [<sup>F407</sup>, as adjusted by regulation 67H(2) where appropriate] , 68 or 80 (payments to HMRC and determination of unpaid amounts).

(2) Paragraph (1) does not apply to any amount which the employer is required to pay to HMRC that relates to income to which Part 8 (social security benefits) applies.

**F407** Words in [reg. 97N\(1\)](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **34**

#### Employers

**97O.**—(1) The employer is any employer other than—

- (a) the Crown,
- (b) an employer to whom paragraph (2) applies,
- (c) .....
- (d) a care and support employer within the meaning given by regulation 206(4) (employers).

(2) This paragraph applies to employers who at the relevant time could not be liable to a penalty under Schedule 56 to the Finance Act 2009 by virtue of paragraph 10 of that Schedule (suspension of penalty for failure to make payments on time during currency of agreement for deferred payment).

(3) In paragraph (2), the relevant time is a time at which, but for paragraph (1)(b), the officer would require security.

#### Persons from whom security can be required

**97P.**—(1) The persons are—

- (a) the employer,
- (b) any of the following in relation to the employer—
  - (i) a director,

- (ii) a company secretary,
- (iii) any other similar officer, or
- (iv) any person purporting to act in such a capacity, and
- (c) in a case where the employer is a limited liability partnership, a member of the limited liability partnership.
- (2) An officer of Revenue and Customs may require—
  - (a) a person to give security or further security of a specified value in respect of the employer, or
  - (b) more than one person to give security or further security of a specified value in respect of the employer, and where the officer does so those persons shall be jointly and severally liable to give that security or further security.

### **Notice of requirement**

- 97Q.**—(1) An officer of Revenue and Customs must give notice of a requirement for security to each person from whom security is required and the notice must specify—
- (a) the value of security to be given,
  - (b) the manner in which security is to be given,
  - (c) the date on or before which security is to be given, and
  - (d) the period of time for which security is required.
- (2) The notice must include, or be accompanied by, an explanation of—
- (a) the employer’s right to make a request under paragraph 10(1) of Schedule 56 to the Finance Act 2009, and
  - (b) the effect of regulation 97R(2) and (3) (date on which security is due).
- (3) In a case which falls within regulation 97P(2)(b), the notice must include, or be accompanied by, the names of each other person from whom security is required.
- (4) The notice may contain such other information as the officer considers necessary.
- (5) A person shall not be treated as having been required to provide security unless HMRC comply with this regulation and regulation 97R(1).

### **Date on which security is due**

- 97R.**—(1) The date specified under regulation 97Q(1)(c) (notice of requirement) may not be earlier than the 30th day after the day on which the notice is given.
- (2) If, before the date specified under regulation 97Q(1)(c), the employer makes a request under paragraph 10(1) of Schedule 56 to the Finance Act 2009, the requirement to give security on or before that date does not apply.
- (3) In a case which falls within paragraph (2), if HMRC does not agree to the employer’s request, security is to be given on or before the 30th day after the day on which HMRC notifies the employer of that decision.

### **Application for reduction in the value of security held**

- 97S.**—(1) A person who has given security (“PGS”) may apply to an officer of Revenue and Customs for a reduction in the value of security held by HMRC if—
- (a) PGS’ circumstances have changed since the day the security was given because—

- (i) of hardship, or
  - (ii) PGS has ceased to be a person mentioned in regulation 97P(1) (person from whom security can be required), or
- (b) since the day the security was given there has been a significant reduction in the number of employees of the employer to whom the security relates or that employer has ceased to be an employer.
- (2) Where regulation 97P(2)(b) applies, a person who has not contributed to the value of the security given may not make an application under paragraph (1).

#### **Outcome of application for reduction in the value of security held**

**97T.**—(1) If an application under regulation 97S(1) (application for reduction in the value of security held) is successful, the officer must inform PGS of the reduced value of security that is still required or, where that value is nil, that the requirement for security has been cancelled.

(2) HMRC may make such arrangements as they think fit to ensure the necessary reduction in the value of security held.

#### **Outcome of application for reduction in the value of security held: further provision**

**97U.**—(1) This regulation applies—

- (a) in cases which fall within regulation 97P(2)(b), and
- (b) where PGS' application is made under regulation 97S(1)(a).

(2) As a consequence of arrangements made under regulation 97T(2) (outcome of application for reduction in the value of security held), an officer of Revenue and Customs may require any other person who was given notice under regulation 97Q (notice of requirement) in relation to the security ("the original security"), or any other person mentioned in regulation 97P(1), to provide security in substitution for the original security.

(3) Where an officer of Revenue and Customs acts in reliance on paragraph (2), the officer must give notice ("a further notice").

(4) Regulation 97Q and regulation 97R (date on which security is due) apply in relation to a further notice.

(5) Subject to paragraph (6), regulation 97V(1) (appeals) applies in relation to a further notice.

(6) A person who is given a further notice and who was also given notice under regulation 97Q in relation to the original security may only appeal on the grounds the person is not a person mentioned in regulation 97P(1).

#### **Appeals**

**97V.**—(1) A person who is given notice under regulation 97Q may appeal against the notice or any requirement in it.

(2) PGS may appeal against—

- (a) the rejection by an officer of Revenue and Customs of an application under regulation 97S(1), and
- (b) a smaller reduction in the value of security held than PGS applied for.

(3) Notice of an appeal under this regulation must be given—

- (a) before the end of the period of 30 days beginning with—



- (i) in the case of an appeal under paragraph (1), the day after the day on which the notice was given, and
- (ii) in the case of an appeal under paragraph (2), the day after the day on which PGS was notified of the outcome of the application, and
- (b) to the officer of Revenue and Customs by whom the notice was given or the decision on the application was made, as the case may be.
- (4) Notice of an appeal under this regulation must state the grounds of appeal.
- (5) On an appeal under paragraph (1) that is notified to the tribunal, the tribunal may—
  - (a) confirm the requirements in the notice,
  - (b) vary the requirements in the notice, or
  - (c) set aside the notice.
- (6) On an appeal under paragraph (2) that is notified to the tribunal, the tribunal may—
  - (a) confirm the decision on the application, or
  - (b) vary the decision on the application.
- (7) On the final determination of an appeal under this regulation—
  - (a) subject to any alternative determination by a tribunal or court, any security to be given is due on the 30th day after the day on which the determination is made, or
  - (b) HMRC may make such arrangements as it sees fit to ensure the necessary reduction in the value of security held.
- (8) An appeal under this regulation is subject to the provisions of Part 5 of TMA (appeals and other proceedings) apart from—
  - (a) section 46D,
  - (b) section 47B,
  - (c) section 50(6) to (9), and
  - (d) sections 54A to 57.

#### **Appeals: further provision for cases which fall within regulation 97R(2)**

**97W.** In a case which falls within regulation 97R(2) (date on which security is due), if the request mentioned in that provision is made before an appeal under regulation 97V(1) (appeals), regulation 97V(3)(a)(i) applies as if the words “the day after the day on which the notice was given” were “the day after the day on which HMRC notifies the employer of its decision”.

#### **Offence**

**97X.**—(1) For the purposes of section 684(4A) of ITEPA (PAYE regulations – security for payment of PAYE: offence)—

- (a) in relation to a requirement for security under a notice under regulation 97Q (notice of requirement) the period specified is the period which starts with the day the notice is given and ends with—
  - (i) the first day after the date specified under regulation 97Q(1)(c), or
  - (ii) in a case which falls within regulation 97R(2), the first day after the date determined under regulation 97R(3),
- (b) in relation to a requirement for security under a further notice the period specified is the period which starts with the day the further notice is given and ends with—

- (i) the first day after the date specified under regulation 97Q(1)(c) as it applies in relation to the further notice, or
  - (ii) in a case which falls within regulation 97R(2), the first day after the date determined under regulation 97R(3) as it applies in relation to the further notice, and
- (c) in relation to a requirement for security to which regulation 97V(7)(a) applies the period specified is the period which starts with the day the determination is made and ends with the first day after—
- (i) the day the tribunal or court determines to be the day that the security is to be given, or
  - (ii) the day determined in accordance with that regulation,
- as the case may be.]

## PART 5

### EMPLOYERS

#### *Special arrangements*

#### **Multiple PAYE schemes**

**98.**—(1) An employer may elect, for the purposes of these Regulations, to be treated as different employers in relation to different groups of employees.

(2) Where the employer makes an election, these Regulations apply as if—

- (a) in respect of each group the employer were a different employer;
- (b) each group constituted all of the employer's employees;
- (c) each group were employed in a separate undertaking from the others; <sup>F408</sup>...
- (d) an employee who has moved from one group to another has left one employment and started employment with a new employer;

<sup>F409</sup>(e) an employee who is allocated to more than one group has more than one employment; and

(f) an employee who is deallocated from one group has left an employment]

(3) While an election is in force, an employer must allocate any new employees to [<sup>F410</sup>at least] one of the groups.

(4) An election must be made by notice to the Inland Revenue containing—

<sup>F411</sup>(za) the tax month from which the election is to have effect,]

- (a) such information as may be necessary to identify the groups of employees, and
- (b) a certificate that each employee falls into [<sup>F412</sup>at least] one of the groups.

(5) An employer must <sup>F413</sup>... make an election before the beginning of the [<sup>F414</sup>tax month immediately preceding the tax month from which the election] is to have effect.

<sup>F415</sup>(5A) A late election will be treated as if it had been made in relation to the tax month immediately following the tax month from which the election was stated to have had effect.]

<sup>F416</sup>(6) .....

<sup>F417</sup>(7) .....

(8) An election continues in effect until revoked by a notice given to the Inland Revenue.

(9) A notice of revocation must be given before the beginning of the [<sup>F418</sup>tax month] for which the election is to be revoked, but the revocation of an election does not prevent the making of a new election for that or a later [<sup>F418</sup>tax month].

(10) An election which has not yet come into effect may be revoked at any time before the beginning of the [<sup>F419</sup>tax month] for which it is to have effect.

(11) This regulation is subject to regulation 99.

- F408** Word in reg. 98(2)(c) omitted (6.4.2022) by virtue of [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(a)** (with reg. 1(4))
- F409** Reg. 98(2)(e)(f) inserted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(b)** (with reg. 1(4))
- F410** Words in reg. 98(3) inserted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(c)** (with reg. 1(4))
- F411** Reg. 98(4)(za) inserted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(d)** (with reg. 1(4))
- F412** Words in reg. 98(4)(b) inserted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(c)** (with reg. 1(4))
- F413** Words in reg. 98(5) omitted (6.4.2022) by virtue of [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(e)(i)** (with reg. 1(4))
- F414** Words in reg. 98(5) substituted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(e)(ii)** (with reg. 1(4))
- F415** Reg. 98(5A) inserted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(f)** (with reg. 1(4))
- F416** Reg. 98(6) omitted (6.4.2022) by virtue of [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(g)** (with reg. 1(4))
- F417** Reg. 98(7) omitted (6.4.2022) by virtue of [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(g)** (with reg. 1(4))
- F418** Words in reg. 98(9) substituted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(h)** (with reg. 1(4))
- F419** Words in reg. 98(10) substituted (6.4.2022) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2022 \(S.I. 2022/227\)](#), regs. 1(2), **4(i)** (with reg. 1(4))

#### Commencement Information

- I12** Reg. 98 in force at 6.4.2004, see [reg. 1](#)

### Multiple PAYE schemes: election made for improper purpose ineffective

**99.**—(1) An election made under regulation 98 must be disregarded if the Inland Revenue—

- (a) issue a notice to the employer stating that it appears to them that the election is made wholly or mainly for an improper purpose (“an improper purpose notice”), and
- (b) issue the improper purpose notice within 60 days of the making of the election.
- (2) An election is made for an “improper purpose” if it is made for the purpose of—
  - (a) avoiding the requirement imposed by regulation 199 (large employers required to make specified payments electronically),
  - <sup>F420</sup>(b) . . . . .
  - <sup>F421</sup>(c) . . . . .
- (3) An employer may appeal against an improper purpose notice by giving notice to the Inland Revenue within 30 days of the issue of the improper purpose notice.
- (4) The grounds of appeal are—
  - (a) that the election was not made wholly or mainly for an improper purpose, or
  - (b) that the improper purpose notice was not issued within 60 days of the election.
- (5) If the appeal is successful the improper purpose notice must be withdrawn.
- (6) Regulation 217 (appeals: supplementary provisions) applies to appeals under this regulation.

**F420** Reg. 99(2)(b) omitted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **16(c)**

**F421** Reg. 99(2)(c) omitted (6.4.2010) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(2), **16(b)**

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**Commencement Information**

**I13** [Reg. 99](#) in force at 6.4.2004, see [reg. 1](#)

**Tips: special arrangements**

- 100.**—(1) This regulation applies if an organised arrangement exists for tips to be shared among employees by a person (“T”) who is not the principal employer.
- (2) On becoming aware of the existence of an arrangement, the principal employer must notify the Inland Revenue about the arrangement giving T’s name, if known.
  - (3) For the purposes of these Regulations—
    - (a) every payment made to an employee by way of the employee’s share of tips by T (including the retention by T of T’s own share if T is also an employee) is regarded as a relevant payment by T; and
    - (b) to the extent of any such payment, T is regarded as the employer.
  - (4) But if in any case the Inland Revenue are satisfied that T has failed to comply with any of the requirements of these Regulations and they so direct, then—
    - (a) any tips paid to T through the principal employer for sharing among the employees are to be dealt with in accordance with paragraph (5), and
    - (b) any other tips may be taken into account by the Inland Revenue under regulation 14(1)(b) in determining the code for each employee.
  - (5) If this paragraph applies—
    - (a) the principal employer is treated as the employer for the purposes of these Regulations in relation to the tips;

- (b) T must, before the principal employer pays any tips to T, give the principal employer such particulars of every payment by way of the sharing of tips to be made to an employee as may be necessary to enable the principal employer to comply with these Regulations;
  - (c) the principal employer must, on making any payment of tips to T, deduct or repay tax in accordance with these Regulations in respect of the amount of such tips to be paid to each employee, and notify T of each amount so deducted or repaid.
- (6) Paragraph (2) does not apply if the arrangement came into existence before 6th April 2004.
- (7) In this regulation—
- “the principal employer” means the person under whose general control and management the employees work;
  - “tips” means gratuities and service charges.

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**Commencement Information**

**I14** Reg. 100 in force at 6.4.2004, see [reg. 1](#)

*Death of employer and succession*

**Death of employer**

- 101.**—(1) This regulation applies if an employer dies.
- (2) Anything which the employer would have been liable to do under these Regulations must be done by the employer’s personal representatives.
- (3) But if the employer made payments on behalf of another person (“the principal”), anything which the employer would have been liable to do under these Regulations in respect of or in connection with those payments must be done by the principal.

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**Commencement Information**

**I15** Reg. 101 in force at 6.4.2004, see [reg. 1](#)

**Succession to a business etc**

- 102.**—(1) This regulation applies if there is a change in an employee’s employer while the employee remains in employment in the same business.
- (2) This regulation also applies if there is a change in the pension payer who pays a pension to a pensioner.
- (3) The change is not to be treated as a cessation of employment for the purposes of regulation 36 (cessation of employment: Form P45).
- (4) The new employer is, in relation to any matter arising after the change, liable to do anything which the former employer would have been liable to do under these Regulations if the change had not taken place.
- (5) Paragraph (4) is subject to paragraphs (6) and (7) and regulation 104 (succession to a business: trade disputes).
- (6) The new employer is not liable for the payment of any tax which was deductible from relevant payments made to the employee—
- (a) before the change took place, unless those payments were made by the new employer, or

(b) by the former employer after the change took place.

(7) The new employer is not liable for the payment of any tax which was to be deducted or accounted for in accordance with regulation 62(4) or (5) (notional payments) in respect of notional payments made to the employee—

(a) before the change took place, unless those payments were made by the new employer, or

(b) by the former employer after the change took place.

(8) The former employer must give the new employer any particulars which the new employer needs in order to comply with this regulation.

(9) In paragraph (1), “business” includes any trade, concern or undertaking.

#### Commencement Information

**I16** Reg. 102 in force at 6.4.2004, see [reg. 1](#)

### Death and succession

**103.**—(1) Regulation 101 (death of employer) does not affect the operation of regulation 102 (succession to a business etc) for the purposes of which the deceased employer’s personal representative or the principal may also be the new employer.

(2) But paragraph (3) applies where a person (“P”) is both the new employer and also the deceased employer’s personal representative or the principal.

(3) Paragraphs (6) and (7) of regulation 102 (new employer not liable for certain payments of tax) do not apply to P in P’s capacity as personal representative or principal.

(4) “Principal” has the same meaning as in regulation 101.

#### Commencement Information

**I17** Reg. 103 in force at 6.4.2004, see [reg. 1](#)

### Succession to a business: trade disputes

**104.**—(1) This regulation applies if a trade dispute began, but did not end, before a change to which regulation 102 (succession to a business etc) applies took place.

(2) The former employer must comply with regulations 64(8) (trade disputes: payments to Revenue) and 75 (additional return in case of trade dispute) as though the time limit of 42 days ran out on the date on which the change took place.

(3) The new employer is liable to repay, in accordance with regulation 64, any tax that was withheld in the tax year in which the change took place by the former employer.

(4) The new employer may recover from the Board of Inland Revenue an amount repayable under paragraph (3), as if it were an amount recoverable under regulation [F422]67G(3)(b) [F423], as adjusted by regulation 67H(2) where appropriate,] (payments to and recoveries from HMRC for each tax period by Real Time Information employers) or, as the case may be,] 68(3)(b) (periodic payments to and recoveries from Revenue).

(5) But any amount recovered under paragraph (4) must be ignored when determining how much the new employer must pay or can recover under regulation [F424]67G or] 68.

- F422** Words in [reg. 104\(4\)](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), [regs. 1\(1\), 44\(a\)](#)
- F423** Words in [reg. 104\(4\)](#) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), [regs. 1\(2\), 35](#)
- F424** Words in [reg. 104\(5\)](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), [regs. 1\(1\), 44\(b\)](#)

#### Commencement Information

- I18** [Reg. 104](#) in force at 6.4.2004, see [reg. 1](#)

## PART 6

### PAYE SETTLEMENT AGREEMENTS

#### *Making and effect of PSA*

#### [<sup>F425</sup>HMRC] and employer may make PSA

**105.**—(1) [<sup>F426</sup>HMRC] and an employer may agree that paragraph (2) applies in respect of income tax on qualifying general earnings of the employer’s employees for a tax year [<sup>F427</sup>and for any subsequent tax years].

(2) In relation to qualifying general earnings included in the agreement, the employer is—

- (a) accountable to [<sup>F428</sup>HMRC] in accordance with the terms of the agreement and this Part, and
- (b) not accountable in accordance with the rest of these Regulations.

(3) Such an agreement is referred to as a PAYE settlement agreement (“PSA”).

[<sup>F429</sup>(4) A PSA will continue to have effect until cancelled.]

- F425** Word in [reg. 105 heading](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(a\)](#)
- F426** Words in [reg. 105\(1\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(b\)\(i\)](#)
- F427** Words in [reg. 105\(1\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(b\)\(ii\)](#)
- F428** Word in [reg. 105\(2\)\(a\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(c\)](#)
- F429** [Reg. 105\(4\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(d\)](#)

#### Commencement Information

- I19** [Reg. 105](#) in force at 6.4.2004, see [reg. 1](#)

#### Qualifying general earnings

**106.**—(1) Qualifying general earnings are those general earnings which meet conditions A and B.

(2) Condition A is that the general earnings consist of—

- (a) taxable benefits provided or made available by reason of employments with the employer, or
  - (b) expenses paid to persons holding those employments.
- (3) Condition B is that the employer and the Inland Revenue agree that the general earnings are—
- (a) minor, as regards the amount of the sums paid or the type of benefit provided or made available,
  - (b) irregular, as regards the frequency in which, or the times at which, the sums are paid or the benefit is provided or made available,
  - (c) paid in circumstances where deduction of tax by reference to the tax tables is impracticable, or
  - (d) in the case of a benefit provided or made available, shared between employees so that apportionment of the benefit between the employees is impracticable.
- (4) “Taxable benefit”, in relation to an employee, means any benefit provided or made available, other than in the form of a payment of money, to the employee or to a person who is a member of the employee’s family or household.
- (5) General earnings to which regulation 112(2)(a) or (b) (pre-agreement general earnings etc) apply are not qualifying general earnings.

**Commencement Information**

**I20** Reg. 106 in force at 6.4.2004, see [reg. 1](#)

**Effect of PSA**

**107.**—(1) Qualifying general earnings included in the PSA are treated as excluded from an employee’s income for the purposes of determining the amount of the employee’s liability to income tax for the tax [<sup>F430</sup>years] to which the PSA relates.

- (2) But this does not affect—
  - (a) the chargeability of those qualifying general earnings to income tax, or
  - (b) the employer’s liability under the PSA to account for income tax in respect of those qualifying general earnings.

(3) Sums in respect of income tax for which an employer is accountable to [<sup>F431</sup>HMRC] under a PSA are not to be treated, for the purposes of these Regulations, as tax deducted from relevant payments.

(4) An employee has no right to be treated as having paid tax in respect of sums for which the employer is accountable under a PSA, and accordingly is not entitled to claim or receive any refund of tax paid by the employer under the PSA.

(5) An employee must, subject to paragraph (6), be treated as relieved from any obligations under the Income Tax Acts—

- (a) to keep records containing information relating to qualifying general earnings included in a PSA, or
- (b) to deliver returns in respect of those qualifying general earnings.

