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STATUTORY INSTRUMENTS

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**2010 No. 668**

**The Income Tax (Pay As You Earn)  
(Amendment) Regulations 2010**

**PART 3**

**Communications**

**CHAPTER 3**

**Mandatory use of electronic communications**

**Delivery of information**

**8.** For regulation 205 (mandatory use of electronic communication for delivering relevant annual returns), 205A (mandatory use of electronic communication for delivering specified information) and 205B (general provisions relating to this Chapter) substitute—

**“Mandatory use of electronic communications**

**205.—(1)** An employer (as to which see regulation 206) must deliver specified information by an approved method of electronic communications to HMRC.

(2) The Commissioners for Her Majesty’s Revenue and Customs may make a general or specific direction requiring an employer to deliver specified information by a particular approved method of electronic communications.

(3) Specified information may be delivered by a person on behalf of an employer.

(4) This regulation does not apply to specified information which relates to payments of tax due under a retrospective tax provision for a closed year.

(5) References in this Chapter to information and to the delivery of information must be construed in accordance with section 135(8) of the Finance Act 2002 (mandatory e-filing)(1).”.

**Employers**

**9.—(1)** For the heading to regulation 206 (employers and specified employers) substitute “Employers”.

(2) In regulation 206—

(a) omit paragraph (1),

(b) in paragraph (2), for the words before sub-paragraph (a) substitute—

“(2) For the purposes of this Chapter, the following shall not be regarded as employers—”, and

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(1) Section 135(8) explains what the term “delivery of information” includes.

(c) in paragraph (4)(d) for “relevant annual return” substitute “specified information”.

### **Specified information**

**10.** In regulation 207(1) (specified information) after sub-paragraph (d) insert—

“(e) the return and accompanying information required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)).”.

### **Penalties**

**11.**—(1) In the heading to regulation 210 (penalty for failing to deliver relevant annual returns and specified information) omit “relevant annual returns and”.

(2) In regulation 210—

(a) for paragraphs (A1) to (2) substitute—

“(1) An employer who fails to deliver specified information or any part of it in accordance with regulation 205 is liable to a penalty.

(2) Where the specified information is the return and accompanying information required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14) the penalty will be determined in accordance with regulation 210AA.”, and

(b) in paragraph (3), for regulation 210B substitute “regulations 210B and 210BA”.

(3) For the heading to regulation 210AA (penalty: relevant annual return for the tax year ending 5th April 2011 and subsequent years) substitute “Penalty: forms P35 and P14”.

(4) In regulation 210AA and Table 9ZA for “relevant annual return” substitute “specified information”.

(5) For the heading to regulation 210B (penalty: form P45 (Part 1 or Part 3), P46 or P46 (Pen)) substitute “Penalty: form P45 (Part 1 or Part 3), P46 or P46 (Pen); tax years ending 5th April 2012 and 5th April 2013”.

(6) In regulation 210B—

(a) for paragraph (1) substitute—

“(1) This regulation applies for the tax years ending 5th April 2012 and 5th April 2013 (the “relevant period”).”.

(b) for the heading to Table 9A substitute “Penalties: tax years ending 5th April 2012 and 5th April 2013”, and

(c) in the first column in Table 9A for the first entry substitute “1-2” and for the second entry substitute “3-49”.

(7) After regulation 210B insert—

**“Penalty: form P45 (Part 1 or Part 3), P46 or P46(Pen); tax years ending 5th April 2014 and subsequent years**

**210BA.**—(1) Table 9AA sets out penalties depending on the number of items of specified information the employer has failed to deliver in each tax quarter falling within the tax year ending 5th April 2014 and subsequent years.

**Table 9AA**

**Penalties: tax year ending 5th April 2014 and subsequent years**

| <i>1 Number of items of specified information the employer has failed to deliver in the tax quarter</i> | <i>2 Penalty</i> |
|---------------------------------------------------------------------------------------------------------|------------------|
| 1-49                                                                                                    | £100             |
| 50-149                                                                                                  | £300             |
| 150-299                                                                                                 | £600             |
| 300-399                                                                                                 | £900             |
| 400-499                                                                                                 | £1,200           |
| 500-599                                                                                                 | £1,500           |
| 600-699                                                                                                 | £1,800           |
| 700-799                                                                                                 | £2,100           |
| 800-899                                                                                                 | £2,400           |
| 900-999                                                                                                 | £2,700           |
| 1000+                                                                                                   | £3,000           |

(2) Each of the types of specified information mentioned in sub-paragraphs (a) to (d) of regulation 207(1) counts as a separate item of specified information for this purpose.

(3) An item of specified information counts even if it relates to the same employee as one or more other items.”.

**Other revocations**

12.—(1) The following are omitted—

- (a) regulation 206A (relevant annual return),
- (b) regulation 208 (e-filing notice and appeals), and
- (c) regulation 210A (penalty: relevant annual return for the tax year ending 5th April 2010).

(2) In regulation 209 (standards of accuracy and completeness) omit “relevant annual return or” in both places those words occur.

(3) In regulation 210C (appeals and interest)—

- (a) omit the words “or regulation 205A” in both places they occur,
- (b) in paragraph (1), omit the words “relevant annual return or”,
- (c) in paragraph (2), omit sub paragraph (a), and
- (d) omit paragraph (3).