
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 3

DEDUCTION AND REPAYMENT OF TAX

CHAPTER 3

NEW PENSIONERS: FORMS P45 AND P46

Scope of Chapter 3

54. This Chapter applies (instead of Chapter 2) when a pension starts, if the pension payer will not be making relevant payments other than relevant pension payments to the pensioner.

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 retirement statement and—

- (a) send it to the Inland Revenue, and
- (b) give a copy to the pensioner.

(4) The retirement statement must contain the following information—

- (a) the pensioner's name,
- (b) the pensioner's address, if known,
- (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 and the frequency of the payments,
- (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 retirement statement delivered to Inland Revenue).

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, 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 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.

Information to be provided in Form P46 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 Form P46.

- (3) The information is—
 - (a) the pensioner's name,
 - (b) the pensioner's date of birth, if known,
 - (c) the pensioner's sex,
 - (d) the pensioner's address,
 - (e) the pensioner's national insurance number, if known,
 - (f) the date on which the pension started,
 - (g) any number used to identify the pensioner,
 - (h) the pension payer's PAYE reference,
 - (i) the pension payer's name,

- (j) the pension payer's address, and
- (k) the date the form was completed.

(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.

Information (Form P46) and procedure if code not known: UK residents

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.

(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 Form P46.

(4) The information is—

- (a) the pensioner's name,
- (b) the pensioner's date of birth, if known,
- (c) the pensioner's sex,
- (d) the pensioner's address,
- (e) the pensioner's national insurance number, if known,
- (f) the date on which the pension started,
- (g) any number used to identify the pensioner,
- (h) the pension payer's name,
- (i) the pension payer's address,
- (j) the pension payer's PAYE reference, and
- (k) the date the form was completed.

(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.

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 (Form P46 procedure, 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) (retirement statement),
 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).