(6) Paragraph (5) does not apply for the purposes of the obligations imposed on the employer under regulation 117 ([<sup>F432</sup>retention] of PSA records).

- (7) Qualifying general earnings comprised in a PSA are not to be included—



- (a) in a return by the employer under regulation [<sup>F433</sup>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 ([<sup>F434</sup>Form P11D])).

- F430** Word in reg. 107(1) substituted (6.4.2018) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)*, regs. 1, **8(a)**
- F431** Word in reg. 107(3) substituted (6.4.2018) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)*, regs. 1, **8(b)**
- F432** Word in reg. 107(6) substituted (6.4.2018) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)*, regs. 1, **8(c)**
- F433** Words in reg. 107(7)(a) inserted (6.4.2012) by *The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)*, regs. 1(1), **45**
- F434** Words in reg. 107(7)(b) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by *The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 (S.I. 2015/1927)*, regs. 1(1), **12**

#### Commencement Information

- I21** Reg. 107 in force at 6.4.2004, see **reg. 1**

### *Payment of tax under PSA*

#### Calculation of tax payable under PSA

**108.**—[<sup>F435</sup>(1) A PSA must provide that the employer is accountable to HMRC for the income tax due.]

[<sup>F436</sup>(1A) A PSA must provide for the sums due to be—

- (a) computed annually in accordance with the factors specified in paragraph (2), and
- (b) comprised of the amounts specified in paragraph (3)]

(2) The factors are—

- (a) in the case of qualifying general earnings comprising sums paid in respect of expenses, the estimated aggregate amount of such payments on which income tax is chargeable, reduced by such amount (if any) as would have been deductible if the qualifying general earnings had not been included in the PSA;
- (b) in the case of qualifying general earnings comprising benefits provided or made available, the estimated aggregate amount of the cash equivalents and other amounts on which income tax is chargeable, reduced by such amount (if any) as would have been deductible if the qualifying general earnings had not been included in the PSA;
- (c) the total number of employees in receipt of qualifying general earnings comprised in the PSA;

[<sup>F437</sup>(d) the number of those employees respectively chargeable to income tax—

- (i) at only the basic rate for the tax year to which the [<sup>F438</sup>computation] relates, and
- (ii) at both the basic rate and the higher rate for that tax year; [<sup>F439</sup>and
- (iii) at the basic, higher and additional rates for that tax year;][<sup>F440</sup>and]

[<sup>F441</sup>(iv) at any Scottish rate applicable for the tax year to which the computation relates; [<sup>F442</sup>and]]

- [<sup>F443</sup>(v) at any Welsh rate applicable for the tax year to which the computation relates;]]
- (e) such other matters as are agreed by [<sup>F444</sup>HMRC] and the employer to be relevant in relation to the qualifying general earnings comprised in the PSA.
- (3) The amounts specified for the purposes of [<sup>F445</sup>paragraph (1A)(b)] are—
- (a) an amount equal to income tax on the aggregate of the amounts computed in accordance with paragraph (2)(a) and (b), calculated so as to take account of the factor specified in paragraph (2)(d); and
- (b) a further amount reflecting an estimate of the income tax on the benefit to the employees of having no tax liability on the qualifying general earnings included in the PSA.

- F435** Reg. 108(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **9(a)**
- F436** Reg. 108(1A) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **9(b)**
- F437** Reg. 108(2)(d) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **12(a)**
- F438** Word in reg. 108(2)(d)(i) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **9(c)(i)**
- F439** Reg. 108(2)(d)(iii) and word inserted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **14**
- F440** Word in reg. 108(2)(d)(iii) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **9(c)(ii)**
- F441** Reg. 108(2)(d)(iv) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **9(c)(iii)**
- F442** Word in reg. 108(2)(d)(iv) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2018 \(S.I. 2018/1327\)](#), regs. 1(1), **5(a)**
- F443** Reg. 108(2)(d)(v) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2018 \(S.I. 2018/1327\)](#), regs. 1(1), **5(b)**
- F444** Word in reg. 108(2)(e) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **12(b)**
- F445** Words in reg. 108(3) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **9(d)**

#### Commencement Information

**I22** [Reg. 108](#) in force at 6.4.2004, see [reg. 1](#)

### Payment of tax and recovery proceedings

**109.**—(1) The employer must pay to [<sup>F446</sup>HMRC] by the due date the aggregate amount for which the employer is accountable to [<sup>F447</sup>HMRC] under a PSA [<sup>F448</sup>in relation to the preceding tax year].

(2) “The due date” means 19th October following the end of [<sup>F449</sup>each tax year] to which the [<sup>F450</sup>computation] relates.

(3) Part 6 of TMA (collection and recovery) applies to the recovery of the aggregate amount or any part of it (“the amount of tax”) as if it were income tax charged on the employer.

(4) But summary proceedings for the recovery of the amount of tax may be brought in England, Wales or Northern Ireland at any time before the expiry of 12 months beginning with the due date.

(5) Proceedings may be brought for the recovery of the amount of tax without distinguishing the amounts which the employer is liable to pay in respect of each employee under the PSA and without specifying the employees in question.

(6) The amount of tax is one cause of action or one matter of complaint for the purposes of proceedings under sections 65, 66 and 67 of TMA(23) (magistrates' courts, county courts and inferior courts in Scotland).

- F446** Word in reg. 109(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **10(a)(i)**
- F447** Word in reg. 109(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **10(a)(ii)**
- F448** Words in reg. 109(1) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **10(a)(iii)**
- F449** Words in reg. 109(2) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **10(b)(i)**
- F450** Word in reg. 109(2) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **10(b)(ii)**

#### Commencement Information

- I23** [Reg. 109](#) in force at 6.4.2004, see [reg. 1](#)

#### Formal determination of tax payable by the employer

**110.**—(1) This regulation applies if it appears to the Inland Revenue that there may be an amount payable under regulation 109(1) for any tax year which has not been paid by the due date (as defined by regulation 109(2)).

(2) The Inland Revenue may determine the amount payable to the best of their judgment.

(3) If a determination is made, the Inland Revenue must serve notice of it on the employer.

(4) A determination under this regulation is subject to Parts 4, 5 [<sup>F451</sup>, 5A] and 6 of TMA (assessment, appeals, collection and recovery) as if—

- (a) the determination were an assessment, and
- (b) the amount determined were income tax charged on the employer,

and those Parts of TMA apply accordingly with any necessary modifications.

<sup>F452</sup>(5) .....

- F451** Word in reg. 110(4) inserted (in relation to the tax year 2010-11 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(3), **3**
- F452** Reg. 110(5) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 106**

#### Commencement Information

- I24** [Reg. 110](#) in force at 6.4.2004, see [reg. 1](#)

(23) Section 65 was amended by section 57(1) of the Finance Act 1984 (c. 43) and paragraph 30 of Schedule 19 to the Finance Act 1998 (c. 36); section 66 was amended by section 57(2) of the Finance Act 1984, section 89(1) of the Finance Act 2001 (c. 9), S.I. 1980/397 (N.I. 3) and S.I. 1991/724; section 67 was amended by section 58 of the Finance Act 1976 (c. 40), section 156 of the Finance Act 1995 (c. 4) and section 89(1) of the Finance Act 2001.

## *Form and commencement of PSA*

### **Form of PSA**

**111.**—(1) A PSA must be—

- (a) in writing, and
  - (b) signed and dated by the employer and [<sup>F453</sup>HMRC].
- (2) A PSA must incorporate, whether by specification or indirect reference—
- (a) the qualifying general earnings included in the PSA,
  - (b) the method of calculation, determined in accordance with regulation 108, of the amount of income tax for which the employer is to be accountable in respect of those qualifying general earnings, and
  - (c) the due date by which, in accordance with regulation 109, income tax in respect of those qualifying general earnings is due and payable.

[<sup>F454</sup>(3) In paragraph (1) “in writing” includes electronic communications and “signed” includes electronic signatures.]

**F453** Word in [reg. 111\(1\)\(b\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **11(a)**

**F454** [Reg. 111\(3\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **11(b)**

#### **Commencement Information**

**I25** [Reg. 111](#) in force at 6.4.2004, see [reg. 1](#)

### **Commencement of PSA**

**112.**—(1) A PSA may be entered into at any time before 6th July following the end of the [<sup>F455</sup>first] tax year for which it is to have effect (“the year in question”).

- (2) A PSA entered into after the beginning of the year in question cannot apply to—
- (a) general earnings which, when the PSA is entered into, have been, or should have been, paid earlier in the year in question under deduction of tax in accordance with Part 3, or
  - (b) general earnings consisting of benefits which, when the PSA is entered into, are or were reflected in the employee’s code for the year in question in accordance with Part 2.

**F455** Word in [reg. 112\(1\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **12**

#### **Commencement Information**

**I26** [Reg. 112](#) in force at 6.4.2004, see [reg. 1](#)

## *Variation and cancellation of PSA*

### **Variation of PSA**

**113.**—(1) [<sup>F456</sup>HMRC] and the employer may, by agreement and consistently with the provisions of this Part, vary the terms of a PSA entered into by them.

(2) The agreement must be—

- (a) in writing, and
- (b) signed and dated by the employer and by [<sup>F457</sup>HMRC].

(3) The last date for variation of a PSA is 6th July following the end of the [<sup>F458</sup>first tax year to which the variation relates]<sup>F459</sup> ....

[<sup>F460</sup>(4) In paragraph (2) “in writing” includes electronic communications and “signed” includes electronic signatures.]

- F456** Word in reg. 113(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **13(a)**
- F457** Word in reg. 113(2) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **13(b)**
- F458** Words in reg. 113(3) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **13(c)(i)**
- F459** Words in reg. 113(3) omitted (6.4.2018) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **13(c)(ii)**
- F460** Reg. 113(4) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **13(d)**

#### Commencement Information

**I27** [Reg. 113](#) in force at 6.4.2004, see [reg. 1](#)

### Cancellation of PSA

**114.**—[<sup>F461</sup>(1) Either HMRC or the employer may cancel a PSA.]

- (2) Cancellation must be effected by [<sup>F462</sup>a notice in writing to the other party].
- (3) A cancellation comes into effect from the date of the notice.
- (4) If a PSA is cancelled, this Part does not apply to general earnings—
  - (a) to which the cancelled PSA related, and
  - (b) which are paid, or (as the case may be) provided or made available, after the employer receives notice of the cancellation.

[<sup>F463</sup>(5) In paragraph (2) “in writing” includes electronic communications.]

- F461** [Reg. 114\(1\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **14(a)**
- F462** Words in [reg. 114\(2\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **14(b)**
- F463** [Reg. 114\(5\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **14(c)**

#### Commencement Information

**I28** [Reg. 114](#) in force at 6.4.2004, see [reg. 1](#)

## Interest

### Interest on unpaid tax

**115.**—(1) This regulation applies if an employer has not paid to the Inland Revenue by the due date (as defined by regulation 109(2)) the full amount for which the employer is liable under this Part.

(2) The unpaid amount carries interest at the prescribed rate from the due date until payment (“the interest period”).

(3) Paragraph (2) applies even if the due date is a non-business day as defined by section 92 of the Bills of Exchange Act 1882(24).

(4) Any change made to the prescribed rate during the interest period applies to the unpaid amount from the date of the change.

(5) Interest is recoverable as if it were an amount payable under the PSA.

(6) “The prescribed rate” means the rate applicable under section 178 of the Finance Act 1989(25) for the purposes of section 86 of TMA(26).

#### Commencement Information

**I29** Reg. 115 in force at 6.4.2004, see [reg. 1](#)

### Interest on overpaid tax

**116.**—(1) This regulation applies if tax in respect of [<sup>F464</sup>a tax year] to which a PSA relates is repaid to the employer after the due date (as defined by regulation 109(2)).

(2) The tax repaid carries interest at the prescribed rate from the later of—

(a) the due date [<sup>F465</sup>for a tax year], and

(b) the date on which the tax was paid,

until the order for the repayment is issued (“the interest period”).

(3) Any change made to the prescribed rate during the interest period applies to the tax repaid from the date of the change.

(4) “The prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA(27).

**F464** Words in [reg. 116\(1\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 15\(a\)](#)

**F465** Words in [reg. 116\(2\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 15\(b\)](#)

#### Commencement Information

**I30** Reg. 116 in force at 6.4.2004, see [reg. 1](#)

(24) [1882 c. 61](#); section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act [1971 \(c. 80\)](#).

(25) [1989 c. 26](#), to which there are amendments not relevant to these Regulations.

(26) Section 86 was substituted by section 110(1) of the Finance Act [1995 \(c. 4\)](#) and amended by section 131 of, and paragraph 3 of Schedule 18 to, the Finance Act [1996 \(c. 18\)](#).

(27) Section 824 was amended by paragraph 7 of Schedule 13 to the Finance Act [1988 \(c. 39\)](#), sections 110(5), 111(4), 158(2) and 179(1) of, and Parts 4, 8 and 10 of Schedule 17 to, the Finance Act [1989 \(c. 26\)](#), paragraph 14(52) of Schedule 10 to the Taxation of Chargeable Gains Act [1992 \(c. 12\)](#), paragraph 41 of Schedule 19 to the Finance Act [1994 \(c. 9\)](#), section 92 of the Finance Act [1997 \(c. 16\)](#), section 41 of the Finance Act [1999 \(c. 16\)](#), section 90 of the Finance Act [2001 \(c. 9\)](#), and paragraph 104 of Schedule 6 to ITEPA.

*Records*

**[<sup>F466</sup>Retention] of PSA records**

**117.**—<sup>F467</sup>(1) An employer must keep PSA records for not less than 3 years after the end of the most recent tax year to which they relate.]

- (2) “PSA records” means all books, documents and other records relating to—
- (a) the qualifying general earnings comprised in the PSA,
  - (b) the calculation of amounts for which the employer is accountable to [<sup>F468</sup>HMRC] in accordance with the PSA, and
  - (c) the payment of those amounts to [<sup>F469</sup>HMRC].

- <sup>F470</sup>(3) .....
- <sup>F471</sup>(4) .....
- <sup>F472</sup>(5) .....
- <sup>F473</sup>(6) .....
- <sup>F474</sup>(7) .....
- <sup>F475</sup>(8) .....

<b>F466</b>	Word in <a href="#">reg. 117 heading</a> substituted (6.4.2018) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(a)</a>
<b>F467</b>	<a href="#">Reg. 117(1)</a> substituted (6.4.2018) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(b)</a>
<b>F468</b>	Word in <a href="#">reg. 117(2)(b)</a> substituted (6.4.2018) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(c)(i)</a>
<b>F469</b>	Word in <a href="#">reg. 117(2)(c)</a> substituted (6.4.2018) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(c)(ii)</a>
<b>F470</b>	<a href="#">Reg. 117(3)</a> omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(d)</a>
<b>F471</b>	<a href="#">Reg. 117(4)</a> omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(d)</a>
<b>F472</b>	<a href="#">Reg. 117(5)</a> omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(d)</a>
<b>F473</b>	<a href="#">Reg. 117(6)</a> omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(d)</a>
<b>F474</b>	<a href="#">Reg. 117(7)</a> omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(d)</a>
<b>F475</b>	<a href="#">Reg. 117(8)</a> omitted (6.4.2018) by virtue of <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267)</a> , <a href="#">regs. 1, 16(d)</a>
<hr/>	
<b>Commencement Information</b>	
<b>I31</b>	<a href="#">Reg. 117</a> in force at 6.4.2004, see <a href="#">reg. 1</a>



**PART 7**  
**SPECIAL CASES**  
**CHAPTER 1**  
**COUNCILLORS' ALLOWANCES**

**Interpretation of Chapter 1**

**118.**—(1) In this Chapter—

“allowances” means—

- (a) payments by way of attendance allowance within section 173(1) or 175(1) of the Local Government Act 1972**(28)**,
- (b) payments within regulations made under section 18(1) of the Local Government and Housing Act 1989**(29)**,
- (c) payments within regulations made under section 100(1)(a) or (c) of the Local Government Act 2000**(30)**,
- (d) payments by way of attendance allowance within section 47(1) of the Local Government (Scotland) Act 1973**(31)**, or
- (e) payments within regulation 3(1), 4(1) or 5(1) of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999**(32)**;

“councillor” means a person entitled to receive any allowances;

“local council” means the local authority, council, joint authority or joint committee paying allowances.

(2) For the purposes of paragraph (1)—

“council” and “joint committee” are to be read in accordance with section 148(1) of the Local Government Act (Northern Ireland) 1972**(33)**; and

“local authority” in England and Wales has the meaning given in section 270(1) of the Local Government Act 1972**(34)**, and in Scotland has the meaning given in section 235(1) of the Local Government (Scotland) Act 1973**(35)**.

**Councillor’s option to have tax deducted at basic rate**

**119.**—(1) A councillor may, by notice to the Inland Revenue, opt to have income tax deducted from allowances at the basic rate in force at the time of payment of the allowances (the “basic rate option”).

(2) On receiving any such notice the Inland Revenue must give notice to the local council of the councillor’s exercise of the basic rate option.

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**(28)** 1972 c. 70; section 173(1) was amended by section 24(1) of the Local Government, Planning and Land Act 1980 (c. 65) and paragraph 26 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42); section 175(1) was amended by paragraph 27 of Schedule 11 to the Local Government and Housing Act 1989.

**(29)** 1989 c. 42.

**(30)** 2000 c. 22.

**(31)** 1973 c. 65.

**(32)** S.R. (N.I.) 1999 No. 449.

**(33)** 1972 c. 9 (N.I.).

**(34)** The definition of “local authority” in section 270(1) was amended by Schedule 17 to the Local Government Act 1985 (c. 51) and section 1(5) of the Local Government (Wales) Act 1994 (c. 19).

**(35)** The definition of “local authority” in section 235(1) was substituted by paragraph 92(66) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c. 39).



(3) On receiving a notice under paragraph (2), the local council must, when making any payment of allowances to the councillor, deduct income tax at the basic rate in force at the time of that payment on the non-cumulative basis.

(4) Paragraph (5) applies if—

- (a) a councillor has exercised the basic rate option, and
- (b) the Inland Revenue consider that the councillor may incur deductible expenses.

(5) The Inland Revenue may direct the local council to disregard an appropriate amount of the allowances in calculating the tax to be deducted.

(6) In paragraph (4)(b), “deductible expenses” means expenses of a kind which would be deductible under sections 336 to 338 of ITEPA (expenses incurred wholly, exclusively and necessarily in performance of duties, and travel expenses).

#### **Particulars that local council must record**

**120.**—(1) This regulation applies if the Inland Revenue have given notice to the local council of the exercise by a councillor of the basic rate option.

(2) The local council must record, in a deductions working sheet (which it must prepare for the purpose unless it has already prepared one) the following particulars about every payment of allowances which it makes to the councillor.

(3) The particulars are—

- (a) the councillor’s name,
- (b) the councillor’s national insurance number, if known,
- (c) the date of the payment,
- (d) the amount of the allowances,
- (e) where regulation 119(5) applies, the net amount of the allowances from which tax has been deducted, and
- (f) the amount of tax deducted from the allowances.

#### **Regulations apply as if basic rate option were issue of code**

**121.** If a councillor exercises the basic rate option, these Regulations apply as if the Inland Revenue had issued the basic rate code in respect of the allowances.

### CHAPTER 2

#### RESERVE FORCES' PAY

#### **Interpretation of Chapter 2**

**122.**—(1) In this Chapter—

“the Ministry” means the Ministry of Defence;

“reserve forces” means the forces specified in paragraph (2);

“reserve pay” means relevant payments made by the Ministry to members of the reserve forces [F<sup>476</sup>, excluding such payments made on 6 April 2009 or later];

“reservist” means any person in receipt of reserve pay, but does not include a person who is not resident in the United Kingdom and is serving outside the United Kingdom.

(2) The forces specified in this paragraph are—

- (a) the Royal Naval Reserve (including Queen Alexandra's Royal Naval Nursing Service Reserve),
- (b) the Royal Marines Reserve,
- (c) the Territorial Army,
- (d) the Royal Auxiliary Air Force,
- (e) the University Air Squadron, and
- (f) Officers, Adult Instructors and Adult Warrant Officers of the Sea Cadet Corps, Army Cadet Force, Air Training Corps or Combined Cadet Force.

**F476** Words in [reg. 122\(1\)](#) inserted (with effect in accordance with [reg. 1\(2\)\(b\)](#) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), [regs. 1\(1\)](#), **10**

### Application of other Parts

- 123.**—(1) Parts 2 (codes) and 3 (deduction and repayment of tax) do not apply to reserve pay.
- (2) The rest of these Regulations apply as if the Inland Revenue had issued the basic rate code in respect of reserve pay.

### Deduction of tax

- 124.**—(1) On making any payment of reserve pay to a reservist during a tax year, the Ministry must deduct income tax at the basic rate in force when the payment is made.
- (2) But the Ministry must not deduct income tax if—
- (a) it has received notice from the Inland Revenue of a determination for that tax year under this Chapter that tax is not to be deducted from reserve pay, and
  - (b) it has not received notice of any amendment of that determination.
- (3) This regulation applies even if an objection or appeal has been made under this Chapter.

### Determination by Inland Revenue

- 125.**—(1) The Inland Revenue may make a determination that tax is not to be deducted from reserve pay if the Inland Revenue are satisfied that the reservist will not be liable to income tax on the full amount of the reserve pay in a tax year.
- (2) For the purpose of making a determination, it must be assumed—
- (a) that any reliefs from income tax to which the reservist is entitled are allowable primarily against the reservist's PAYE income from other sources, and
  - (b) unless the reservist objects, that the balance (if any) of such reliefs is next allowable against the reservist's income other than PAYE income.
- (3) The Inland Revenue may make a determination before, or at any time during, the tax year.
- (4) On making a determination the Inland Revenue must notify the reservist and the Ministry.

