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STATUTORY INSTRUMENTS

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**2015 No. 1667**

**INCOME TAX**

**The Income Tax (Pay As You Earn)  
(Amendment No. 3) Regulations 2015**

*Made* - - - - *9th September 2015*  
*Laid before the House of*  
*Commons* - - - - *10th September 2015*  
*Coming into force* - - *1st October 2015*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 684 of the Income Tax (Earnings and Pensions) Act 2003<sup>(1)</sup> and now exercisable by them<sup>(2)</sup>.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2015 and come into force on 1st October 2015.

(2) The amendments made by these Regulations have effect in relation to the tax year appointed by the Treasury under section 25(5) of the Scotland Act 2012<sup>(3)</sup> and subsequent tax years.

**Amendment of the Income Tax (Pay As You Earn) Regulations 2003**

2. The Income Tax (Pay As You Earn) Regulations 2003<sup>(4)</sup> are amended as follows.

3. In regulation 2 (interpretation)—

- (a) in the definition of “additional rate”<sup>(5)</sup> after “ITA”<sup>(6)</sup> insert “, except where the employee is a Scottish taxpayer where it means the Scottish additional rate of income tax determined under section 6A of that Act”<sup>(7)</sup>;

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(1) [2003 c. 1](#). Section 684 was amended, so far as relevant by paragraph 102 of Schedule 4 to the Commissioners for Revenue and Customs Act [2005 \(c.11\)](#), section 94 of the Finance Act 2006 and paragraphs 2 to 7 of Schedule 58 to the Finance Act [2009 \(c.10\)](#).

(2) Paragraph 102 of Schedule 4 to the Commissioners for Revenue and Customs Act [2005 \(c. 11\)](#) amended section 684 of the Income Tax (Earnings and Pensions) Act 2003 so that the Commissioners for Her Majesty's Revenue and Customs have the power to make the Regulations.

(3) [2012 c. 11](#).

(4) [S.I. 2003/2682](#) (the principal Regulations); relevant amending instruments are [S.I. 2006/243](#), [2007/1077](#), [2008/782](#) and [2011/729](#).

(5) The definition of additional rate was inserted into the principal Regulations by regulation 3 of [S.I. 2011/729](#).

- (b) in the definition of “basic rate” for “section 1(2)(a) of ICTA” substitute “section 6(2) of ITA, except where the employee is a Scottish taxpayer where it means the Scottish basic rate of income tax determined under section 6A of that Act”;
  - (c) in the definition of “higher rate” for “section 1(2)(b) of ICTA” substitute “section 6(2) of ITA, except where the employee is a Scottish taxpayer where it means the Scottish higher rate of income tax determined under section 6A of that Act”; and
  - (d) after the definition of “retrospective tax provision”**(8)** insert—
    - ““Scottish rate” means the rate set by the Scottish Parliament for the tax year under Chapter 2 of Part 4A of the Scotland Act 1998 (taxation)**(9)**;
    - “Scottish taxpayer” has the same meaning as in section 989 of ITA (the definitions);”**(10)**.
4. In regulation 7 (meaning of “code” etc)**(11)** after paragraph (2) insert—
  - “(2A) “S code” means a code which effects deductions of tax at the rates determined under section 6A of ITA.”.
5. In regulation 133A (interpretation of Chapter 2A)**(12)**—
  - (a) after “the Act” insert—
    - ““basic rate”, in relation to the charging of income tax for any tax year, means the rate of income tax determined under section 6(2) of ITA;”, and
  - (b) after “the Department” insert—
    - ““higher rate”, in relation to the charging of income tax for any tax year, means the rate of income tax determined under section 6(2) of ITA;”.

*Jim Harra  
Edward Troup*

Two of the Commissioners for Her Majesty’s  
Revenue and Customs

9th September 2015

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(6) The term “ITA” and the definition of that term as the Income Tax Act 2007 (c. 3) was inserted into regulation 2 of the principal Regulations by regulation 3 of S.I. 2008/782.

(7) 2007 c. 3; section 6A is to be inserted into the Income Tax Act 2007 by paragraph 3 of Schedule 38 to the Finance Act 2014 (c. 26) with effect from a date to be appointed by the Treasury under section 25(5) of the Scotland Act 2012 (c. 11).

(8) The phrase “retrospective tax provision” was inserted into the principal Regulations by regulation 3 of S.I. 2007/1077.

(9) 1998 c. 46. Part 4A was inserted by section 23 of the Scotland Act 2012 and chapter 2 was inserted by section 25(3) of that Act.

(10) The entry relating to “Scottish taxpayer” is to be inserted into section 989 by paragraph 110(b) of Schedule 38 to the Finance Act 2014 with effect from a date to be appointed by the Treasury under section 25(5) of the Scotland Act 2012.

(11) Regulation 7 has been amended but the amendments are not relevant to these Regulations.

(12) Chapter 2A, including regulation 133A, was inserted by regulation 3 of S.I. 2006/243.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make consequential amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the principal Regulations”) which make provision for the assessment, charge, collection and recovery of income tax in respect of all pay as you earn (“PAYE”) income.

Regulations 3 to 5 make consequential amendments to the principal Regulations as a consequence of the powers of the Scottish Parliament to set a Scottish rate of income tax on non-savings income provided for in Part 4A of the Scotland Act 1998 (c. 46). The power is expected to be exercisable for the tax year 2016-17 and subsequent tax years.

Regulation 3 amends the definitions of “additional rate”, “basic rate” and “higher rate” in regulation 2 of the principal Regulations to reflect the Scottish rate of income tax and to replace the references to the Income and Corporation Taxes Act 1988 (c. 1) with references to the Income Tax Act 2007 (c. 3) (as a consequence of the Tax Law Re-write Project). Regulation 3 also inserts definitions of “Scottish rate” and “Scottish taxpayer” into regulation 2 of the principal Regulations.

Regulation 4 inserts a new paragraph (2A) into regulation 7 of the principal Regulations to reflect the “S code” which will be used where an employee is a Scottish taxpayer.

Regulation 5 inserts definitions of “basic rate” and “higher rate” into regulation 133A of the principal Regulations for the purposes of Chapter 2A. This Chapter applies where an individual defers receipt of the state pension. The individual subsequently receives a lump sum from which the Department for Work and Pensions has deducted tax at the appropriate rate (such rate being determined in accordance with regulation 133C of the principal Regulations). As a consequence of these amendments an individual who is, for instance, a basic rate taxpayer will have tax deducted at source at the rate determined under section 6(2) of the Income Tax Act 2007 (c. 3) even if that individual is a Scottish taxpayer.

A Tax Information and Impact Note covering this instrument was published on 19th March 2014 at Budget 2014 and is available at <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.