STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 6

PAYE SETTLEMENT AGREEMENTS

Payment of tax under PSA

Calculation of tax payable under PSA

108.—(1) A PSA must provide for the sums in respect of income tax for which an employer is to be accountable to the Board of Inland Revenue under the PSA—

(a) to be computed in accordance with the factors specified in paragraph (2), and

(b) to be 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;

(d) the number of those employees respectively chargeable to income tax—

(i) only at the starting rate for the tax year to which the PSA relates,

(ii) at both the starting rate and the basic rate for that tax year, and

(iii) at the starting rate, the basic rate and the higher rate for that tax year;

(e) such other matters as are agreed by the Inland Revenue 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 paragraph (1)(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.

Payment of tax and recovery proceedings

109.—(1) The employer must pay to the Inland Revenue by the due date the aggregate amount for which the employer is accountable to the Board of Inland Revenue under a PSA.

(2) "The due date" means 19th October following the end of the tax year to which the PSA 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(**1**) (magistrates' courts, county courts and inferior courts in Scotland).

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 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.

(5) For the purposes of paragraph 3(1)(a) of Schedule 3 to TMA(**2**) (rules for assigning proceedings to General Commissioners), the relevant place for an appeal against a determination is the place where the determination was made.

(**1**) 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.

(**2**) Schedule 3 was substituted by paragraph 10 of Schedule 22 to the Finance Act 1996 (c. 8) and paragraph 3 of Schedule 3 was amended by paragraph 142 of Schedule 6 to ITEPA.