### Objection against deduction of tax

- 126.**—(1) A reservist who objects to tax being deducted in accordance with regulation 124 (deduction at basic rate) must state the grounds of objection.
- (2) On receiving the notice of objection, the Inland Revenue must make a determination whether income tax at the basic rate is to be deducted from the reserve pay.

- (3) Regulation 125(2) (assumptions) applies for the purpose of making the determination.
- (4) The Inland Revenue must notify the reservist of the determination.
- (5) The Inland Revenue may amend the determination by agreement with the reservist.
- (6) If the Inland Revenue and the reservist do not reach agreement, the reservist may appeal against the determination by giving notice to the Inland Revenue.
- (7) .....

**Appeal to <sup>F477</sup>the tribunal**

- 127.**—(1) On <sup>F478</sup>an appeal that is notified to the tribunal, the tribunal] must determine whether income tax at the basic rate is to be deducted from the reserve pay.
- (2) Regulation 125(2) (assumptions) applies for the purpose of making the determination.
  - (3) If, on appeal, the <sup>F479</sup>tribunal determines] that tax is not to be deducted from the reserve pay, the Inland Revenue must give notice of the determination to the Ministry.
  - (4) .....

**F477** Words in reg. 127 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 108(2)**

**F478** Words in reg. 127(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 108(3)**

**F479** Words in reg. 127(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 108(4)**

**Amended determinations**

- 128.**—(1) This regulation applies if a determination by the Inland Revenue or the <sup>F480</sup>tribunal] under regulation 125, 126 or 127 is found to be inappropriate because the actual circumstances are different from the circumstances by reference to which it was made.
- (2) The Inland Revenue must amend the determination.
  - (3) The Inland Revenue must give notice of the amended determination to the reservist and the Ministry.
  - (4) Regulations 126 and 127 apply in relation to an amended determination as they apply in relation to a determination under regulation 126(2).

**F480** Word in reg. 128(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 109**

**Certificate of tax deducted**

- 129.**—(1) On making any payment of reserve pay from which tax is deducted, the Ministry may, and if the reservist so requires must, give the reservist a certificate showing the following particulars.
- (2) The particulars are—
    - (a) the reservist’s name,
    - (b) the reservist’s national insurance number, if known,
    - (c) the date of the payment,
    - (d) the amount of the payment, and

- (e) the amount of tax deducted.

### **Repayment to reservist during tax year**

**130.**—(1) The Ministry must not repay tax in respect of reserve pay to a reservist.

(2) If a reservist applies for a repayment of tax deducted from reserve pay, the Inland Revenue may make such repayment at any time during the tax year as may be appropriate.

(3) In deciding what is appropriate the Inland Revenue must have regard to—

- (a) the reserve pay of the reservist for the period from the beginning of the tax year up to and including the date of the application,
- (b) the amount of tax deducted from the reserve pay as evidenced by certificates of pay and tax supplied under regulation 129,
- (c) any reliefs from income tax to which the reservist is entitled, and
- (d) the reservist's other PAYE income for the tax year and, unless the reservist objects, the reservist's income for the tax year from all other sources, and liability to tax on that income, as estimated by the Inland Revenue.

### **Particulars that Ministry must record**

**131.**—(1) The Ministry must record, in a deductions working sheet, the following particulars about every payment of reserve pay made to a reservist.

(2) The particulars are—

- (a) the reservist's name,
- (b) the reservist's national insurance number, if known,
- (c) the tax year to which the deductions working sheet relates,
- (d) the date of the payment,
- (e) the amount of the payment, and
- (f) the amount of tax (if any) deducted on making the payment.

### **End of year certificate**

**132.**—(1) The Ministry must give an end of year certificate to a reservist in respect of whom the Ministry was required to prepare or maintain a deductions working sheet.

(2) The certificate must be given before 1st June following the end of the tax year to which it relates.

(3) The certificate must show—

- (a) the tax year to which it relates,
- (b) the reservist's name,
- (c) the reservist's national insurance number, if known,
- (d) the total amount of reserve pay paid by the Ministry to the reservist during the tax year,
- (e) the total tax deducted from the reserve pay,
- (f) the force in which the reservist was serving, and
- (g) the reservist's service number.

### Other PAYE income of reservist

133. Nothing in this Chapter affects the application of these Regulations to any other PAYE income of a reservist.

## [<sup>F481</sup>CHAPTER 2A

### SOCIAL SECURITY LUMP SUMS

**F481** Pt. 7 Ch. 2A added (6.4.2006) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2006 \(S.I. 2006/243\)](#), regs. 1, 3

### Interpretation of Chapter 2A

133A.—(1) In this Chapter—

“the Act” means the Finance (No.2) Act 2005 and a reference (without more) to a numbered provision is a reference to the provision of the Act bearing that number;

<sup>F482</sup> ...

“the Department” means—

- (a) in Great Britain, the Department for Work and Pensions; and
- (b) in Northern Ireland, the Department for Social Development;

<sup>F482</sup> ...

“lump sum” means a social security pension lump sum as defined in section 9 of the Act;

“the recipient” means a person who has become entitled to a lump sum.

**F482** Words in reg. 133A(1) omitted (6.4.2018) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, 17

### Application of other Parts

133B.—(1) Parts 2 (codes) and 3 (deduction and repayment of tax) do not apply to lump sums.

(2) The rest of these Regulations apply as if Her Majesty’s Revenue and Customs had issued a code in respect of a social security pension lump sum at either—

- (a) the rate notified to the Department by the recipient pursuant to regulation 133D, or
- (b) [<sup>F483</sup>20%], if the recipient has not notified the Department of a rate.

**F483** Word in reg. 133B(2)(b) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, 18

### Determination of Rate of Deduction

133C.—(1) On making any payment of a lump sum to a recipient during a tax year, the Department must deduct income tax at the <sup>F484</sup>... rate calculated in accordance with sub-paragraph (2).

(2) For the purposes of this chapter the <sup>F485</sup>... rate is either—

- (a) the rate notified to the Department by the recipient in accordance with regulation 133D, or
- (b) in default of any such notification, [<sup>F486</sup>20%].

- F484** Word in reg. 133C(1) omitted (6.4.2018) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **19(a)**
- F485** Word in reg. 133C(2) omitted (6.4.2018) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **19(a)**
- F486** Word in reg. 133C(2)(b) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **19(b)**

### Notification by Recipient of Notice of Tax Rate

**133D.**—(1) The recipient shall notify the Department that he considers the nil tax code should be applied to the lump sum or that one of the following rates should be used—

- (a) .....
- (b) [<sup>F487</sup>20%], or
- (c) [<sup>F488</sup>40%],

in accordance with section 7(5) of the Act.

(2) Notification shall be in the form, and made within the period, specified by the Department.

- F487** Word in reg. 133D(1)(b) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **20(a)**
- F488** Word in reg. 133D(1)(c) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2018 (S.I. 2018/267), regs. 1, **20(b)**

### Certificate of tax deducted

**133E.**—(1) On making any payment of a lump sum from which tax is deducted, the Department may and if the recipient so requires, must, give the recipient an award notification showing the following particulars.

- (2) The particulars are—
  - (a) the recipient's name,
  - (b) the recipient's national insurance number, if known,
  - (c) the date of the payment,
  - (d) the amount of the payment, and
  - (e) the amount of tax deducted.

### Repayment to recipient during tax year

**133F.** The Department may repay tax deducted from a lump sum to a recipient at any time during the tax year in which it was paid, if it appears to the Department that the incorrect rate of income tax was applied to the payment due to an administrative error by the Department.

### Records and notices

**133G.**—(1) The Department must record, in a deductions working sheet, the following particulars about any payment of a lump sum.

- (2) The particulars are—
  - (a) the recipient's name,
  - (b) the recipient's national insurance number, if known,

- (c) the amount of the payment,
  - (c) the date of the payment,
  - (d) the amount of tax (if any) deducted from the payment,
  - (e) the tax rate (if any) notified by the recipient to the Department, and
  - (f) the amount of any repayment made to the recipient in respect of the lump sum.
- (3) The Department shall notify an officer of Revenue and Customs when a lump sum payment is made.
- (4) The notification referred to in sub-paragraph (3) shall contain the following information—
- (a) the recipient’s name and address,
  - (b) the recipient’s national insurance number, if known,
  - (c) the date of the payment, and
  - (d) the recipient’s date of birth.
- (5) The Department shall administer a separate PAYE scheme for the lump sum payments.

### **Other PAYE income of recipient**

**133H.** Nothing in this Chapter affects the application of these Regulations to any other PAYE income of a recipient.]

## CHAPTER 3 HOLIDAY PAY FUNDS

### **Interpretation of Chapter 3**

**134.** In this Chapter—

“fund” means a person who pays holiday pay—

- (a) to an individual who is not employed by the person, or
- (b) in respect of such an individual who has died;

“holiday pay” means—

- (a) any payment received by an individual in exchange for a voucher, stamp or similar document purchased by a person who employs (or employed) that individual for any holiday period, or
- (b) if such an individual has died, any payment received by a person claiming in respect of that individual’s right to such a payment;

“recipient” means a person who is paid holiday pay.

### **Application of other Parts**

**135.**—(1) Parts 2 (codes) and 3 (deduction and repayment of tax) do not apply to holiday pay.

(2) The rest of these Regulations apply as if the Inland Revenue had issued the basic rate code in respect of holiday pay.

### **Deduction of tax**

**136.** On making any payment of holiday pay to a recipient, a fund must deduct income tax at the basic rate in force at the time the payment is made.

### **Certificate of tax deducted**

**137.**—(1) On making any payment of holiday pay, a fund must give the recipient a certificate showing the following particulars.

(2) The particulars are—

- (a) the recipient's name,
- (b) the recipient's national insurance number, if known,
- (c) the tax year in which the payment is made,
- (d) the date of the payment,
- (e) the amount of the payment, and
- (f) the amount of tax deducted on making the payment.

### **Repayment to recipient during tax year**

**138.**—(1) A fund must not repay tax deducted from a payment of holiday pay to a recipient.

(2) If a recipient applies for a repayment of tax deducted from holiday pay, the Inland Revenue may make such repayment at any time during the tax year as may be appropriate.

(3) In deciding what is appropriate the Inland Revenue must have regard to—

- (a) the holiday pay of the recipient for the period from the beginning of the tax year up to and including the date of the application,
- (b) the amount of tax deducted from the holiday pay as evidenced by certificates supplied under regulation 137,
- (c) any entitlement of the recipient to relief from income tax, and
- (d) the recipient's other PAYE income for the tax year and, unless the recipient objects, the recipient's income for the tax year from all other sources, and liability to tax on that income, as estimated by the Inland Revenue.

### **Particulars that fund must record**

**139.**—(1) A fund must record, in a deductions working sheet, the following particulars about every payment of holiday pay made to a recipient.

(2) The particulars are—

- (a) the recipient's name,
- (b) the recipient's national insurance number, if known,
- (c) the tax year to which the deductions working sheet relates,
- (d) the date of the payment,
- (e) the amount of the payment, and
- (f) the amount of tax (if any) deducted on making the payment.

### **Other PAYE income of recipient**

**140.** Nothing in this Chapter affects the application of these Regulations to any other PAYE income of a recipient.



## CHAPTER 4

### DIRECT COLLECTION AND SPECIAL ARRANGEMENTS

#### Direct collection and special arrangements

**141.**—<sup>F489</sup>(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.]

(2) A special arrangement does not apply to PAYE income of an employer’s employees if—

- (a) the arrangement has not been agreed with the employer, and
- (b) the employer does not proceed in accordance with the arrangement.

<sup>F490</sup>(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) 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.]

**F489** Reg. 141(1) substituted (6.4.2020) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2020 \(S.I. 2020/88\)](#), regs. 1, **2(2)**

**F490** Reg. 141(3)-(11) inserted (6.4.2020) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2020 \(S.I. 2020/88\)](#), regs. 1, **2(3)**

**[<sup>F491</sup>Direct collection: employee to report payments**

**142.**—(1) On receiving a relevant payment—

- (a) an employee (E) must proceed in accordance with paragraph (3) or paragraph (4), as the case may be, and
- (b) regulations 143 to 147A (direct collection) apply to E,

unless E objects to the application of the direct collection procedure.

(2) E may, within 30 days beginning with the date of receipt of written notification from HMRC that the direct collection procedure applies, object by written notice to HMRC to that procedure.

(3) E must deliver the information specified in Schedule A1 as if E were a Real Time Information employer for the purposes of regulations 67B (real time information returns of information about relevant payments), 67E (returns under regulations 67B and 67D: amendments), 67EA (failure to make a return under regulation 67B or 67D) and 67F (additional information about payments) and references to “an employer making a relevant payment” are to be read as if they were references to “the employee receiving a relevant payment”.

(4) But if E—

- (a) is an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications, or
- (b) has been given a direction under paragraph (5),

E may instead proceed as if E were a Real Time Information employer to whom regulations 67D (exceptions to regulation 67B), 67E (returns under regulations 67B and 67D: amendments), 67EA (failure to make a return under regulation 67B or 67D) and 67F (additional information about payments) apply with the modification referred to in paragraph (3).

(5) Where the Commissioners for Her Majesty’s Revenue are satisfied that—

- (a) it is not reasonably practicable for E to make a return using an approved form of electronic communication, and
- (b) it is E who delivers the return (and not some other person on E’s behalf),

they may make a direction specifying that E is not required to make a return using an approved method of electronic communication.]

**F491** Reg. 142 substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **11**

**Direct collection: employee to keep records**

**143.**—(1) Whenever the employee receives any relevant payment during the tax year, the employee must record in [<sup>F492</sup>a deductions] working sheet—

- (a) the amount of the payment,
- (b) the date on which it was received, and
- (c) the total payments to date.

(2) In addition, the employee must record in [<sup>F493</sup>that deductions] working sheet in relation to the last date in a tax quarter on which the employee receives a relevant payment—

- (a) the total free pay to date or, as the case may be, the total additional pay to date in relation to that date according to the employee’s code, and
- (b) the corresponding total tax to date.

(3) If the employee does not receive any relevant payments in a tax quarter, the last day of the quarter must be used for the purposes of paragraph (2).

(4) If the employee receives relevant payments in more than one capacity, no account is to be taken for the purposes of this regulation and regulations 144 to 147 of the relevant payments received by the employee in any capacity other than that mentioned in [<sup>F494</sup>that deductions] working sheet.

(5) In this regulation ..., “total payments to date” means, in relation to any date, the sum of all relevant payments received by the employee from the beginning of the tax year up to and including that date, irrespective of the person or persons from whom it was received.

- F492** Words in reg. 143(1) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **12(a)**
- F493** Words in reg. 143(2) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **12(b)**
- F494** Words in reg. 143(4) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **12(b)**

**Direct collection: payment**

144.—(1) In this regulation—

[<sup>F495</sup>“the current total tax” means the amount required to be recorded at paragraph 17 of Schedule A1 (real time returns) in the most recent return which the employee is required to make in the tax year, or where the employee is required to make a return under regulation 67EA(3) (failure to make a return under regulation 67B), the amount required to be recorded at paragraph 17 of Schedule A1 for the tax year to which that return relates;]

“the previous total tax” means the total tax to date (if any) required to be recorded for the previous tax quarter in the tax year.

(2) If, in relation to any tax quarter, the current total tax exceeds the previous total tax, the employee must pay the excess to the Inland Revenue, within 14 days after the end of the tax quarter.

(3) But if, in relation to any tax quarter, the previous total tax exceeds the current total tax, the employee may recover the excess—

- (a) by deducting it from the amount payable under paragraph (2) for a later quarter in the tax year, or
- (b) from the Board of Inland Revenue.

(4) ... The amount payable under paragraph (2) is not to exceed the overriding limit in relation to the relevant payments which the employee has received in that tax quarter.

(5) Any amount which is not payable because of the application of paragraph (4) must be added to the current total tax for the purpose of the calculation in paragraph (2) or (3) for the next tax quarter (if any) of that tax year.

- F495** Words in reg. 144(1) substituted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **14**

**Direct collection: return when relevant payments cease**

145. ....

### Direct collection: end of year return

146. ....

### Direct collection: failure to pay

147.—(1) This regulation applies if, within 14 days after the end of any tax quarter—

- (a) the employee has not paid any tax for that quarter, and the Inland Revenue are unaware of the amount, if any, which the employee is liable to pay for that quarter, or
- (b) the employee has paid an amount of tax for that quarter, but the Inland Revenue are not satisfied that it is the full amount which the employee is liable to pay for that quarter.

(2) The Inland Revenue may give notice to the employee requiring the employee, within 14 days of the issue of the notice, to deliver a return showing the amount of tax which the employee is liable to pay under regulation 144(2) in respect of the tax quarter in question.

(3) If such a notice is given, regulations 77, 84 and 218(5) and (6) (which relate to the certification and recovery of tax unpaid by an employer) apply with the necessary modifications for the purposes of ascertaining, certifying and recovering the tax payable by the employee as if it were tax which the employee was liable to deduct from relevant payments paid by the employee.

### <sup>[F496]</sup> **Circumstances in which payment of a lesser amount is to be treated as payment in full for the purposes of paragraph 6(2) of Schedule 56 to the Finance Act 2009**

147A.—(1) A payment that is less than the full amount due under regulation 67G(2) (payments to and recoveries from HMRC for each tax period), as adjusted by regulation 67H (payments due and recoveries from HMRC for each tax period: returns under regulation 67E(6)) where appropriate, will for the purposes of paragraph 6(2) of Schedule 56 to the Finance Act 2009 (amount of penalty: PAYE and CIS) be treated as payment of the full amount if the difference between the full amount and the amount paid is no more than £100 (“the tolerance”), but this is subject to paragraphs (2) and (3).

(2) Paragraph (1) does not apply where—

- (a) the payment relates to a return which corrects information given in a return filed in respect of a relevant payment made in an earlier tax month, and
- (b) the return is delivered after 19th April following the end of the tax year in question.

(3) If the total sum paid by the employer to HMRC for the tax period includes not only the amount due under regulation 67G(2), as adjusted by regulation 67H where appropriate, but also one or more of—

- (a) any earnings-related contributions (as defined by regulation 1(2) of the SSC Regulations 2001),
- (b) any payment under regulation 7(1) of the Income Tax (Construction Industry Scheme) Regulations 2005, or
- (c) any repayment due under the Student Loans Regulations,

the tolerance is applied to the total sum paid to HMRC for the tax period to which the payments relate.]

**F496** Reg. 147A inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014](#) (S.I. 2014/472), regs. 1(2), 17

## [<sup>F497</sup>Part 7A Apprenticeship Levy

**F497** Pt. 7A inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, 3

### Interpretation of Part 7A

**147B.** In this Part—

“monthly pay bill” means the total amount of earnings paid by a person in a tax month on which Class 1 secondary contributions [<sup>F498</sup>would be payable] but for the condition in section 6(1)(b) of the Contributions and Benefits Act (liability for Class 1 contributions).

**F498** Words in [reg. 147B](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, 21

### Due date for payment of apprenticeship levy

**147C.**—(1) A person must pay the amount of apprenticeship levy due under this Part within—

- (a) 17 days after the end of the tax month, where the payment is made by an approved method of electronic communications, or
- (b) 14 days after the end of the tax month, in any other case.

(2) The person must pay the apprenticeship levy mentioned in paragraph (1) at the same time as the amount of tax and any earnings-related contributions due and in accordance with [<sup>F499</sup>Chapter 1 of Part 4] of these Regulations (payment, returns and information).

(3) In this regulation, “earnings-related contributions” means any contributions other than Class 1A and 1B contributions payable under the Contributions and Benefits Act in respect of earnings paid to or for the benefit of an earner in respect of employed earners employment.

**F499** Words in [reg. 147C\(2\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, 22

### Duty to report amount of apprenticeship levy to be paid

**147D.**—(1) Subject to paragraph (2) this regulation applies where—

- (a) a person’s pay bill in the tax year preceding the year in which the apprenticeship levy liability falls to be reported was over £3 million, or
- (b) a person considers that their pay bill will be over £3 million in the current tax year.

(2) In the case of a member of a company unit or charities unit this regulation applies where—

- (a) the total amount of the pay bill for the company unit or the charities unit in the tax year preceding the year in which the apprenticeship levy liability falls to be reported was over £3 million, or
- (b) (i) the annual entitlement to levy allowance has been determined for each member of the company unit or charities unit in the current tax year in accordance with sections 101 or 102 of the Finance Act 2016, and

- (ii) a member considers that their annual pay bill will be over  $\text{£}T$  where  $T$  is an amount equal to the levy allowance determined for that member divided by 0.005.
- (3) A Real Time Information employer must inform HMRC of their apprenticeship levy liability after deducting any amount of levy allowance to which they are entitled for the tax month from it.
- (4) The information must be given in a return.
- (5) The return mentioned under paragraph (4) must be sent within 14 days after the end of the tax month.
- (6) A return under this regulation must—
- (a) state—
    - (i) the tax year to which it relates,
    - (ii) the employer's HMRC office number,
    - (iii) the employer's PAYE reference to which the return of the apprenticeship levy relates,
    - (iv) the employer's accounts office reference,
    - (v) the amount of annual levy allowance the employer is allocating to the employer's PAYE reference,
    - (vi) the amount of apprenticeship levy due to date which the employer has calculated, and
    - (vii) the tax month to which it relates, and
  - (b) be sent using an approved method of electronic communications unless the employer is one to whom regulation 67D applies.
- (7) This regulation applies in addition to the provisions set out in regulation 67F (additional information about payments).

