STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 3

DEDUCTION AND REPAYMENT OF TAX

CHAPTER 1

DEDUCTION AND REPAYMENT

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—

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

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) If the employee's code is a K code, 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).