

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (PAY AS YOU EARN, ETC.), (AMENDMENT)
REGULATIONS 2006

2006 No. 777

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) ("the PAYE Regulations") and the Income Tax (Incentive Payments for Voluntary Electronic Communication of PAYE) Regulations 2003 (S.I. 2003/2495) ("the Electronic Returns Regulations") as a consequence of the abolition of the payment of working tax credit via employers introduced by the Tax Credit (Payment by Employers, etc) (Amendment) Regulations 2005 (S.I. 2005/2200) ("the 2005 Regulations"). The principal effect of the amendments is to remove the requirement for employers to include working tax credit in their calculations of payments due to HMRC for income tax and NICs, to remove the requirement to prepare and maintain a deduction sheet in respect of employees to whom he has paid working tax credit and to amend the definition of a small employer to exclude a reference to working tax credit.

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Background

- 4.1 This instrument is made under powers conferred by section 684 of the Income Tax (Earnings and Pensions) Act 2003 and section 143(1) of, and Schedule 38 to, the Finance Act 2000 on the Board of Inland Revenue, and now exercisable, in consequence of the Commissioners for Revenue and Customs Act 2005, by the Commissioners for Revenue and Customs.
- 4.2 This instrument amends the PAYE Regulations by removing the references to working tax credit and the Working Tax Credit (Payment by Employers) Regulations 2002 ("the Working Tax Credit Regulations") in regulation 70 (quarterly tax periods), regulations 191 (large and medium sized employers) and 203 (default surcharge). These references are now obsolete as the 2005 Regulations abolished payment of working tax credit by the employer.

- 4.3 In addition this instrument amends the Electronic Returns Regulations removing the reference to the Working Tax Credit Regulations in the definition of a small employer. This amended definition applies for the tax year 2007-08 onwards.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

These Regulations are subject to annulment and do not amend primary legislation. Accordingly no statement as to compliance with the Convention rights is required.

7. Policy background

- 7.1 Working tax credit is one of two tax credits introduced in April 2003 (the other being Child Tax Credit). Its purpose is to top up the earnings of low-income working families and to ensure that work pays more than welfare. Under the Working Tax Credit Regulations employers pay working tax credit to their employees through the payroll if told to do so by HMRC. This method of payment was chosen to reinforce the message that work pays: the fact that the tax credit appears of the employee's payslip makes this message very clear.
- 7.2 Although costs to employers have been minimised by ongoing consultation with employer representatives on the detail of the scheme, paying working tax credit through payroll inevitably imposes compliance costs on business. In line with its commitment to reduce regulatory burdens on business, the Government announced in the 2004 Budget that the payment of working tax credit by employers would in due course be phased out and replaced by direct payment by HMRC, subject to consultation on the detailed arrangements for the transition.
- 7.3 Following extensive consultation with employer representatives, the Government announced in the 2005 Budget that the phasing out of payment by employers would take place between November 2005 and April 2006. Amendments are necessary to the PAYE Regulations and the Electronic Returns Regulations to remove references to working tax credit and the Working Tax Credit Regulations as a consequence of the abolition of payment of working tax credit via employers by the 2005 Regulations.

8. Impact

A Regulatory Impact Assessment was prepared for the 2005 Regulations. This estimated that there will be savings of £10 million to £15 million and one-off transitional costs of £6 million to £8 million for employers in 2005-06, with annually recurring benefits of between £110 million and £115 million from 2006-07 onwards. There are transitional costs to HMRC of £1 million to £2 million in

2005-06 and annually recurring benefits of £3 million to £4 million for HMRC from 2006-07.

9. Contact

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