### Calculation of monthly levy allowance

**147E.**—(1) This regulation applies where the monthly levy allowance falls to be calculated by a person.

(2) Subject to regulations 147F and 147G, the monthly levy allowance is an amount equal to—  
NP

where—

$N$  is the levy allowance for the tax year, and

$P$  is twelve.

(3) Subject to regulations 147F and 147G, the monthly cumulative levy allowance is an amount equal to the monthly levy allowance aggregated in accordance with the tax month within the tax year as shown in the table below.

**Table 1**

<i>Relevant month in the tax year</i>	<i>Monthly cumulative levy allowance</i>
Month 1	£1,250
Month 2	£2,500
Month 3	£3,750
Month 4	£5,000
Month 5	£6,250

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>Relevant month in the tax year</i>	<i>Monthly cumulative levy allowance</i>
Month 6	£7,500
Month 7	£8,750
Month 8	£10,000
Month 9	£11,250
Month 10	£12,500
Month 11	£13,750
Month 12	£15,000

### **Apportionment of levy allowance between employer's PAYE references**

**147F.**—(1) This regulation applies where a person has more than one employer's PAYE reference in respect of its employees.

(2) The person may elect to apportion their annual entitlement of levy allowance amongst the employer's PAYE references mentioned in paragraph (1) in accordance with the proportions they choose.

(3) The monthly levy allowance for each employer's PAYE reference is an amount equal to one twelfth of the annual apportioned entitlement for that reference.

(4) The person must notify HM Revenue and Customs of the election mentioned in paragraph (2) with their first return of the apprenticeship levy.

### **Apportionment of levy allowance between employer's PAYE references: members of a company unit or charities unit**

**147G.**—(1) This regulation applies where—

- (a) members of a company unit or charities unit ("the relevant members") have determined what amount of levy allowance each of them is entitled to for the tax year, and
- (b) at least one of the relevant members mentioned in sub-paragraph (1)(a) has more than one employer's PAYE reference.

(2) The relevant members may elect to apportion their share of levy allowance amongst their respective employer's PAYE references in accordance with the proportions they choose.

(3) The relevant members must—

- (a) make the election mentioned in sub-paragraph (2) at the beginning of the tax year, and
- (b) notify HMRC of the election made with their first return of the apprenticeship levy.

### **Calculation of monthly apprenticeship levy for the first month of the tax year**

**147H.** A person must calculate the amount of their apprenticeship levy for the first month of the tax year in accordance with the following steps.

#### *Step 1*

Multiply the amount of the monthly pay bill by 0.5%.

#### *Step 2*

Deduct the monthly levy allowance for the first month as mentioned in Table 1 from the amount obtained from step 1.

If the resulting amount is positive, that amount is the apprenticeship levy payable for the first month of the tax year.

If the resulting amount is negative or zero, there will be no apprenticeship levy payable for the first month of the tax year.

### **Calculation of monthly apprenticeship levy for subsequent months of the tax year**

**147I.**—(1) A person must calculate the amount of apprenticeship levy for any month following the first month of the tax year (the relevant month) in accordance with the following steps.

#### *Step 1*

Determine the cumulative amount of the monthly pay bill for the relevant months of the tax year.

#### *Step 2*

Multiply the amount obtained from step 1 by 0.5%.

#### *Step 3*

Determine the amount of the monthly cumulative levy allowance for the relevant month in accordance with Table 1.

#### *Step 4*

Deduct the amount obtained from step 3 from the amount obtained from step 2.

If the resulting amount is negative, that amount is to be treated as zero for the purpose of the calculation mentioned in step 6.

If the resulting amount is a positive amount, that amount is to be used in the calculation mentioned in step 6.

#### *Step 5*

Determine the amount of the cumulative apprenticeship levy paid up to the month preceding the relevant month and reduce that amount by any credit gained in the preceding month.

#### *Step 6*

Deduct the amount obtained from step 5 from the amount obtained from step 4.

If the resulting amount is a positive amount, that amount is the apprenticeship levy due to be paid for the relevant month.

If the resulting amount is negative, that amount is the credit gained in the relevant month.

(2) In this regulation, “credit” means any amount which is negative which can be used by a person to reduce the combined amount in the relevant month.

### **Recovery of overpaid apprenticeship levy by an employer**

**147J.**—(1) This regulation applies where a person has overpaid apprenticeship levy in a tax year.

(2) The person must set off any overpaid apprenticeship levy against any amount which that person is liable to pay under these Regulations before making a claim to HMRC for a refund of the overpaid levy.



### **Liability to pay and duty to make a return of apprenticeship levy: Continental shelf workers certificate holders**

**147K.**—(1) This regulation applies to persons specified in certificates in force under section 120(4) of the Social Security Contributions and Benefits Act 1992 (employment at sea: continental shelf operations).

(2) The person specified in paragraph (3) must—

- (a) pay apprenticeship levy under regulation 147C, and
- (b) make a return of apprenticeship levy under regulation 147D.

(3) The person referred to paragraph (2) is a UKCS continental shelf workers certificate holder who has obligations under regulation 114B of the SSC Regulations (UKCS continental shelf workers certificate holder: obligations and responsibilities) to make deductions, returns and repayments as are required by a secondary contributor.

(4) In this regulation a UKCS continental shelf workers certificate holder means a holder of a certificate issued under regulation 114A of the SSC Regulations (application for certificate).

### **Assessment of unpaid apprenticeship levy**

**147L.**—(1) This regulation applies if it appears to HMRC that there may be apprenticeship levy payable for a tax year under regulations 147E, 147H or 147I (calculation of apprenticeship levy) by an employer which has not been—

- (a) paid to HMRC under regulation 147C, and
- (b) reported on a return under regulation 147D.

(2) HMRC may assess the amount of apprenticeship levy which to the best of their judgement is due, and serve notice of their assessment on the employer.

(3) An assessment under this regulation may—

- (a) cover the apprenticeship levy payable by the employer under regulation 147E, 147H or 147I for any one or more tax periods in a tax year, and
- (b) extend to the whole of the apprenticeship levy, or such part of it as is payable in respect of—
  - (i) a class or classes of employees specified in the notice of assessment (without naming the individual employees), or
  - (ii) one or more named employees specified in the notice.

(4) Section 30A of [<sup>F500</sup>TMA] (assessing procedure) applies in relation to an assessment under this regulation as it applies in relation to an assessment to income tax.

(5) Any amount of apprenticeship levy which is payable by virtue of an assessment made under this regulation shall be payable on the day following the end of the period of 30 days beginning with the day on which the notice of assessment is served.

**F500** Word in reg. 147L(4) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, 23

### **Recovery of overpayment of apprenticeship levy by HMRC**

**147M.**—(1) Where an amount of apprenticeship levy has been repaid to any person which ought not to have been repaid to that person, that amount may be assessed and recovered as if it were unpaid apprenticeship levy.

(2) An assessment under this regulation shall not be out of time under section 108 of the Finance Act 2016 (time limits for assessment) if it is made before the end of the year of assessment following that in which the amount assessed was repaid.

(3) In this regulation any reference to an amount repaid includes a reference to an amount allowed by way of a set-off.

### **Retention by employer of apprenticeship levy records**

**147N.**—(1) An employer must keep and preserve for not less than three years after the end of the tax year to which they relate all apprenticeship levy records which are not required to be sent to HMRC under regulation 147D.

(2) The duty under paragraph (1) to preserve apprenticeship levy records may be discharged by preserving them in any form or by any means.

(3) In this regulation, “apprenticeship levy records” means documents relating to the calculation of the amount of apprenticeship levy payable by the employer.]

## **PART 8**

### **SOCIAL SECURITY BENEFITS**

#### **CHAPTER 1**

#### **JOBSEEKER'S ALLOWANCE: NORMAL CASES**

### **Interpretation of Chapters 1 and 2**

**148.** In Chapters 1 and 2—

“award” means an award of a jobseeker’s allowance;

“claim” means a claim for a jobseeker’s allowance;

“claimant” means a person who has made a claim, or who is treated for the purposes of the JSA Regulations as having made a claim;

“Chapter 2 claimant” means—

(a) a claimant who is entitled to a jobseeker’s allowance by virtue of regulation 17 of the JSA Regulations (laid off and short time workers); or

(b) [<sup>F501</sup>a claimant who is a share fisherman—

(i) where the JSA Regulations apply, as defined in regulation 156 of those Regulations; and

(ii) where the Jobseeker’s Allowance Regulations 2013 [<sup>F502</sup>or Jobseeker’s Allowance Regulations (Northern Ireland) 2016] apply, as defined in regulation 67 of those Regulations;]

“Department” means the Department for Work and Pensions or, in Northern Ireland, the Department for Social Development;

“JSA Regulations” means the Jobseeker’s Allowance Regulations 1996(**36**) or, in Northern Ireland, the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(**37**);

“jobseeker’s allowance” means benefit payable under—

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(36) S.I. 1996/207.

(37) S.R. (N.I.) 1996 No. 198.

- (a) the Jobseekers Act 1995<sup>(38)</sup>, or
- (b) in Northern Ireland, the Jobseekers (Northern Ireland) Order 1995<sup>(39)</sup>;
- “taxable jobseeker’s allowance” means any amount of jobseeker’s allowance which is chargeable to income tax under Chapter 2 of Part 10 of ITEPA (tax on social security income).

- F501** Words in reg. 148 substituted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **83**
- F502** Words in reg. 148 inserted (N.I.) (27.9.2017) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **59**

### Scope of Chapter 1

**149.** This Chapter applies to claimants who are not Chapter 2 claimants.

### Application of other regulations

**150.**—(1) The following regulations apply to payments of taxable jobseeker’s allowance made to a claimant with the modifications mentioned in paragraphs (2) and (3)—

regulation 2	interpretation
regulation 14	matters relevant to determination of code
regulation 15	flat rate codes
regulation 16	continued application of employee’s code
regulation 17	notice to employee of code
regulation 18	objections and appeals against employee’s code
regulation 19	amendment of code
regulation 20	notice to employer of amended code
regulation 21	deduction and repayment of tax by reference to employee’s code
regulation 97	[ <sup>F503</sup> retention by employer of PAYE records]
regulation 98	multiple PAYE schemes
regulation 102	succession to a business etc
[ <sup>F504</sup> regulation 185	Adjusting total net tax deducted for purposes of sections 59A(1), 59B(1) and 59BA(2) TMA]
regulation 188	assessments other than self-assessments
regulation 211	how information must or may be delivered by employers
regulation 214	how information must be provided by employees

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<sup>(38)</sup> 1995 c. 18.

<sup>(39)</sup> S.I. 1995/2705 (N.I. 15).

regulation 216

service by post.

(2) In the application of those regulations, the expressions listed in column 1 of Table 5 have the meanings shown in column 2 of the table.

**Table 5**

Meaning of expressions in application of other regulations

<i>1. Expression</i>	<i>2. Meaning for purposes of this Chapter</i>
employee	claimant
employer	Department
employment	award
relevant payments	taxable jobseeker's allowance.

(3) In the application of regulations 20 and 21, any reference to the deduction or repayment of tax must be read as a reference to the tax calculation which the Department is required to make at the end of the tax year or on the cessation of an award (by virtue of regulations 157(2)(a) and 158(2) respectively).

**F503** Words in reg. 150(1) substituted (1.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), 7

**F504** Words in reg. 150(1) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, 4

### Obtaining the claimant's Form P45

**151.**—(1) A claimant who has Parts 2 and 3 of Form P45 must deliver them to the Department on making a claim for a jobseeker's allowance which includes taxable jobseeker's allowance.

(2) If, on making a claim, the claimant declares that the claimant's last employer did not provide Parts 2 and 3 of Form P45, the Department may require the employer to deliver them to a specified office of the Department.

### Deductions working sheet for claimants awarded taxable jobseeker's allowance

**152.**—(1) The Department must prepare a deductions working sheet in respect of each claimant whose award includes taxable jobseeker's allowance.

(2) If the Department obtains Parts 2 and 3 of Form P45 relating to the claimant, it must immediately prepare the deductions working sheet using the information shown in Parts 2 and 3 of Form P45 in accordance with regulation 153.

(3) If the Department does not obtain Parts 2 and 3 of Form P45 relating to the claimant, it must prepare the deductions working sheet in accordance with regulation 154.

### Form P45: deductions working sheet and return

**153.**—(1) If Parts 2 and 3 of Form P45 relate to the current tax year, the Department must record in the deductions working sheet the total payments to date shown in Parts 2 and 3 of Form P45.

(2) If Parts 2 and 3 of Form P45 relate to the current tax year and show that the cumulative basis has been used, the Department must also—

- (a) record the following information from Parts 2 and 3 of Form P45 in the deductions working sheet, or
- (b) keep such records as enable production of the information.

(3) If the code shown in Parts 2 and 3 of Form P45 is a K code, the information is—

- (a) the total additional pay to date,
- (b) the total taxable payments to date, and
- (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 or the total net tax deducted shown in them.

(4) In any other case the information is—

- (a) the total free pay to date,
- (b) the total taxable payments to date, and
- (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.

(5) Paragraph (6) applies if—

- (a) the claim is made by 24th May in a tax year, and
- (b) Parts 2 and 3 of Form P45 show that the last relevant payment was made in the preceding tax year.

(6) The Department must complete the deductions working sheet but without recording the total payments to date or total net tax deducted (if any) shown in Parts 2 and 3 of Form P45.

(7) In cases falling within paragraphs (1) and (5), the code shown in Parts 2 and 3 of Form P45 must be treated as the claimant's code for the purposes of these Regulations.

(8) If, in a case not falling within paragraph (5), Parts 2 and 3 of Form P45 show that the last relevant payment was made in a tax year preceding that in which the claim was made, the Department—

- (a) must complete the deductions working sheet but without recording the total payments to date or total net tax deducted (if any) shown in Parts 2 and 3 of Form P45, and
- (b) must record the emergency code as the claimant's code.

(9) The Department must supply the information recorded under this regulation to the Inland Revenue together with such further information as may be required for the purposes of these Regulations.

#### **No Form P45: deductions working sheet and return**

**154.**—(1) In a case falling within regulation 152(3) (no Form P45), the Department must—

- (a) prepare the deductions working sheet within 14 days of the award of a taxable jobseeker's allowance, and
- (b) record the emergency code as the claimant's code.

(2) The Department must also deliver a return to the Inland Revenue, giving—

- (a) the claimant's name,
- (b) the claimant's national insurance number,
- (c) the claimant's date of birth, if known,
- (d) the date on which the claim was made, and

- (e) the reference number of the benefit office submitting the return.
- (3) But the return need not be delivered if the claimant certifies that the claimant—
  - (a) is undergoing a course of full-time education and has not had regular employment since the previous 6th April, or
  - (b) has not had regular employment since finishing full-time education.

#### **Claimant's code etc to be used for calculations**

**155.**—(1) This regulation applies if, in respect of a claimant, the Department receives notification from the Inland Revenue of—

- (a) a code or amended code,
- (b) total payments to date, or
- (c) total net tax deducted.

(2) The Department must record that notification in substitution for any previous record and use it for the purpose of all calculations required under this Chapter.

#### **Recording the amount of taxable jobseeker's allowance**

**156.** Whenever a payment of jobseeker's allowance is made, the Department must record the taxable jobseeker's allowance included in the payment.

#### **Obligations at end of tax year**

**157.**—(1) This regulation applies in respect of each award which includes taxable jobseeker's allowance and which continues beyond the end of a tax year.

- (2) Before 1st June following the end of the tax year, the Department must—
  - (a) make a tax calculation in accordance with regulation 161 if the claimant's code is used on the cumulative basis;
  - (b) subject to paragraph (3), issue a certificate to the claimant; and
  - (c) deliver a return to the Inland Revenue.
- (3) The Department need not issue the certificate if—
  - (a) no taxable jobseeker's allowance has been paid, and
  - (b) a tax calculation in accordance with regulation 161 is not required.
- (4) The certificate must show—
  - (a) the tax year to which it relates,
  - (b) the total jobseeker's allowance for the tax year excluding any amounts previously notified under regulation 159(2) or 160(2),
  - (c) the taxable jobseeker's allowance included in the total jobseeker's allowance,
  - (d) the claimant's code,
  - (e) the claimant's national insurance number,
  - (f) the claimant's name,
  - (g) the claimant's address, if known,
  - (h) any previous relevant payments and any tax deducted from those relevant payments which the Department was required to take into account under regulation 161,

- (i) any total payments to date recorded by the Department in accordance with regulation 153(1) plus the total taxable jobseeker’s allowance for the tax year, and the corresponding total net tax deducted, and
- (j) the amount of tax refunded by the Department.
- (5) The return must show—
  - (a) the particulars specified in paragraph (4), and
  - (b) if a calculation is required under regulation 161, any amount of tax outstanding.

**When an award ceases**

**158.**—(1) For the purposes of these Regulations an award ceases when entitlement to a jobseeker’s allowance ceases.

(2) When an award of a taxable jobseeker’s allowance ceases the Department must make a tax calculation in accordance with regulation 161 if the claimant’s code is used on the cumulative basis.

(3) The relevant date for the purposes of that calculation is the date on which the award ceases.

(4) The date on which the award ceases is the last day for which benefit was paid and was not recoverable, except that if the last day is 4th or 5th April the date is the preceding 3rd April.

(5) But the Department need not amend a tax calculation solely because the date used for the purposes of the calculation is subsequently shown to be incorrect.

**Cessation of award: Form P45U**

**159.**—(1) When an award of a taxable jobseeker’s allowance ceases the Department must immediately complete Form P45U.

(2) The Department must then—

- (a) send Part 1 of Form P45U to the Inland Revenue, and
- (b) provide Part 1A of Form P45U and Parts 2 and 3 of Form P45 to the claimant.

(3) The information listed in column 1 of Table 6 must, subject to the conditions set out in column 2, be provided in Parts 1 and 1A of Form P45U and Parts 2 and 3 of Form P45 as indicated in columns 3 to 5.

**Table 6**

Information which must be provided in Form P45U

<i>1. Information to be provided</i>	<i>2. Conditions</i>	<i>3. FormP45U  Part 1</i>	<i>4.  Part 1A</i>	<i>5. Form P45  Parts 2 &amp; 3</i>
<b>1.</b> the tax reference as shown in the deductions working sheet		yes	yes	yes
<b>2.</b> the claimant’s national insurance number		yes	yes	yes

<i>1. Information to be provided</i>	<i>2. Conditions</i>	<i>3. FormP45U  Part 1</i>	<i>4.  Part 1A</i>	<i>5. Form P45  Parts 2 &amp; 3</i>
<b>3.</b> the claimant's name		yes	yes	yes
<b>4.</b> the date on which the award ceased		yes	yes	yes
<b>5.</b> the claimant's code or, if more than one, the latest code for the tax year during which the award ceased		yes	yes	yes
<b>6.</b> whether the claimant's code is used on the cumulative basis		yes	yes	yes
<b>7.</b> the tax week or month in which the award ceased	if the claimant's code is used on the cumulative basis	yes	yes	yes
<b>8.</b> the total payments to date (including taxable jobseeker's allowance) at the date the award ceased, and the corresponding total net tax deducted	if the claimant's code is used on the cumulative basis	yes	yes	yes
<b>9.</b> the taxable jobseeker's allowance paid during the tax year by virtue of the award in question	if the claimant's code is used on the cumulative basis, and if different from the information supplied under item 8	yes	yes	no
<b>10.</b> the taxable jobseeker's allowance paid during the tax year by virtue of the award in question	if the claimant's code is not used on the cumulative basis	yes	yes	no



**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>1. Information to be provided</i>	<i>2. Conditions</i>	<i>3. Form P45U</i>	<i>4.</i>	<i>5. Form P45</i>
		<i>Part 1</i>	<i>Part 1A</i>	<i>Parts 2 &amp; 3</i>
<b>11.</b> any amount of tax outstanding	if the claimant's code is used on the cumulative basis	yes	no	no
<b>12.</b> whether the claimant was self-employed immediately before the claim was made		yes	no	no
<b>13.</b> whether the claimant is receiving a pension by reason of a former employment		yes	no	no
<b>14.</b> the claimant's address	if known	yes	no	no
<b>15.</b> the address of the benefit officer		yes	yes	no
<b>16.</b> the date the form is completed		yes	yes	no

(4) The Department must also give notice to the claimant of—

- (a) the total jobseeker's allowance for the tax year excluding any sums previously notified under this regulation or regulation 160, 171 or 172, and
- (b) the taxable jobseeker's allowance included in that total.

(5) Expressions used in Parts 2 and 3 of Form P45 have the following meanings—

- (a) "employee" means "claimant",
- (b) "leaving date" means "date the award ceased", and
- (c) "pay" means "jobseeker's allowance".

(6) Regulation 163 (death of claimant) modifies the requirements of this regulation if an award of taxable jobseeker's allowance has ceased on the death of the claimant.

**Notification of taxable jobseeker's allowance adjustment**

**160.**—(1) Paragraph (2) applies if—

- (a) after a certificate under regulation 157(2)(b) has been issued (or would have been issued but for regulation 157(3)), or
- (b) after a notice has been issued under regulation 159(4) or this regulation,

further taxable jobseeker's allowance is paid to, or taxable jobseeker's allowance overpaid is recovered from, the claimant.

- (2) The Department must—
  - (a) give notice to the claimant of the revised figure of total jobseeker's allowance and the taxable jobseeker's allowance included in that revised figure in accordance with the relevant regulation, and
  - (b) notify the Inland Revenue of the sums paid or refunded.

