
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 3

DEDUCTION AND REPAYMENT OF TAX

CHAPTER 2

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

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).

- (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, if known,
 - (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) (retirement statement),

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.