### **Tax calculation**

**161.**—(1) This regulation applies, subject to regulation 162, if the Department is required by regulation 157 or 158 to make a tax calculation.

- (2) The Department must calculate in respect of the claimant as at the relevant date—
  - (a) the total payments to date, and
  - (b) the claimant's total tax.
- (3) If the recorded tax exceeds the claimant's total tax, the Department must repay the excess to the claimant.
- (4) But if the recorded tax is less than the claimant's total tax—
  - (a) the difference is tax outstanding for the purposes of regulation 157(5)(b) or item 11 of Table 6 in regulation 159(3), and
  - (b) the Department must treat the claimant's code as issued by the Inland Revenue on the non-cumulative basis from the relevant date.

- (5) In this regulation—

[<sup>F505</sup>“claimant's total tax” means the lesser of—

  - (a) 50% of the claimant's total payments to date, and
  - (b) the tax due in accordance with the appropriate tax tables in respect of the claimant's total taxable payments to date at the relevant date;]

“recorded tax” means the total tax to date or (as the case may be) the total net tax deducted which was recorded in accordance with regulation 153(3) or (4) when the claim was made;

“relevant date” means—

- (a) the end of the tax year, if the calculation is required by regulation 157;
- (b) the date used for the purposes of the calculation, if the calculation is required by regulation 158;

“total payments to date” means any payments to date recorded by the Department in accordance with regulation 153(1), plus the total taxable jobseeker's allowance.

**F505** Words in reg. 161(5) substituted (6.4.2015) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2014 \(S.I. 2014/2689\)](#), regs. 1(2), 7

### **No tax calculation required in certain cases**

- 162.**—(1) A tax calculation under regulation 161 is not required in any of the following cases—
- (a) if the claimant does not give the Department Parts 2 and 3 of Form P45, and does not certify in accordance with regulation 154(3) (students etc);

- (b) if the claimant gives the Department Parts 2 and 3 of Form P45, but they do not relate to the claimant's last employment or award before the present award, whichever is later;
  - (c) if the claimant is in receipt of a pension in respect of a former employment;
  - (d) if it appears to the Department on the occasion of a claim that a previous award should have been treated as having ceased in accordance with regulation 158 (when an award ceases); or
  - (e) if the claimant's code is a nil tax code, basic rate code or higher rate code.
- (2) Those cases are treated as if the Inland Revenue had made a direction that the claimant's code must be used on the non-cumulative basis.
- (3) Those cases are subject to a notification from the Inland Revenue under regulation 155 that revised particulars are to be substituted and used.

### **Death of claimant**

- 163.**—(1) On being informed of the death of a claimant whose award included taxable jobseeker's allowance, the Department must send the Inland Revenue the completed Form P45U indicating in Part 1 that the claimant has died.
- (2) If the Department knows the name and address of the claimant's personal representative, the Department must send the notice referred to in regulation 159(4) to the personal representative.
- (3) But if the Department has not been notified of the name and address of the claimant's personal representative within 30 days of the claimant's death, the Department is not required—
- (a) to make a tax calculation under regulation 161, nor
  - (b) to issue the notice under regulation 159(4).

### **Finance**

- 164.**—(1) The Board of Inland Revenue must advance monies to the National Insurance Funds of Great Britain and Northern Ireland at intervals to be agreed with the Department for use in making repayments of income tax under these Regulations.
- (2) The Department must provide the Board with a quarterly statement of receipts and payments.

## **CHAPTER 2**

### **JOBSEEKER'S ALLOWANCE: SPECIAL CASES**

#### **Scope of Chapter 2**

- 165.**—(1) This Chapter applies only to Chapter 2 claimants (as defined by regulation 148).
- (2) Except for regulation 148 (interpretation), Chapter 1 does not apply to Chapter 2 claimants.

#### **Jobseeker's allowance paid directly to claimant**

- 166.**—(1) This regulation applies if the Department makes a payment of taxable jobseeker's allowance directly to a Chapter 2 claimant.
- (2) The Department must—
- (a) record the amount, and
  - (b) pay the full sum without any deduction or repayment of income tax.

### **Jobseeker's allowance paid by employer**

**167.**—(1) If—

- (a) a jobseeker's allowance is paid to a Chapter 2 claimant by the claimant's employer on behalf of the Department, and
- (b) the employer calculates the jobseeker's allowance payable by reference to instructions supplied by the Department,

the employer must also calculate the taxable jobseeker's allowance in accordance with those instructions.

(2) If—

- (a) a jobseeker's allowance is paid to a Chapter 2 claimant by the claimant's employer on behalf of the Department, and
- (b) paragraph (1)(b) does not apply,

the Department must notify the employer of the amount of jobseeker's allowance and of taxable jobseeker's allowance.

(3) If the employer has undertaken to pay a jobseeker's allowance on behalf of the Department, the Department must pay the full amount to the employer without any deduction on account of income tax.

### **Regulation 167 cases: application of other regulations**

**168.**—(1) Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information) apply to the taxable jobseeker's allowance paid to a Chapter 2 claimant by the employer on behalf of the Department under regulation 167, as if it were a relevant payment from the employment.

(2) But this is subject to paragraph (3), which applies in any case in which it appears to the Inland Revenue that deduction of tax from the taxable jobseeker's allowance paid by the employer on behalf of the Department by reference to the tax tables is impracticable.

(3) The Inland Revenue may make such other arrangements as are appropriate for the collection of tax in respect of taxable jobseeker's allowance.

(4) Regulations 170 to 172 (information to be supplied etc) do not apply if—

- (a) the Chapter 2 claimant's employer has been paying the jobseeker's allowance in accordance with regulation 167, and
- (b) the employer provides the information in question.

### **When a Chapter 2 award ceases**

**169.** For the purposes of this Chapter, an award ceases when entitlement to a jobseeker's allowance which depends on regulation 17 or 156 of the JSA Regulations ceases.

### **Information to be supplied at end of tax year**

**170.**—(1) This regulation applies in respect of an award of taxable jobseeker's allowance which continues beyond the end of a tax year.

(2) Before 1st June following the end of the tax year, the Department must give notice to the Inland Revenue and the Chapter 2 claimant of—

- (a) the total jobseeker's allowance, and
- (b) the taxable jobseeker's allowance,

paid in respect of the award during that tax year.

### Information to be supplied when an award of taxable jobseeker's allowance ceases

**171.**—(1) When an award of taxable jobseeker's allowance ceases, the Department must give notice to the Inland Revenue and, except where the Chapter 2 claimant has died, the claimant, of—

- (a) the total jobseeker's allowance, and
- (b) the taxable jobseeker's allowance,

paid in respect of the award, showing the amounts appropriate to the award for the tax year in which it ceased.

(2) If the Department has been notified of the name and address of a deceased claimant's personal representative within 30 days of the claimant's death, the Department must send the notice to the personal representative.

### Adjustments of taxable jobseeker's allowance

**172.**—(1) Paragraph (2) applies if, after the issue of a notice under regulation 170 or 171(1)—

- (a) further taxable jobseeker's allowance is paid to the Chapter 2 claimant, or
- (b) taxable jobseeker's allowance overpaid is recovered from the Chapter 2 claimant.

(2) The Department must—

- (a) notify the Chapter 2 claimant of the revised figure of total jobseeker's allowance and the taxable jobseeker's allowance included in that revised figure, and
- (b) notify the Inland Revenue of any adjustment to the figure of taxable jobseeker's allowance,

showing the amounts appropriate to each tax year.

## CHAPTER 3

### INCAPACITY BENEFIT

#### Interpretation of Chapter 3

**173.** In this Chapter—

“award” means an award of incapacity benefit;

“claim” means a claim for incapacity benefit;

“claimant” means a person who has made a claim;

“Department” means the Department for Work and Pensions or, in Northern Ireland, the Department for Social Development;

“incapacity benefit” means short-term incapacity benefit or long-term incapacity benefit payable under—

- (a) sections 30A(1), 30A(5), 40 or 41 of the Social Security Contributions and Benefits Act 1992(40), or
- (b) in Northern Ireland, section 30A(1), 30A(5), 40 or 41 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(41);

“single-income claimant” means a claimant who, for a tax year—

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(40) 1992 c. 4. Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c. 30); section 40 was substituted by paragraph 8 and section 41 by paragraph 9 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994.

(41) 1992 c. 7. Section 30A was inserted by article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and amended by article 61 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 40 was substituted by paragraph 8 and section 41 by paragraph 9 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994.

- (a) is not entitled to receive any relevant payments in addition to the payments of taxable incapacity benefit, or
- (b) is so entitled but has failed to provide any details relating to those payments when making the claim,

and who is not a self-employed earner as defined by section 2 of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“taxable incapacity benefit” means any amount of incapacity benefit which is chargeable to income tax under Chapter 2 of Part 10 of ITEPA (tax on social security income).

### Application of other regulations

**174.—(1)** The following regulations apply, subject to this Chapter, to payments of taxable incapacity benefit with the modifications mentioned in paragraphs (2) to (4)—

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regulation 2	interpretation
regulation 15	flat rate codes
regulation 16	continued application of employee’s code
regulation 17	notice to employee of code
regulation 18	objections and appeals against employee’s code
regulation 19	amendment of code
regulation 20	notice to employer of amended code
regulation 21	deduction and repayment of tax by reference to employee’s code
regulations 22 to 25	cumulative basis
regulations 26 to 31	non-cumulative basis
regulation 33	nil tax code: no deductions or repayments
regulation 36	cessation of employment: Form P45
regulation 66	deductions working sheets
regulation 67	information to employees about payments and tax deducted
regulation 68	periodic payments to and recoveries from the Revenue
regulation 69	due date and receipts for payments of tax
regulation 70	quarterly tax periods
regulation 72	recovery from employee of tax not deducted by employer
regulation 73	annual return of relevant payments liable to deduction of tax
regulation 74	annual return of relevant payments not liable to deduction of tax

regulation 76	certificate if tax in regulation 73 return is unpaid
regulation 79	certificate after inspection of PAYE records
regulation 84	recovery of tax and interest
regulation 97	[ <sup>F506</sup> retention by employer of PAYE records]
regulation 98	multiple PAYE schemes
regulation 102	succession to a business etc
regulation 141	direct collection and special arrangements
regulation 185	adjusting total net tax deducted for purposes of sections 59A(1) and 59B(1) TMA
regulation 188	assessments other than self-assessments
regulation 211	how information must or may be delivered by employers
regulation 216	service by post
regulation 218	certificate that sum due
regulation 219	payment by cheque.

(2) In the application of those regulations, the expressions listed in column 1 of Table 7 have the meanings shown in column 2 of the table.

**Table 7**

Meaning of expressions in application of other regulations

<i>1. Expression</i>	<i>2. Meaning for purposes of this Chapter</i>
employee	claimant
employer	Department
employment	award
relevant payments	taxable incapacity benefit.

(3) In regulation 15 (flat rate codes)—

- (a) omit paragraph (1);
- (b) omit paragraph (3)(a); and
- (c) for paragraph (3)(c) substitute—

“(c) the Inland Revenue consider that the code which would otherwise be the claimant’s code would result in too much tax being deducted for the tax year in question.”

(4) In regulation 21(1) (deduction and repayment of tax by reference to employee’s code), for “in accordance with these Regulations” substitute “in accordance with Chapter 3 of Part 8”.

**F506** Words in [reg. 174\(1\)](#) substituted (1.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), [regs. 1\(1\), 7](#)

### **Emergency IB code to be used before claimant's code issued**

**175.**—(1) Paragraph (2) applies if the Department makes a payment of taxable incapacity benefit during a tax year to a single-income claimant before a code has been issued by the Inland Revenue for that year in respect of that award.

(2) The Department must—

- (a) deduct tax using an emergency IB code on the non-cumulative basis, and
- (b) keep records in a deductions working sheet which it must prepare for the purpose.

(3) The use of an emergency IB code under this regulation is treated as the issue of a code for the purposes of regulations 21, 36 and 180.

### **Return in respect of all claimants to taxable incapacity benefit**

**176.**—(1) When the Department first makes a payment of taxable incapacity benefit to a claimant it must immediately deliver a return to the Inland Revenue containing the following information.

(2) The information is—

- (a) the claimant's name,
- (b) the claimant's address,
- (c) the claimant's date of birth, if known,
- (d) the claimant's national insurance number,
- (e) the date on which the claimant's entitlement to taxable incapacity benefit began,
- (f) the weekly rate of taxable incapacity benefit being paid to the claimant,
- (g) if a code is being used for the payment, that code and whether it is used on the non-cumulative basis,
- (h) if the payment was preceded by payment of incapacity benefit which was not taxable, the date that benefit was first paid, and
- (i) the claimant's tax reference, if known.

### **Further return required in certain cases**

**177.**—(1) On making a subsequent payment of taxable incapacity benefit to the claimant, the Department must deliver a further return in accordance with regulation 176 as if that subsequent payment were the first payment, if conditions A and B are met.

(2) Condition A is that the Inland Revenue have previously determined the claimant's code in relation to the payments of incapacity benefit to be a nil tax code.

(3) Condition B is that the subsequent payment is the first payment to be made at a different rate from the rate subsisting at the time of that determination.

(4) In addition to providing the information listed in regulation 176(2), the Department must indicate in the further return that the weekly rate of taxable incapacity benefit being paid to the claimant represents a revised amount.

### **Delivery of Form P45 to Department**

**178.**—(1) This regulation applies if a single-income claimant—

- (a) has Parts 2 and 3 of Form P45, and
- (b) has not made, and does not intend to make, a claim for repayment of tax.



(2) The claimant must deliver Parts 2 and 3 of Form P45 when making a claim, and the Department must immediately send them to the Inland Revenue office.

### Determination of claimant's code by Inland Revenue

**179.**—(1) On receiving a return under regulation 176 relating to a single-income claimant, the Inland Revenue must determine the code for the claimant.

(2) The Inland Revenue may determine the code for a claimant who is not a single-income claimant if they consider that it would be impractical to collect tax arising on the claimant's taxable incapacity benefit by other means.

(3) In determining the code for a claimant under this regulation, regulation 14(1) (matters to which Revenue must have regard in determining an employee's code) does not apply.

(4) If the Inland Revenue are satisfied the claimant is entitled, for the tax year for which the code is determined, to any of the following reliefs from income tax, they must have regard to that relief in determining the code for the claimant under this regulation.

(5) The reliefs are—

- (a) personal allowance (section 257(1) of ICTA(**42**)),
- (b) married couple's allowance (section 257A of ICTA(**43**)), and
- (c) blind person's allowance (section 265(1) of ICTA(**44**)).

(6) If the Inland Revenue determine the code for a claimant before the beginning of the tax year for which it is determined, the Inland Revenue—

- (a) must have regard to any expected change in the amounts of those reliefs, but
- (b) may disregard any of those reliefs if they are not satisfied that the claimant will be entitled to it for the tax year for which it is determined.

### Death of claimant

**180.**—(1) On the death of a claimant in respect of whom a code has been issued by the Inland Revenue, the Department must—

- (a) complete Form P45 indicating in Part 1 that the claimant has died, and
- (b) send it to the Inland Revenue.

(2) The Department must comply with paragraph (1)—

- (a) on the day on which it learns of the claimant's death, or
- (b) if that is not practicable, without unreasonable delay.

(3) Paragraph (4) applies if the Department makes any payment of taxable incapacity benefit after the date of the claimant's death—

- (a) before completing Form P45, or
- (b) after completing Form P45 but during the tax year in which the claimant died.

(4) The Department must, on making the payment, deduct or repay tax as if the deceased claimant were still alive and the award had not ceased at the date of payment.

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(42) Section 257 was substituted by section 33 of the Finance Act 1988 (c. 39).

(43) Section 257A was inserted by section 33 of the Finance Act 1988, and amended by section 33(8)(a) and (9)(b) of the Finance Act 1989 (c. 26), section 77(2) of, and paragraph 1 of Schedule 8 to, the Finance Act 1994 (c. 9), paragraph 14 of Schedule 20 to the Finance Act 1996 and section 31(1) to (8) of the Finance Act 1999 (c. 16).

(44) Section 265 was substituted by paragraph 8 of Schedule 3 to the Finance Act 1988, and subsection (1) was amended by paragraph 19 of Schedule 20 to the Finance Act 1996 (c. 8).

(5) Regulation 37(2) to (6) (PAYE income paid after employment ceased) applies to any payment of taxable incapacity benefit which—

- (a) is made in a tax year following the tax year in which the claimant died, and
- (b) is not included in Form P45.

## CHAPTER 4 INCOME SUPPORT

### Interpretation of Chapter 4

**181.** In this Chapter—

“award” means an award of income support;

“claim” means a claim for income support;

“claimant” means a person who has made a claim;

“Department” means the Department for Work and Pensions or, in Northern Ireland, the Department for Social Development;

“income support” means benefit payable under—

- (a) section 124 of the Social Security Contributions and Benefits Act 1992<sup>(45)</sup>, or
- (b) in Northern Ireland, section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(46)</sup>;

“taxable income support” means any amount of income support which is chargeable to income tax under Chapter 2 of Part 10 of ITEPA (tax on social security income).

### Recording the amount of taxable income support

**182.** Whenever the Department makes a payment of taxable income support it must—

- (a) record the amount, and
- (b) pay the full sum without any deduction or repayment of income tax.

### Information to be supplied when an award of taxable income support ceases

**183.**—(1) This regulation applies when an award of taxable income support ceases.

(2) The Department must give notice to the Inland Revenue and, except where the claimant has died, the claimant of—

- (a) the total income support, and
- (b) the taxable income support,

paid in respect of the award showing the amounts appropriate to each tax year.

(3) If the Department has been notified of the name and address of a deceased claimant’s personal representative within 30 days of the claimant’s death, the Department must send the notice to the personal representative.

### Adjustments of taxable income support

**184.**—(1) Paragraph (2) applies if, after the issue of a notice under regulation 183(2)—

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<sup>(45)</sup> 1992 c. 4; section 124 was amended by paragraph 30 of Schedule 2 and Schedule 3 to the Jobseekers Act 1995 (c. 18).

<sup>(46)</sup> 1992 c. 7; section 123 was amended by paragraph 13 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)).

- (a) further taxable income support is paid to the claimant, or
  - (b) taxable income support overpaid is recovered from the claimant.
- (2) The Department must—
- (a) notify the claimant of the revised figure of total income support and the taxable income support included in that revised figure, and
  - (b) notify the Inland Revenue of any adjustment to the figure of taxable income support, showing the amounts appropriate to each tax year.

## [<sup>F507</sup>CHAPTER 5

### EMPLOYMENT AND SUPPORT ALLOWANCE

**F507** Pt. 8 Ch. 5 inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, 3

#### Interpretation of Chapter 5

**184A.** In this Chapter—

“award” means an award of employment and support allowance;

“claim” means a claim for employment and support allowance;

“claimant” means a person who has made a claim;

“Department” means the Department for Work and Pensions or, in Northern Ireland, the Department for Social Development”;

“employment and support allowance” means benefit payable under—

(a) the Welfare Reform Act 2007, or

(b) in Northern Ireland, the Welfare Reform Act (Northern Ireland) 2007;

“taxable employment and support allowance” means any amount of employment and support allowance which is chargeable to income tax under Chapter 2 of Part 10 of ITEPA (tax on social security income).

#### Application of other regulations

**184B.**—(1) The following regulations apply to payments of employment and support allowance made to a claimant with the modifications mentioned in paragraphs (2) to [<sup>F508</sup>(5)] —

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regulation 2	interpretation
regulation 14	matters relevant to determination of code
regulation 15	flat rate codes
regulation 16	continued application of employee’s code
regulation 17	notice to employee of code
regulation 18	objections and appeals against employee’s code
regulation 19	amendment of code
regulation 20	notice to employer of amended code

regulation 21	deduction and repayment of tax by reference to employee's code
regulation 97	[ <sup>F509</sup> retention by employer of PAYE records]
regulation 98	multiple PAYE schemes
regulation 102	succession to a business etc
[ <sup>F510</sup> regulation 185	Adjusting total net tax deducted for purposes of sections 59A(1), 59B(1) and 59BA(2) TMA]
[ <sup>F511</sup> [ <sup>F512</sup> regulation 205	mandatory use of electronic communications]
regulation 206	employers F513 ...
regulation 207	specified information F514 ...
regulation 209	standards of accuracy and completeness
regulation 210	penalty for failing to deliver F515 ... specified information
F516 ...	F516 ...
regulation 210C	appeals and interest ]
regulation 211	how information must or may be delivered by employers
regulation 214	how information must be provided by employees
regulation 216	service by post.

(2) In the application of those regulations, the expressions listed in column 1 of Table 7A have the meanings shown in column 2 of the table.

**Table 7A**

**Meaning of expressions in application of other regulations**

<i>1. Expression</i>	<i>2. Meaning for purposes of this Chapter</i>
Employee	claimant
[ <sup>F517</sup> Employer <sup>F518</sup> ...]	Department
Employment	award  taxable employment and support allowance

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1. Expression

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2. Meaning for purposes of this Chapter

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Relevant payments

(3) In the application of regulations 20 (notice to employer of amended code) and 21 (deduction and repayment of tax by reference to employee's code), any reference to the deduction or repayment of tax shall be read as a reference to the tax calculation which the Department is required to make at the end of the tax year or on the cessation of an award (by virtue of regulation 184I(2)(a) and 184K(2)).

(4) In the application of regulation 207 (specified information) the reference to specified information shall be read as including references to—

- (a) the return and accompanying information required by regulations 184G (return in respect of all claimants to taxable employment and support allowance) and 184J (annual return),
- (b) Part 1 of Form P45ESA, and
- (c) the information required under regulation 184E(9).

[<sup>F519</sup>(5) In the application of regulation 210 (penalty for failing to deliver specified information)—

- (a) where the specified information is the return and accompanying information required by regulation 184J (annual return) the penalty will be determined in accordance with regulation [<sup>F520</sup>210AA], and
- (b) where the specified information is 184G (return in respect of all claimants to taxable employment and support allowance), Part 1 of Form P45ESA or the information required under regulation 184E(9) the penalty will be determined in accordance with [<sup>F521</sup>regulations 210B and 210BA].]

- F508** Word in reg. 184B(1) substituted (6.4.2010) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(2), **17(a)**
- F509** Words in reg. 184B substituted (1.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **7**
- F510** Words in reg. 184B(1) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **5**
- F511** Words in reg. 184B(1) substituted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **3(a)**
- F512** Words in reg. 184B(1) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **17(b)(i)**
- F513** Words in reg. 184B(1) omitted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **17(b)(ii)**
- F514** Words in reg. 184B(1) omitted (in relation to the tax year 2010-11 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(3), **17(b)(iii)**
- F515** Words in reg. 184B(1) omitted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **17(b)(iv)**
- F516** Words in reg. 184B(1) omitted (6.4.2010) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(2), **17(b)(v)**
- F517** Words in reg. 184B(2) Table 7A substituted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **3(b)**

- F518** Words in reg. 184B(2) omitted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668), regs. 1(4), 17(c)
- F519** Reg. 184B(5) inserted (6.4.2010) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668), regs. 1(2), 17(d)
- F520** Word in reg. 184B(5) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668), regs. 1(4), 17(e)
- F521** Words in reg. 184B(5) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668), regs. 1(4), 17(e)

### Obtaining the claimant's Form P45

**184C.**—(1) A claimant who has Parts 2 and 3 of Form P45 must deliver them to the Department on making a claim for employment and support allowance which includes taxable employment and support allowance.

(2) If on making a claim, the claimant declares that the claimant's last employer did not provide Parts 2 and 3 of Form P45, the Department may require the employer to deliver them to a specified officer of the Department.

### Deductions working sheet for claimants awarded taxable employment and support allowance

**184D.**—(1) The Department must prepare a deductions working sheet in respect of each claimant whose award includes taxable employment and support allowance.

(2) If the Department obtains Parts 2 and 3 of Form P45 relating to the claimant, it must immediately prepare the deductions working sheet using the information shown in Parts 2 and 3 of Form P45 in accordance with regulation 184E.

(3) If the Department does not obtain Parts 2 and 3 of Form P45 relating to the claimant, it must prepare the deductions working sheet in accordance with regulation 184F.

### Form P45: deductions working sheet and return

**184E.**—(1) If Parts 2 and 3 of Form P45 relate to the current tax year, the Department must record in the deductions working sheet the total payments to date shown in Parts 2 and 3 of Form P45.

(2) If Parts 2 and 3 of Form P45 relate to the current tax year and show that the cumulative basis has been used, the Department must also—

(a) record the following information from Parts 2 and 3 of Form P45 in the deductions working sheet, or

(b) keep such records as enable production of the information.

(3) If the code shown in Parts 2 and 3 of Form P45 is a K code, the information is—

(a) the code shown,

(b) the total additional pay to date,

(c) the total taxable payments to date, and

(d) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 or the total net tax deducted shown in them.

(4) In any other case, the information is—

- (a) the code shown,
  - (b) the total free pay to date,
  - (c) the total taxable payments to date, and
  - (d) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.
- (5) Paragraph (6) applies if—
- (a) the claim is made by 24th May in a tax year, and
  - (b) Parts 2 and 3 of Form P45 show that the last relevant payment was made in the preceding tax year.
- (6) The Department must complete the deductions working sheet but without recording the total payments to date or total net tax deducted (if any) shown in Parts 2 and 3 of Form P45.
- (7) In cases falling within paragraphs (1) and (6), the code shown in Parts 2 and 3 of Form P45 must be treated as the claimant's code for the purposes of these Regulations.
- (8) If, in a case not falling within paragraph (6), Parts 2 and 3 of Form P45 show that the last relevant payment was made in a tax year preceding that in which the claim was made, the Department—
- (a) must complete the deductions working sheet but without recording the total payments to date or total net tax deducted (if any) shown in parts 2 and 3 of Form P45, and
  - (b) must record the emergency code as the claimant's code.
- (9) The Department must supply the information recorded under this regulation to HMRC together with such further information as may be required for the purposes of these Regulations.

#### **No Form P45: deductions working sheet and return**

- 184F.** In a case falling within regulation 184D(3) (no Form P45), the Department must—
- (a) prepare the deductions working sheet within 14 days of the award of a taxable employment and support allowance, and
  - (b) record the emergency code as the claimant's code.

#### **Return in respect of all claimants to taxable employment and support allowance**

- 184G.**—(1) When the Department first makes a payment of taxable employment and support allowance to a claimant it must deliver a return to HMRC containing the following information.
- (2) The information is—
- (a) the claimant's name,
  - (b) the claimant's address,
  - (c) the claimant's date of birth, if known,
  - (d) the claimant's national insurance number,
  - (e) the date on which the claimant's entitlement to taxable employment and support allowance began,
  - (f) the weekly rate of taxable employment and support allowance being paid to the claimant,
  - (g) if the payment was preceded by a payment of employment and support allowance which was not taxable, the date that benefit was first paid, and
  - (h) the claimant's tax reference, if known.
- (3) But the return need not be delivered if the claimant certifies that the claimant—

- (a) is undergoing a course of full-time education and has not had regular employment since the previous 6th April, or
- (b) has not had regular employment since finishing full-time education.

#### **Further return required in certain cases**

**184H.**—(1) On making a subsequent payment of taxable employment and support allowance to the claimant, the Department must deliver a further return in accordance with regulation 184G as if that subsequent payment were the first payment, if the condition set out in paragraph (2) is met.

(2) The condition is that the subsequent payment is the first payment to be made at a different rate from the rate subsisting at the time of that determination.

(3) In addition to providing the information listed in regulation 184G(2), the Department must indicate in the further return that the weekly rate of taxable employment and support allowance being paid to the claimant represents a revised amount.

#### **Obligations at the end of the year**

**184I.**—(1) This regulation applies in respect of each award which includes taxable employment and support allowance and which continues beyond the end of a tax year.

- (2) Before 1st June following the end of the tax year the Department must—
  - (a) make a tax calculation in accordance with regulation 184N if the claimant's code is used on the cumulative basis; and
  - (b) subject to paragraph (3), issue a certificate to the claimant.
- (3) The Department need not issue a certificate if—
  - (a) no taxable employment and support allowance has been paid, and
  - (b) a tax calculation in accordance with regulation 184N is not required.
- (4) The certificate must show—
  - (a) the tax year to which it relates,
  - (b) the total employment and support allowance for the tax year excluding any amounts previously notified under regulations 184L(4) and 184Q(2)(a),
  - (c) the taxable employment and support allowance included in the total employment and support allowance,
  - (d) the claimant's code,
  - (e) the claimant's national insurance number,
  - (f) the claimant's address (if known),
  - (h) any previous relevant payments and any tax deducted from those relevant payments which the Department was required to take into account under regulation 184N,
  - (i) any total payments to date recorded by the Department in accordance with regulation 184E(1) plus the total taxable employment and support allowance for the tax year, and the corresponding total net tax deducted, and
  - (j) the amount of tax refunded by the Department.

#### **Annual return**

**184J.**—(1) This regulation applies in respect of each award which includes taxable employment and support allowance.



(2) Before 1st June following the end of the tax year, the Department must deliver a return to HMRC.

(3) The return must show—

- (a) the particulars specified in regulation 184I(4), and
- (b) if a calculation is required under regulation 184N any amount of tax outstanding.

#### **When an award ceases**

**184K.**—(1) For the purposes of these Regulations an award ceases when entitlement to an employment and support allowance ceases.

(2) When an award of a taxable employment and support allowance ceases, the Department must make a tax calculation in accordance with regulation 184N.

(3) The relevant date for the purposes of that calculation is the date on which the award ceases.

(4) The date on which the award ceases is the last day for which benefit was paid and was not recoverable, except that if the last day is 4th or 5th April the date is the preceding 3rd April.

(5) But the Department need not amend a tax calculation solely because the date used for the purposes of the calculation is subsequently shown to be incorrect.

#### **Cessation of award: Form P45ESA**

**184L.**—(1) When an award of a taxable employment and support allowance ceases, the Department must immediately complete Form P45ESA.

(2) The Department must then—

- (a) send Part 1 of Form P45ESA to HMRC; and
- (b) provide Part 1A of P45ESA and Parts 2 and 3 of Form P45 to the claimant.

(3) The information listed in column 1 of Table 7B must, subject to the conditions set out in column 2, be provided in Parts 1 and 1A of Form P45ESA and Parts 2 and 3 of Form P45 as indicated in columns 3 to 5.

**Table 7B**

#### **Information which must be provided in Form P45ESA**

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>Information to be provided</i>	<i>Conditions</i>	<i>Form P45ESA</i>	<i>Form P45ESA</i>	<i>Form P45</i>
		<i>Part 1</i>	<i>Part 1A</i>	<i>Parts 2 and 3</i>
1. the tax reference as shown in the deductions working sheet		yes	yes	yes
2. claimant's national insurance number		yes	yes	yes
3. claimant's name		yes	yes	yes
4. the date on which the award ceased		yes	yes	yes

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>Information to be provided</i>	<i>Conditions</i>	<i>Form P45ESA</i>	<i>Form P45ESA</i>	<i>Form P45</i>
		<i>Part 1</i>	<i>Part 1A</i>	<i>Parts 2 and 3</i>
5. the claimant's code or, if more than one, the latest code for the tax year during which the award ceased		yes	yes	yes
6. whether the claimant's code is used on the cumulative basis		yes	yes	yes
7. the tax week or month in which the award ceased	if the claimant's code is used on the cumulative basis	yes	yes	yes
8. the total payments to date (including taxable employment and support allowance) at the date the award ceased, and the corresponding total net tax deducted	if the claimant's code is used on the cumulative basis	yes	yes	yes
9. the taxable employment and support allowance paid during the tax year by virtue of the award in question	if the claimant's code is used on the cumulative basis, and if different from the information supplied under item 8	yes	yes	no
10. the taxable employment and support allowance paid during the tax year in question by virtue of the award in question	if the claimant's code is not used on the cumulative basis	yes	yes	no
11. any amount of tax outstanding	if the claimant's code is used on the cumulative basis	yes	no	no
12. whether the claimant was self-employed immediately before the claim was made.		yes	no	no
13. whether the claimant is receiving a pension by reason of a former employment.		yes	no	no
14. the claimant's address	if known	yes	no	no
15. the address of the benefit office		yes	yes	no
16. the date the form is completed		yes	yes	no

- (4) The Department must also give notice to the claimant of—
- (a) the total employment and support allowance for the tax year excluding any sums previously notified under this regulation and regulation 184Q(2)(a), and
  - (b) the taxable employment and support allowance included in that total.
- (5) Expressions used in Parts 2 and 3 of Form P45 have the following meanings—
- (a) “employee” means “claimant”;
  - (b) “leaving date” means “date the award ceased”; and
  - (c) “pay” means “employment and support allowance”.
- (6) Regulation 184M (death of claimant) modifies the requirements of this regulation if an award of taxable employment and support allowance has ceased on the death of the claimant.
- (7) If Form P45ESA has not come into use when the award of taxable employment and support allowance ceases, the Department must complete form P45U and any references to form P45ESA in these regulations shall be read as a reference to form P45U.

### Death of claimant

- 184M.**—(1) On being informed of the death of a claimant whose award included taxable employment and support allowance, the Department must send HMRC the completed Form P45ESA indicating in Part 1 that the claimant has died.
- (2) If the Department knows the name and address of the claimant’s personal representative the Department must send the notice referred to in regulation 184L(4) to the personal representative.
- (3) But if the Department has not been notified of the name and address of the claimant’s personal representative within 30 days of the claimant’s death, the Department is not required—
- (a) to make a tax calculation under regulation 184N, nor
  - (b) to issue the notice under regulation 184L(4).

### Tax calculation

- 184N.**—(1) This regulation applies, subject to regulation 184O, if the Department is required by regulation 184I or 184K to make a tax calculation.
- (2) The Department must calculate in respect of the claimant as at the relevant date—
- (a) the total payments to date, and
  - (b) the claimant’s total tax.
- (3) If the recorded tax exceeds the claimant’s total tax, the Department must repay the excess to the claimant.
- (4) But if the recorded tax is less than the claimant’s total tax—
- (a) the difference is tax outstanding for the purposes of regulation 184J(3)(b) or item 11 of table 7B in regulation 184L(3), and
  - (b) the Department must treat the claimant’s code as issued by HMRC on the non-cumulative basis from the relevant date.
- (5) In this regulation—
- “claimant’s total tax” means—
- (a) if the claimant’s code is a K code, the lesser of—
    - (i) 50% of the claimant’s total payments to date, and

- (ii) the tax due in accordance with the appropriate tax tables in respect of the claimant's total taxable payments to date at the relevant date,
- (b) in any other case, the tax due in accordance with the appropriate tax tables in respect of the claimant's total taxable payments to date at the relevant date;

“recorded tax” means the total tax to date or (as the case may be) the total net tax deducted which was recorded in accordance with regulation 184E(3) or (4) when the claim was made;

“relevant date” means—

- (a) the end of the tax year, if the calculation is required by regulation 184I,
- (b) the date used for the purposes of the calculation, if the calculation is required by regulation 184K;

“total payments to date” means any payments to date recorded by the Department in accordance with regulation 184E(1) plus the total taxable employment and support allowance.

### **No tax calculation required in certain cases**

**184O.**—(1) A tax calculation made under regulation 184N is not required in any of the following cases—

- (a) if the claimant does not give the Department Parts 2 and 3 of form P45 and does not certify in accordance with regulation 184G(3) (students etc),
- (b) if the claimant gives the Department Parts 2 and 3 of Form P45 but they do not relate to the claimant's last employment or award before the present award, whichever is the later,
- (c) if the claimant is in receipt of a pension in respect of a former employment,
- (d) if it appears to the Department on the occasion of a claim that a previous award should have been treated as having ceased in accordance with regulation 184K (when an award ceases), or
- (e) if the claimant's code is a nil tax code, basic rate code or higher rate code.

(2) Those cases are treated as if HMRC had made a direction that the claimant's code must be used on the non-cumulative basis.

(3) Those cases are subject to a notification from HMRC under regulation 184P that revised particulars are to be substituted and used.

### **Claimant's code etc to be used for calculations**

**184P.**—(1) This regulation applies if, in respect of a claimant, the Department receives notification from HMRC of—

- (a) a code or amended code,
- (b) total payments to date, or
- (c) total net tax deducted.

(2) The Department must record that notification in substitution for any previous record and use it for the purpose of all calculations required under this Chapter.

### **Notification of taxable employment and support allowance**

**184Q.**—(1) Paragraph (2) applies if—

- (a) after a certificate under regulation 184I(2)(b) has been issued (or would have been issued but for regulation 184I(3)), or
- (b) after a notice has been issued under regulation 184L(4) or this regulation,

further taxable employment and support allowance is paid to, or taxable employment and support allowance overpaid is recovered from, the claimant.

- (2) The Department must—
- (a) give notice to the claimant of the revised figure of total employment and support allowance and the taxable employment and support allowance included in that revised figure in accordance with the relevant regulation, and
  - (b) notify HMRC of the sums paid or refunded.

### Recording the amount of taxable employment and support allowance

**184R.** Whenever a payment of employment and support allowance is made, the Department must record the taxable employment and support allowance included in the payment.

### Finance

**184S.**—(1) HMRC must advance monies to the National Funds of Great Britain and Northern Ireland at intervals to be agreed with the Department for use in making repayments of income tax under these Regulations.

(2) The Department must provide HMRC with a quarterly statement of receipts and payments made under this Chapter.]

## PART 9

### ASSESSMENT AND SELF-ASSESSMENT

#### Adjusting total net tax deducted for purposes of sections <sup>F522</sup>59A(1), 59B(1) and 59BA(2)] TMA

- 185.**—(1) This regulation applies for the purpose of determining—
- (a) the excess mentioned in section 59A(1) of TMA(47) (payments on account of income tax: income tax assessed exceeds amount deducted at source), <sup>F523</sup>...
  - (b) the difference mentioned in section 59B(1) of TMA(48) (payments of income tax and capital gains tax: difference between tax contained in self-assessment and aggregate of payments on account or deducted [<sup>F524</sup>at source), and]
  - <sup>F525</sup>(c) the difference mentioned in section 59BA(2) of TMA (payments of income tax and capital gains tax: difference between tax contained in simple assessment and aggregate of payments on account or deducted at source).]

(2) For those purposes, the amount of income tax deducted at source under these Regulations is the total net tax deducted during the relevant tax year (“A”) after making any additions or subtractions required by paragraphs (3) to (5).

(3) Subtract from A any repayments of A which are made before the taxpayer’s return and self-assessment is made under section 8 or 8A of TMA(49) (personal return and trustee’s return).

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(47) Section 59A was inserted by section 192 of the Finance Act 1994 (c. 9), and subsection (1) was amended by section 108(1) of the Finance Act 1995 (c. 4).

(48) Section 59B was inserted by section 193 of the Finance Act 1994, and subsection (1) was amended by section 122(2) of the Finance Act 1996 (c. 8) and paragraph 131(2) of Schedule 6 to ITEPA.

(49) Section 8 was substituted by section 90(1) of the Finance Act 1990 (c. 29) and amended by section 178(1) of the Finance Act 1994 (c. 9), section 104(1) to (3) of the Finance Act 1995 (c. 4) and section 121(1) to (3) of the Finance Act 1996 (c. 8); section 8A was inserted by section 90(1) of the Finance Act 1990 and amended by section 178(2) of the Finance Act 1994, sections 103(3) and (4) and 104(1) and (2) of the Finance Act 1995 and section 121(1) to (3) of the Finance Act 1996.

(4) Add to A any overpayment of tax from a previous tax year, to the extent that it was taken into account in determining the taxpayer's code for the relevant tax year.

(5) Add to A any tax treated as deducted, other than any direction tax, but—

(a) only if there would be an amount payable by the taxpayer under section 59B(1) of TMA on the assumption that there are no payments on account and no addition to A under this paragraph, and then

(b) only to a maximum of that amount.

(6) In this regulation—

“direction tax” means any amount of tax which is the subject of a direction made under [<sup>F526</sup>regulation 72(5), regulation 72F] or regulation 81(4) in relation to the taxpayer in respect of one or more tax periods falling within the relevant tax year;

“relevant tax year” means—

(a) in relation to section 59A(1) of TMA, the immediately preceding year referred to in that subsection;

(b) in relation to section 59B(1) of TMA, the tax year for which the self-assessment referred to in that subsection is made;

(c) [<sup>F527</sup>in relation to section 59BA(2) of TMA the tax year for which the simple assessment referred to in that subsection is made;]

“tax treated as deducted” means any tax which in relation to relevant payments made by an employer to the taxpayer in the relevant tax year—

(a) the employer was liable to deduct from payments but failed to do so, or

(b) the employer was liable to account for in accordance with regulation 62(5) (notional payments) but failed to do so;

“the taxpayer” means the person referred to in section 59A(1) of TMA or the person whose self-assessment is referred to in section 59B(1) of TMA [<sup>F528</sup>or the person whose simple assessment is referred to in section 59BA(2) of TMA] (as the case may be).

**F522** Words in reg. 185 heading substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **6(a)**

**F523** Word in reg. 185(1)(a) omitted (6.4.2017) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **6(b)**

**F524** Words in reg. 185(1)(b) substituted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **6(c)**

**F525** Reg. 185(1)(c) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **6(d)**

**F526** Words in reg. 185(6) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **14**

**F527** Words in reg. 185(6) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **6(e)**

**F528** Words in reg. 185(6) inserted (6.4.2017) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2017 \(S.I. 2017/414\)](#), regs. 1, **6(f)**

#### Commencement Information

**I32** [Reg. 185](#) in force at 6.4.2004, see [reg. 1](#)

### Recovery: adjustment of employee's code

**186.**—(1) This regulation applies if, on the assumption mentioned in paragraph (2), the difference for a tax year mentioned in section 59B(1) of TMA (difference between tax contained in a self-assessment and aggregate of payments on account) would be payable by the taxpayer.

(2) The assumption is that, in respect of the tax year, nothing will be deducted at source under these Regulations in a subsequent tax year.

(3) The Inland Revenue must have regard to the difference in determining a taxpayer's code for a subsequent tax year under regulation 14 (matters relevant to determination of code) if—

- (a) it is less than [<sup>F529</sup>£3,000], and
- (b) the return for the tax year is—
  - (i) delivered by an approved method of electronic communications before 31st December following the end of the tax year, or
  - (ii) delivered by any other method before [<sup>F530</sup>1st November] following the end of the tax year.

(4) In a case not falling within paragraph (3)(b)(i), the Inland Revenue may have regard to the difference in determining a taxpayer's code for a subsequent tax year under regulation 14 if—

- (a) it is less than [<sup>F531</sup>£3,000], and
- (b) the return for the tax year is delivered on or after [<sup>F532</sup>1st November] following the end of the tax year and the code is determined before 31st December.

(5) But the Inland Revenue must not have regard to the difference if the taxpayer objects at the time the return is delivered or subsequently.

- F529** Sum in reg. 186(3)(a) substituted (with effect from 6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.3\) Regulations 2011 \(S.I. 2011/1584\)](#), regs. 1(1), **2(3)**
- F530** Words in reg. 186(3)(b)(ii) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **18**
- F531** Sum in reg. 186(4)(a) substituted (with effect from 6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.3\) Regulations 2011 \(S.I. 2011/1584\)](#), regs. 1(1), **2(3)**
- F532** Words in reg. 186(4)(b) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **18**

#### Commencement Information

- I33** [Reg. 186](#) in force at 6.4.2004, see [reg. 1](#)

### Repayment: adjustment of employee's code

**187.**—(1) This regulation applies if the difference for a tax year mentioned in section 59B(1) of TMA (difference between tax contained in a self-assessment and aggregate of payments on account) is payable to the taxpayer.

(2) The Inland Revenue may have regard to the difference in determining the employee's code for a subsequent tax year under regulation 14 (matters relevant to determination of code).

(3) But the Inland Revenue must not have regard to the difference if the taxpayer objects at the time the return is delivered or subsequently.

### Commencement Information

**I34** Reg. 187 in force at 6.4.2004, see **reg. 1**

### Assessments other than self-assessments

**188.**—(1) In this regulation, “assessment” means an assessment other than one under section 9 of TMA(**50**) (self-assessment).

(2) The tax payable by the employee is—

$$A - (B - C)$$

A is the tax payable under the assessment;

B is the total net tax deducted in relation to the employee’s relevant payments during the tax year for which the assessment is made, adjusted as required by paragraph (3); and

C is so much, if any, of B as is subsequently repaid.

(3) For the purpose of determining the tax payable by the employee, and subject to paragraphs (4) and (5)—

(a) add to B any tax which—

(i) the employer was liable to deduct from relevant payments but failed to do so, or

(ii) the employer was liable to account for in accordance with regulation 62(5) (notional payments) but failed to do so;

(b) make any necessary adjustment to B in respect of any tax overpaid or remaining unpaid for any tax year; and

(c) make any necessary adjustment to B in respect of any amount to be recovered as if it were unpaid tax under section 30(1) of TMA(**51**) (recovery of overpayment of tax etc) to the extent that—

(i) [<sup>F533</sup>HMRC] took that amount into account in determining the employee’s code, and

(ii) the total net tax deducted was in consequence greater than it would otherwise have been.

(4) No direction tax is to be included in calculating the amount of tax referred to in paragraph (3)(a).

(5) If a direction is made after the making of the assessment, the amount (if any) shown in the notice of assessment as a deduction from, or a credit against, the tax payable under the assessment is to be taken as reduced by so much of the direction tax as was included in calculating the amount of tax referred to in paragraph (3)(a).

(6) Instead of requiring payment by the employee, [<sup>F534</sup>HMRC] may take the tax payable by the employee into account in determining the employee’s code for a subsequent tax year.

(7) In this regulation—

“direction” means a direction made under [<sup>F535</sup>regulation 72(5), regulation 72F] or 81(4) in relation to the employee in respect of one or more tax periods falling within the tax year in question;

(50) Section 9 was substituted by section 179 of the Finance Act 1994 (c. 9), and amended by sections 121(4) and 122(1) of the Finance Act 1996 (c. 8), section 98(2) of the Finance Act 1998 (c. 36), paragraphs 1 and 2(1) of Schedule 29 to the Finance Act 2001 (c. 9) and paragraph 125 of Schedule 6 to ITEPA.

(51) Section 30 was substituted by section 149(1) of the Finance Act 1982 (c. 39), and subsection (1) was amended by paragraph 13(2) of Schedule 19 to the Finance Act 1998.



“direction tax” means any amount of tax which is the subject of a direction;  
“tax payable under the assessment” means the amount of tax shown in the assessment as payable without regard to any amount shown in the notice of assessment as a deduction from, or a credit against, the amount of tax payable.

**F533** Word in reg. 188(3)(c)(i) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **15(a)**

**F534** Word in reg. 188(6) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **15(b)**

**F535** Words in reg. 188(7) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **15(c)**

**Commencement Information**

**I35** [Reg. 188](#) in force at 6.4.2004, see [reg. 1](#)

PART 10

COMMUNICATIONS

CHAPTER 1

ELECTRONIC COMMUNICATIONS: INTERPRETATION

**Meaning of electronic communications etc**

**189.** In these Regulations—

“approved method of electronic communications”, in relation to the delivery of information or the making of a payment in accordance with a provision of these Regulations, means a method of electronic communications which has been approved, by specific or general directions issued by the Board of Inland Revenue, for the delivery of information of that kind or the making of a payment of that kind under that provision;

“electronic communications” has the meaning given in section 132(10) of the Finance Act 1999(52);

“official computer system” means a computer system maintained by or on behalf of the Board of Inland Revenue or an officer of the Board.

**Specified date**

**190.** .....

**Large and medium sized employers**

**191.** .....

(52) 1999 c. 16.

## CHAPTER 2

### ELECTRONIC COMMUNICATIONS: GENERAL

#### **Whether information has been delivered electronically**

**192.** For the purpose of these Regulations, information is taken to have been delivered to an official computer system by an approved method of electronic communications only if it is accepted by that official computer system.

#### **Proof of content of electronic delivery**

**193.—**(1) A document certified by the Inland Revenue to be a printed-out version of any information delivered by an approved method of electronic communications is evidence, unless the contrary is proved, that the information—

- (a) was delivered by an approved method of electronic communications on that occasion, and
- (b) constitutes everything which was delivered on that occasion.

(2) A document which purports to be a certificate given in accordance with paragraph (1) is presumed to be such a certificate unless the contrary is proved.

#### **Proof of identity of person sending or receiving electronic delivery**

**194.** The identity of—

- (a) the person sending any information delivered by an approved method of electronic communications to the Inland Revenue, or
- (b) the person receiving any information delivered by an approved method of electronic communications by the Inland Revenue,

is presumed, unless the contrary is proved, to be the person recorded as such on an official computer system.

#### **Information sent electronically on behalf of a person**

**195.—**(1) Any information delivered by an approved method of electronic communications—

- (a) to the Inland Revenue, or
- (b) to an official computer system,

on behalf of a person is taken to have been delivered by that person.

(2) But this does not apply if the person proves that the information was delivered without the person's knowledge or connivance.

#### **Proof of delivery of information sent electronically**

**196.—**(1) The use of an approved method of electronic communications is presumed, unless the contrary is proved, to have resulted in the delivery of information—

- (a) to the Inland Revenue, if the delivery of the information has been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the information has been recorded on an official computer system.

(2) The use of an approved method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the delivery of information—

- (a) to the Inland Revenue, if the delivery of the information has not been recorded on an official computer system;
  - (b) by the Inland Revenue, if the despatch of the information has not been recorded on an official computer system.
- (3) The time of receipt or despatch of any information delivered by an approved method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

### **Proof of payment sent electronically**

**197.**—(1) The use of a method of electronic communications is presumed, unless the contrary is proved, to have resulted in the making of a payment—

- (a) to the Inland Revenue, if the making of the payment has been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the payment has been recorded on an official computer system.

(2) The use of a method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the making of a payment—

- (a) to the Inland Revenue, if the making of the payment has not been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the payment has not been recorded on an official computer system.

(3) The time of receipt or despatch of any payment sent by a method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

(4) In this regulation, “the Inland Revenue” means the Board of Inland Revenue or any officer of the Board.

### **Use of unauthorised method of electronic communications**

**198.**—(1) This regulation applies to information which is required to be delivered to the Board of Inland Revenue or to the Inland Revenue under a provision of these Regulations.

(2) The use of a method of electronic communications for the purpose of delivering such information is conclusively presumed not to have resulted in the delivery of that information, unless that method of electronic communications is for the time being approved for delivery of information of that kind under that provision.

## **CHAPTER 3**

### **ELECTRONIC PAYMENT BY LARGE EMPLOYERS**

#### **[<sup>F536</sup>Large employers**

**198A.**—(1) “Large employer” means an employer treated as paying PAYE income to 250 or more employees at the specified date.

(2) An employer is treated as paying PAYE income to an employee at the specified date if the employer—

- (a) is required at that date by these Regulations to prepare or maintain a deductions working sheet in respect of that employee, and

- (b) has not sent to HMRC Part 1 of Form P45 in respect of that employee [<sup>F537</sup>or, as the case may be, has not indicated in a return under regulation 67B or 67D that the employee's employment has ceased].

[<sup>F538</sup>(3) The specified date for a particular tax year is 31st October in the preceding tax year.]]

- F536** Reg. 198A inserted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **5**
- F537** Words in reg. 198A(2)(b) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **46**
- F538** Reg. 198A(3) substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **15**

### Large employers required to make specified payments electronically

**199.**—(1) A large employer ... must use an approved method of electronic communications to make specified payments.

[<sup>F539</sup>(2) “Specified payments”, in this regulation, means payments of tax under regulation [<sup>F540</sup>67G (payments to and recoveries from HMRC: Real Time Information employers) [<sup>F541</sup>, as adjusted by regulation 67H(2) where appropriate,] or 68 (periodic payments to and recoveries from HMRC: non-Real Time Information employers)].]

(3) The Board of Inland Revenue may give specific or general directions—

- (a) suspending, for any period during which the use of an approved method of electronic communications for the making of specified payments is impossible or impractical, any requirement imposed by these Regulations relating to the use of such methods,
- (b) substituting alternative requirements for the suspended ones, and
- (c) making any provision that is necessary in consequence of the imposition of the substituted requirements.

[<sup>F542</sup>(4) This regulation does not apply to a payment of tax in respect of retrospective employment income for a closed year.]

[<sup>F543</sup>(5) A specified payment is not treated as received in full by HMRC on or before the date by which that specified payment is required in accordance with regulation 69 unless it is made in a manner which secures (in a case where the specified payment is made otherwise than in cash) that, on or before that date, all transactions can be completed which need to be completed before the whole amount of the specified payment becomes available to the Commissioners for Her Majesty's Revenue and Customs.]

- F539** Reg. 199(2) substituted (in relation to the tax year 2010-11 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(3), **6(1)(b)**
- F540** Words in reg. 199(2) substituted (6.4.2012) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **47**
- F541** Words in reg. 199(2) inserted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **36**
- F542** Reg. 199(4) added (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **17**
- F543** Reg. 199(5) inserted (in relation to the tax year 2010-11 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(3), **6(1)(c)**

**E-payment notices and appeal**

**200.** .....

**Employer in default if specified payment not received by applicable due date**

**201.** .....

**Default notice and appeal**

**202.** .....

**Default surcharge**

**203.** .....

**Surcharge notice and appeal**

**204.** .....

**CHAPTER 4**

**MANDATORY USE OF ELECTRONIC COMMUNICATIONS [<sup>F544</sup>: SPECIFIED INFORMATION]**

**F544** Words in Pt. 10 Ch. 4 heading inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **48**

**[<sup>F545</sup>Mandatory use of electronic communications**

**205.**—(1) An employer (as to which see regulation 206) must deliver specified information by an approved method of electronic communications to HMRC.

(2) The Commissioners for Her Majesty’s Revenue and Customs may make a general or specific direction requiring an employer to deliver specified information by a particular approved method of electronic communications.

(3) Specified information may be delivered by a person on behalf of an employer.

(4) This regulation does not apply to specified information which relates to payments of tax due under a retrospective tax provision for a closed year.

(5) References in this Chapter to information and to the delivery of information must be construed in accordance with section 135(8) of the Finance Act 2002 (mandatory e-filing).]

**F545** Reg. 205 substituted for regs. 205, 205A, 205B (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **8**

**Mandatory use of electronic communication for delivering specified information**

**205A.** .....

**General provisions relating to this Chapter**

**205B.** .....

**[<sup>F546</sup>Employers]**

**206.—(1)** .....

<sup>F547</sup>(2) [<sup>F548</sup>For the purposes of this Chapter, the following shall not be regarded as employers—]

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications;
- (b) a partnership, if all the partners fall within sub-paragraph (a);
- (c) a company, if all the directors and company secretary fall within sub-paragraph (a);
- (d) .....
- (e) a care and support employer][<sup>F549</sup> and,
- (f) an employer to whom a direction has been given under regulation 67D (exceptions to regulation 67B) or regulation 142 (direct collection: employee to report payments)]

(3) In paragraph (2)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

<sup>F550</sup>(4) In paragraph (2)(e), “a care and support employer” means an individual (“the employer”) who employs a person to provide domestic or personal services at or from the employer’s home where—

- (a) the services are provided to the employer or a member of the employer’s family;
- (b) the recipient of the services has a physical or mental disability, or is elderly or infirm;
- (c) the employer has not received an incentive payment in respect of any of the last 3 tax years; and
- (d) it is the employer who delivers the [<sup>F551</sup>specified information] (and not some other person on the employer’s behalf).

(5) In this regulation an “incentive payment” means an incentive payment received under the Income Tax (Incentive Payments for Voluntary Electronic Communication of PAYE Returns) Regulations 2003.]

**F546** Reg. 206 heading substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **9(1)**

**F547** Reg. 206(2) substituted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **7(a)** (with reg. 1(5)(6))

**F548** Words in reg. 206(2) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **9(2)(b)**

**F549** Reg. 206(2)(f) and word inserted (6.4.2014) by [The Income Tax \(Pay As You Earn\) and the Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2014 \(S.I. 2014/472\)](#), regs. 1(2), **18**

**F550** Reg. 206(4)(5) inserted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **7(b)** (with reg. 1(5)(6))

**F551** Words in reg. 206(4)(d) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **9(2)(c)**

**Relevant annual return**

**206A.** .....

**Specified information**

**207.**—<sup>F552</sup>(1) In this Chapter, “specified information” means—

- (a) Part 1 of Form P45;
- (b) Part 3 of Form P45;
- (c) Form P46;
- (d) Form P46(Pen);
- <sup>F553</sup>(e) the return and accompanying information required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)).]
- <sup>F554</sup>(f) the return and accompanying information required by regulation 85 (employers: annual return of other earnings (Form P11D)).]]
- (e) .....

<p><b>F552</b> Reg. 207(1) substituted (6.4.2009) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)</a>, regs. 1(3), <b>19</b></p> <p><b>F553</b> Reg. 207(1)(e) inserted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668)</a>, regs. 1(4), <b>10</b></p> <p><b>F554</b> Reg. 207(1)(f) inserted (6.4.2023) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2023 (S.I. 2023/307)</a>, regs. 1, <b>2(2)</b></p>
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**E-filing notice and appeals**

**208.** .....

**Standards of accuracy and completeness**

<sup>F555</sup>**209.**—(1) Any ...specified information delivered by a method of electronic communications must meet the standards of accuracy and completeness set by specific or general directions given by the Commissioners for Her Majesty’s Revenue and Customs.

(2) Any ... specified information which fails to meet those standards must be treated as not having been delivered.]

<p><b>F555</b> Reg. 209 substituted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2009 (S.I. 2009/2029)</a>, regs. 1(2)(4), <b>11</b> (with reg. 1(5)(6))</p>
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<sup>F556</sup><sup>F557</sup>**Penalty for failing to deliver... specified information]**

**210.**—<sup>F558</sup>(1) [<sup>F559</sup>Subject to paragraph (5), an] employer who fails to deliver specified information or any part of it in accordance with regulation 205 is liable to a penalty.

(2) Where the specified information is the return and accompanying information required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)) the penalty will be determined in accordance with regulation 210AA.]

(3) The penalty must be determined in accordance with <sup>F560</sup>regulations 210B and 210BA] in all other cases.

(4) Regulation 210C applies irrespective of how the penalty falls to be determined.

[<sup>F561</sup>(5) Where the specified information is the return and accompanying information required by regulation 85 (employers: annual return of other earnings (Form P11D)) this regulation does not apply.]

- F556** Regs. 210-210C substituted for reg. 210 (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **20**
- F557** Reg. 210 heading substituted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **12** (with reg. 1(5)(6))
- F558** Reg. 210(1)(2) substituted for reg. 210(A1)-(2) (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **11(2)(a)**
- F559** Words in reg. 210(1) substituted (6.4.2023) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2023 \(S.I. 2023/307\)](#), regs. 1, **2(3)(a)**
- F560** Words in reg. 210(3) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **11(2)(b)**
- F561** Reg. 210(5) inserted (6.4.2023) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2023 \(S.I. 2023/307\)](#), regs. 1, **2(3)(b)**

**Penalty: relevant annual return for the tax year ending 5th April 2010**

**210A.** . . . . .

- F556** Regs. 210-210C substituted for reg. 210 (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **20**

[<sup>F562</sup>[<sup>F563</sup>**Penalty: forms P35 and P14]**

**210AA.** Table 9ZA sets out the penalty for the tax year ending 5th April 2011 and subsequent years, depending on the number of employees for whom particulars should have been included with the [<sup>F564</sup>specified information].

**Table 9ZA**

**Penalties: tax years ending 5th April 2011 and subsequent years**

<i>1 Number of employees for whom particulars should have been included with the [<sup>F565</sup>specified information]</i>	<i>2 Penalty</i>
1-5	£100
6-49	£300
50-249	£600
250-399	£900
400-499	£1200
500-599	£1500



**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>1 Number of employees for whom particulars should have been included with the [F565 specified information]</i>	<i>2 Penalty</i>
600-699	£1800
700-799	£2100
800-899	£2400
900-999	£2700
1000 or more	£3000]

- F556** Regs. 210-210C substituted for reg. 210 (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **20**
- F562** Regs. 210A, 210AA substituted for reg. 210A (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **14** (with reg. 1(5)(6))
- F563** [Reg. 210AA heading](#) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **11(3)**
- F564** Words in [reg. 210AA](#) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **11(4)**
- F565** Words in [reg. 210AA Table 9ZA](#) substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **11(4)**

**[F566 Penalty: form P45 (Part 1 or Part 3), P46 or P46 (Pen); tax years ending 5th April 2012 and 5th April 2013]**

**210B.**—[F567(1) This regulation applies for the tax years ending 5th April 2012 and 5th April 2013 (the “relevant period”).]

(2) Table 9A sets out the penalties for the relevant period depending on the number of items of specified information the employer has failed to deliver in each tax quarter falling within that period.

**Table 9A**

**[F568 Penalties: tax years ending 5th April 2012 and 5th April 2013]**

<i>1. Number of items of specified information the employer has failed to deliver in the tax quarter</i>	<i>2. Penalty</i>
[F569 1-2]	Nil
[F569 3-49]	£100
50 – 149	£300
150 – 299	£600
300 – 399	£900

<i>1. Number of items of specified information the employer has failed to deliver in the tax quarter</i>	<i>2. Penalty</i>
400 - 499	£1,200
500 – 599	£1,500
600 - 699	£1,800
700 – 799	£2,100
800 – 899	£2,400
900 – 999	£2,700
1000 or more	£3,000

(3) Each of the types of specified information mentioned in sub-paragraphs (a) to (d) of regulation 207(1) counts as a separate item of specified information for this purpose.

(4) An item of specified information counts even if it relates to the same employee as one or more other items.

<b>F556</b>	Regs. 210-210C substituted for reg. 210 (6.4.2009) by <a href="#">The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969)</a> , regs. 1(3), <b>20</b>
<b>F566</b>	<a href="#">Reg. 210B heading</a> substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668)</a> , regs. 1(4), <b>11(5)</b>
<b>F567</b>	<a href="#">Reg. 210B(1)</a> substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668)</a> , regs. 1(4), <b>11(6)(a)</b>
<b>F568</b>	<a href="#">Reg. 210B heading</a> substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668)</a> , regs. 1(4), <b>11(6)(b)</b>
<b>F569</b>	Words in <a href="#">reg. 210B Table 9A</a> substituted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2010 (S.I. 2010/668)</a> , regs. 1(4), <b>11(6)(c)</b>

**[<sup>F570</sup>Penalty: form P45 (Part 1 or Part 3), P46 or P46(Pen); tax years ending 5th April 2014 and subsequent years**

**210BA.**—(1) Table 9AA sets out penalties depending on the number of items of specified information the employer has failed to deliver in each tax quarter falling within the tax year ending 5th April 2014 and subsequent years.

**Table 9AA**

**Penalties: tax year ending 5th April 2014 and subsequent years**

<i>1 Number of items of specified information the employer has failed to deliver in the tax quarter</i>	<i>2 Penalty</i>
1-49	£100
50-149	£300

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>1 Number of items of specified information the employer has failed to deliver in the tax quarter</i>	<i>2 Penalty</i>
150-299	£600
300-399	£900
400-499	£1,200
500-599	£1,500
600-699	£1,800
700-799	£2,100
800-899	£2,400
900-999	£2,700
1000+	£3,000

(2) Each of the types of specified information mentioned in sub-paragraphs (a) to (d) of regulation 207(1) counts as a separate item of specified information for this purpose.

(3) An item of specified information counts even if it relates to the same employee as one or more other items.]

**F556** Regs. 210-210C substituted for reg. 210 (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **20**

**F570** [Reg. 210BA](#) inserted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **11(7)**

**Appeals and interest**

**210C.**—(1) An employer is not liable to a penalty if the employer had a reasonable excuse for failing to comply with regulation 205 ... which had not ceased at the time the ... specified information was delivered.

(2) A notice of appeal against a determination under section 100 of TMA of a penalty can only be on the grounds that—

(a) .....

[<sup>F571</sup>(aa) the employer is not regarded as an employer the purposes of this Chapter]

(b) the employer did comply with regulation 205 ...,

(c) the amount of the penalty is incorrect, or

(d) paragraph (1) applies.

(3) .....

(4) Section 103A of TMA (interest on penalties) applies to this penalty.]

**F556** Regs. 210-210C substituted for reg. 210 (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **20**

**F571** [Reg. 210C\(2\)\(aa\)](#) inserted (13.8. 2009 with effect in relation to the tax year 2009-10 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/2029\)](#), regs. 1(2)(4), **15(b)(i)** (with reg. 1(5)(6))

<sup>F572</sup>CHAPTER 4A

Mandatory use of electronic communications: real time returns of information about relevant payments of tax and associated matters

**F572** Pt. 10 Ch. 4A inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **49**

**Application of Chapter 4 to real time returns of information about relevant payments of tax and associated matters**

**210D.** Regulation 205(3) applies to the delivery of the following as if they were specified information within the meaning given by regulation 207—

- (a) returns under regulation 67B (real time returns of information about relevant payments),
- (b) returns under regulation 67E(6) (returns under regulation 67B and 67D: amendments), unless the employer is one to whom regulation 67D (exceptions to regulation 67B) applies, and
- (c) notifications under regulation 67F (additional information about payments) unless the employer is one to whom regulation 67D applies.]

CHAPTER 5

METHODS OF PROVIDING INFORMATION ETC

**How information must or may be delivered by employers**

**211.**—(1) Table 10 applies to determine how employers must or may comply with the requirements of the regulations listed in column 1.

(2) The requirements of the regulation must be complied with in a document or format provided or approved by the Board of Inland Revenue if so indicated in column 4.

(3) Where appropriate, the relevant form number is listed in column 3.

(4) Instead of sending a document to the Inland Revenue, the requirements of the regulation may be complied with by an employer arranging for the information it would contain to be delivered to the Inland Revenue by an approved method of electronic communications if so indicated in column 5.

**Table 10**

Regulations which require approved document or format, and which permit electronic delivery

<i>1. Regulation</i>	<i>2. Description of information</i>	<i>3. Form number</i>	<i>4. Approved document or format</i>	<i>5. Electronic communications</i>
F573	F573	F573	F573	F573
...	...	...	...	...
F573	F573	F573	F573	F573
...	...	...	...	...
36(1), (2)(a)	cessation of employment	Form P45, Part 1	yes	yes

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>1. Regulation</i>	<i>2. Description of information</i>	<i>3. Form number</i>	<i>4. Approved document or format</i>	<i>5. Electronic communications</i>
36(1), (2)(b)	cessation of employment	Form P45, Parts 1A, 2, 3	yes	[ <sup>F574</sup> not applicable]
38(1)	death of employee	Form P45, Part 1	yes	yes
39(1)	death of pensioner	Form P45, Part 1	yes	yes
42(8)	procedure if new employer receives Form P45	Form P45, Part 3	yes	yes
46(4), 47(2)(a)	information to be provided if code not known	Form P46	yes	yes
48(2)(a)				
49(2)(a)				
52(3)	late presentation of Form P45	Form P45, Part 3	yes	yes
[ <sup>F575</sup> 55(3)(a)]	information on retirement	P46(Pen)	yes	yes]
56(3)	procedure if new pension payer receives Form P45	Form P45, Part 3	yes	yes
57(2)	information to be provided if code not known (non-UK resident pensioners)	[ <sup>F576</sup> Form P46(Pen)]	yes	yes
58(3)	information to be provided if code not known (UK resident pensioners)	[ <sup>F576</sup> Form P46(Pen)]	yes	yes
60(3)	late presentation of Form P45	Form P45, Part 3	yes	yes
67(1)	information to employees about payments and tax deducted	Form P60	yes	[ <sup>F577</sup> not applicable]
73	annual return of relevant payments liable to deduction of tax	Forms P35 and P14	yes	yes

1. <i>Regulation</i>	2. <i>Description of information</i>	3. <i>Form number</i>	4. <i>Approved document or format</i>	5. <i>Electronic communications</i>
[ <sup>F578</sup> 73A	annual return of relevant payments by virtue of a retrospective tax provision	Form P35 (RL	yes	no]
74	annual return of relevant payments not liable to deduction of tax	Form P38A	yes	yes
77(4)	return of tax for which employer is liable under regulation 68	Form P100	yes	no
<sup>F579</sup>	<sup>F579</sup>	<sup>F579</sup>	<sup>F579</sup>	<sup>F579</sup>
...	...	...	...	...
85(1)(a) and (b)	employers: annual return of other PAYE income: benefits code employee	Form P11D	yes	yes
85(2)	employers: annual return of other PAYE income: declaration	Form P11D(b)	yes	yes
90(2)	quarterly return of cars becoming available or unavailable	Form P46 (car)	yes	yes
[ <sup>F580</sup> 98(4)	multiple PAYE schemes	Form P350	yes	yes]
129(1)	reserve forces' pay: certificate of tax deducted	Form P59	yes	no
132(1)	reserve forces' pay: end of year certificate	Form P60	yes	[ <sup>F577</sup> not applicable]
137(1)	holiday pay funds: certificate of tax deducted	Form P403	yes	no
152(2)	deductions working sheet for claimants	Form PB8	yes	no

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>1. Regulation</i>	<i>2. Description of information</i>	<i>3. Form number</i>	<i>4. Approved document or format</i>	<i>5. Electronic communications</i>
	awarded taxable JSA			
153(9)	Department's return for claimant who delivers Form P45	Forms PB3 and P45 Part 3	yes	no
154(2)	Department's return for claimant who does not deliver Form P45	Form PB3	yes	no
157(2)(b)	claimant's end of year certificate	Form P60U	yes	[ <sup>F577</sup> not applicable]
157(2)(c)	Department's end of year return	Form P14U	yes	no
159(2)	cessation of award of JSA	Form P45U	yes	no
160(2)(b)	Department's notification of taxable JSA adjustment	Form P180	yes	no
164(2)	Department's quarterly statement to Board of receipts and payments in respect of taxable JSA	–	yes	no
[ <sup>F581</sup> 184D	deductions working sheet for claimants awarded taxable ESA	Form PB8	yes	no
184E(9)	Department's return for claimant who delivers form P45	Forms PB8 and P45 Part 3	yes	yes
[ <sup>F582</sup> 184G(1)]	Department's return for claimant who does not deliver form P45	Form PB3	yes	yes

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

<i>1. Regulation</i>	<i>2. Description of information</i>	<i>3. Form number</i>	<i>4. Approved document or format</i>	<i>5. Electronic communications</i>
184I(2)(b)	claimant's end of year certificate	Form P60ESA	yes	[ <sup>F577</sup> not applicable]
184J(2)	Department's end of year return	Form P14U	yes	yes
184L(1)	cessation of award of ESA	Form P45ESA	yes	yes
184Q(2)(b)	Department's notification of taxable ESA adjustment	Form P180	yes	no
184S(2)	Department's quarterly statement to HMRC of receipts and payments in respect of taxable ESA		yes	no]

(5) If an employer delivers electronically the return required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)), the statement and declaration and the certificate must, instead of being signed as required by regulation 73(8), be authenticated by or on behalf of the employer in such manner as may be approved by the Board of Inland Revenue.

[<sup>F583</sup>(6) For the purposes of this regulation "ESA" means employment and support allowance.]

**F573** Words in reg. 211(4) Table 10 omitted (6.4.2014) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 (S.I. 2013/521), regs. 1(4), **11**

**F574** Words in reg. 211 Table 10 substituted (6.4.2016) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2016 (S.I. 2016/329), regs. 1, **4(a)**

**F575** Words in reg. 211 Table 10 substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **21(a)**

**F576** Words in reg. 211 Table 10 substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **21(b)**

**F577** Words in reg. 211 Table 10 substituted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **68(a)**

**F578** Words in reg. 211 Table 10 inserted (6.4.2007) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **19**

**F579** Words in reg. 211 Table 10 omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 (S.I. 2015/1927), regs. 1(1), **13**

**F580** Words in reg. 211 Table 10 inserted (6.4.2016) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2016 (S.I. 2016/329), regs. 1, **4(b)**

**F581** Words in reg. 211(4) Table 10 inserted (27.10.2008) by The Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2008 (S.I. 2008/2601), regs. 1, **4(2)**



- F582** Word in reg. 211 Table 10 substituted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **68(b)**
- F583** Reg. 211(6) inserted (27.10.2008) by The Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2008 (S.I. 2008/2601), regs. 1, **4(3)**

**[<sup>F584</sup>Modifications for electronic version of Form P46(Pen)]**

**212.**—(1) This regulation applies if instead of sending to the Inland Revenue [<sup>F585</sup>Form P46(Pen)] a pension payer delivers the information it would contain to the Inland Revenue by an approved method of electronic communications (as permitted by regulation 211).

(2) For sub-paragraphs (a) to (m) of regulation 55(4) (information to be provided in [<sup>F586</sup>Form P46(Pen)]) substitute—

- “(a) the pension payer’s PAYE reference,
- (b) the pensioner’s name,
- (c) the date of retirement,
- (d) the date on which the pension started,
- (e) the pensioner’s code immediately before retirement and whether it was being used on the cumulative basis,
- (f) if the pensioner’s code immediately before retirement was used on the cumulative basis—
- (i) the tax week or tax month in which the last relevant payment before retirement was made to the pensioner or, in a case falling within regulation 24, was treated as having been made,
- (ii) the total payments to date at the date of retirement,
- (iii) the total net tax deducted,
- (g) any number used to identify the pensioner,
- (h) the tax code in use for the pensioner, and whether it is being used on the cumulative basis,
- (i) the pensioner’s address, <sup>F587</sup> ...
- (j) the pensioner’s sex,
- (k) the pensioner’s national insurance number, if known,
- (l) the pensioner’s date of birth, <sup>F588</sup> ...
- (m) the amount of pension payable annually.”

- F584** Reg. 212 heading substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **22(a)**
- F585** Words in reg. 212(1) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **22(b)**
- F586** Words in reg. 212(2) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **22(c)(i)**
- F587** Words in reg. 212(2)(i) omitted (6.4.2009) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **22(c)(ii)**
- F588** Words in reg. 212(2)(l) omitted (6.4.2009) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **22(c)(ii)**

**How information may be delivered by Inland Revenue**

213.—(1) Table 11 applies to determine how the Inland Revenue may comply with requirements of the regulations listed in column 1.

(2) Instead of sending a document to the employer or (where relevant) the employer’s agent, the requirements of the regulation may be complied with by the Inland Revenue arranging for the information it would contain to be delivered to the employer or (where relevant) the employer’s agent by an approved method of electronic communications if so indicated in column 4.

(3) The relevant form number is listed in column 3.

**Table 11**

Regulations which permit electronic delivery by Inland Revenue

<i>1. Regulation</i>	<i>2 Description of information</i>	<i>3. Form number</i>	<i>4. Electronic communications</i>
8(2), 20(2)	issue of code to employer or agent	Form P6 or P9	yes
20(5), (6)	notice to employer to amend codes	Form P7X or P9X	yes
53(2)	notice to employer of payments and total net tax deducted	Form P6	yes
61(2)	notice to pension payer of payments and total net tax deducted	Form P6	yes
[ <sup>F589</sup> 97Q(1), 97U(3)]	notice of requirement for security	notice of requirement	yes]
<b>F590</b>	<b>F590</b>	<b>F590</b>	<b>F590</b>
...	...	...	...
<b>F591</b>	<b>F591</b>	<b>F591</b>	<b>F591</b>
...	...	...	...

(4) But the Inland Revenue may only deliver information by an approved method of electronic communications if the employer or employer’s agent (as the case may be) has consented to delivery of information in that way, and the Inland Revenue have not been notified that the consent has been withdrawn.

[<sup>F592</sup>(5) References in paragraphs (2) and (4) to—

- (a) an employer include, in relation to regulations 97Q(1) (notice of requirement) and 97U(3) (outcome of application for reduction in the value of security held: further provision), any person to whom a notice under those regulations is given, and
- (b) an employer’s agent are to a person acting on behalf of the employer.]

**F589** Words in reg. 213(3) Table 11 inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), 59(a)

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

- F590** Words in reg. 213(3) Table 11 omitted (in relation to the tax year 2010-11 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(3), **14(a)**
- F591** Words in reg. 213(3) Table 11 omitted (6.4.2011 in relation to the tax year 2011-12 and subsequent tax years) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2010 \(S.I. 2010/668\)](#), regs. 1(4), **14(b)**
- F592** Reg. 213(5) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **59(b)**

### How information must be provided by employees

**214.**—(1) An employee must comply with the requirements of the regulations listed in column 1 of Table 12 in a document or format provided or approved by the Board of Inland Revenue.

(2) Where appropriate, the relevant form number is listed in column 3 of the Table.

**Table 12**

Regulations which require employee to use approved document or format

<i>1. Regulation</i>	<i>2. Subject</i>	<i>3. Form number</i>
46(2)	Form P46 where employer does not receive Form P45 and code not known	Form P46
145(1)	direct collection: return when relevant payments cease	—
146(1)	direct collection: end of year return	Form P14
147(2)	direct collection: return of unpaid tax	—
154(3)	claimant's certificate of full-time education	Form P187
[ <sup>F593</sup> 184G(3)]	claimant's certificate of full-time education	Form P187]

- F593** Words in reg. 214(2) Table 12 inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **5(2)**

### [<sup>F594</sup>Meaning of Form P45, P46 and P46(Pen)]

**215.** In these Regulations—

“Form P45” means the form provided or approved for use in accordance with regulations 36 (cessation of employment: Form P45), 38 (death of employee) or 39 (death of pensioner);

“Parts 2 and 3 of Form P45” means—

- (a) the Parts 2 and 3 of the Form P45 provided to the employee or claimant (as the case may be) in accordance with regulation 36, ...

(b) the Parts 2 and 3 of the Form P45 provided to the claimant in accordance with regulation 159 (cessation of award: Form P45U); [<sup>F595</sup>or]

(c) [<sup>F596</sup>the Parts 2 and 3 of the Form P45 provided to the claimant in accordance with regulation 184L (cessation of award: Form P45ESA);]

[<sup>F597</sup>“Form P45ESA” means the form required to be completed in accordance with regulation 184L;]

“Form P45U” means the form required to be completed in accordance with [<sup>F598</sup>regulation 159 or 184L];

[<sup>F599</sup>“Form P46” means the form provided or approved for use in accordance with regulation 46 (form P46 where employer does not receive P45 and code not known);]

[<sup>F600</sup>“Form P46(Pen)” means the form provided or approved for use in accordance with regulation 55(3)(a), 57(2) or 58(3).]

**F594** Reg. 215 heading substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **24(a)**

**F595** Word in reg. 215(b) inserted (27.10.2008) by The Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2008 (S.I. 2008/2601), regs. 1, **6(2)(b)**

**F596** Reg. 215(c) inserted (27.10.2008) by The Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2008 (S.I. 2008/2601), regs. 1, **6(2)(c)**

**F597** Words in reg. 215 inserted (27.10.2008) by The Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2008 (S.I. 2008/2601), regs. 1, **6(3)**

**F598** Words in reg. 215 substituted (27.10.2008) by The Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2008 (S.I. 2008/2601), regs. 1, **6(4)**

**F599** Words in reg. 215 substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **24(b)**

**F600** Words in reg. 215 added (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **24(c)**

### Service by post

**216.** Any notice or deductions working sheet which is authorised or required to be given, served or issued under these Regulations may be sent by post.

## PART 11

### SUPPLEMENTARY PROVISIONS

#### *Miscellaneous appeals*

#### Appeals: supplementary provisions

**217.—**(1) The following provisions of TMA apply to appeals under the regulations listed in paragraph (2) as they apply to an appeal under section 31 of TMA(**53**)—

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section 31A(5) F601	notice of appeal
...	

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(53) Sections 31 to 31D were substituted by paragraph 11 of Schedule 29 to the Finance Act 2001 (c. 9).

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

F602	F602
...	...
F602	F602
...	...

(2) The regulations are—

regulation 99(3)	appeal against improper purpose notice
regulation 200(3)	appeal against e-payment notice
regulation 202(2)	appeal against default notice
regulation 208(2)	appeal against e-filing notice.

F603(3) .....  
 F603(4) .....

**F601** Words in [reg. 217\(1\)](#) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 111(2)**

**F602** [Reg. 217\(1\)](#) entries omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 111(2)**

**F603** [Reg. 217\(3\)\(4\)](#) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 111(3)**

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**Commencement Information**

**I36** [Reg. 217](#) in force at 6.4.2004, see [reg. 1](#)

*Certificate that sum due and payment by cheque*

**Certificate that sum due**

**218.**—(1) A certificate of [<sup>F604</sup>HMRC] that, to the best of their knowledge and belief, any amount shown in a certificate under the regulations listed in paragraph (2) has not been paid by an employer, is sufficient evidence that the amount mentioned in the certificate is unpaid and due to the Crown.

(2) The regulations are—

[ <sup>F605</sup> regulation 75A(10)	unpaid amounts from regulation 75A specification]
regulation 76	unpaid amounts in regulation 73 return (Form P35)
regulation 77(6)	unpaid amounts in regulation 77 return
regulation 78(8)	unpaid amounts from regulation 78 specification
regulation 79	unpaid amounts following inspection under [ <sup>F606</sup> Schedule 36 to the Finance Act 2008].

[<sup>F607</sup>(2A) HMRC may prepare a certificate showing the whole or any part of a combined amount which includes tax without specifying the components of the combined amount.

Paragraph (1) shall apply with any necessary modifications to the certificate.]

(3) A certificate of [<sup>F608</sup>HMRC] that, to the best of their knowledge and belief, any amount of interest payable under the regulations listed in paragraph (4) has not been paid by an employer or employee is sufficient evidence that the amount mentioned in the certificate is unpaid and due to the Crown.

(4) The regulations are—

regulation 72(7)	interest consequential on regulation 72 direction
regulation 81(6)	interest consequential on regulation 81 direction
<b>F609</b>	<b>F609</b>
...	...
regulation 115	interest on tax overdue under PSA.

[<sup>F610</sup>(4A) HMRC may prepare a certificate showing the total amount of interest payable in respect of the whole or any part of the combined amount without specifying which components of the combined amount the interest relates to.

Paragraph (3) shall apply with any necessary modifications to the certificate.]

(5) The production of—

- (a) the return made by the employer under paragraph (4) of regulation 77 (return and certificate if tax unpaid), and
- (b) the certificate of [<sup>F611</sup>HMRC] under paragraph (6) of that regulation,

is sufficient evidence that the amount shown in the certificate is the amount of tax which the employer is liable to pay to [<sup>F611</sup>HMRC] in respect of the tax period in question under that regulation.

(6) A document which purports to be a certificate under [<sup>F612</sup>this regulation], or regulation 77(6), is treated as such a certificate until the contrary is proved.

<b>F604</b>	Word in reg. 218(1) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>16(2)</b>
<b>F605</b>	Words in reg. 218(2) inserted (6.4.2012) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822)</a> , regs. 1(1), <b>50</b>
<b>F606</b>	Words in reg. 218(2) substituted (1.4.2009) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588)</a> , regs. 1(1), <b>8</b>
<b>F607</b>	Reg. 218(2A) inserted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>16(3)</b>
<b>F608</b>	Word in reg. 218(3) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>16(4)</b>
<b>F609</b>	Words in reg. 218(4) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of <a href="#">The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014 (S.I. 2014/992)</a> , arts. 1(1), <b>9(7)</b>
<b>F610</b>	Reg. 218(4A) inserted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>16(5)</b>
<b>F611</b>	Word in reg. 218(5) substituted (6.4.2008) by <a href="#">The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782)</a> , regs. 1, <b>16(6)</b>

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)

**F612** Words in reg. 218(6) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **16(7)**

#### Commencement Information

**I37** [Reg. 218](#) in force at 6.4.2004, see [reg. 1](#)

### Payment by cheque

- 219.**—(1) For the purposes of the following provisions, if—
- (a) any payment to the Inland Revenue is made by cheque, and
  - (b) the cheque is paid on its first presentation to the banker on whom it is drawn,
- the payment is treated as made on the day on which the cheque was received by the Inland Revenue.
- (2) The provisions are—

regulation 69	due date and receipts for payments of tax
regulation 72	recovery from employee of tax not deducted by employer
[ <sup>F613</sup> regulation 75A	notice and certificate in cases where regulation 67B or 67D returns are not made]
regulation 78	notice and certificate if tax may be unpaid
<b>F614</b>	<b>F614</b>
...	...
<b>F614</b>	<b>F614</b>
...	...
regulation 115	interest on tax due under PSA
regulation 116	interest due on tax overpaid under PSA.

**F613** Words in [reg. 219\(2\)](#) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **51**

**F614** Words in [reg. 219\(2\)](#) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Interest on Late Payments and Repayments\), Appointed Days and Consequential Provisions Order 2014 \(S.I. 2014/992\)](#), arts. 1(1), **9(8)**

#### Commencement Information

**I38** [Reg. 219](#) in force at 6.4.2004, see [reg. 1](#)

### *Transitional provisions, savings and revocations*

#### Transitional provisions, savings and revocations

- 220.**—(1) Schedule 1 (transitional provisions and savings) has effect.
- (2) The regulations listed in column 1 of Schedule 2 are revoked to the extent specified in column 3 of that Schedule.
- (3) Paragraph (2) is subject to Schedule 1.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003. (See end of Document for details)*

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**Commencement Information**

**I39** [Reg. 220](#) in force at 6.4.2004, see [reg. 1](#)

*Nick Montagu*  
*Ann Chant*  
Two of the Commissioners of Inland Revenue



**Changes to legislation:**

There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003.