
STATUTORY INSTRUMENTS

2016 No. 606

The Education (Postgraduate Master's
Degree Loans) Regulations 2016

PART 2

CHAPTER 3

Repayments of postgraduate master's degree loans by persons required to submit a tax return

38. Repayments by a borrower who in respect of any tax year is required to make and deliver to HMRC a return under section 8 of the 1970 Act must be made, accounted for and recovered in the same manner as income tax payable under the Taxes Acts; and in such cases the provisions of this Chapter (which with extensions and modifications include provisions of the Taxes Acts) will apply to and for the purposes of such repayments.

Time for and amount of repayments

39.—(1) Every borrower who has received a notice from the Authority of a requirement to make repayments of a postgraduate master's degree loan under regulation 26(4)(a) must make repayment in respect of any tax year—

- (a) which is specified in a notice under regulation 26(4)(a) or which, subject to paragraph (2), is any subsequent year up to and including any year specified in a notice under regulation 26(4)(c); and
- (b) for which the borrower has been required to make and deliver a return under section 8 of the 1970 Act.

(2) The repayment must be an amount equal to 6% of the borrower's total income for that year calculated in accordance with paragraph (4).

(3) The repayment under paragraph (2) is additional to and concurrent with any repayment due by the borrower under the student support regulations.

(4) A borrower's total income for the purposes of paragraph (2) is to be calculated by identifying the borrower's total income in accordance with step 1 of section 23 of the 2007 Act and from that total income—

- (a) excluding the repayment threshold;
- (b) excluding unearned income unless the amount of such income for that year exceeds £2,000;
- (c) excluding incapacity benefit payable under the Social Security Contributions and Benefits Act 1992(1);

- (d) excluding amounts chargeable to tax under Chapters 5, 6, 7 or 10 of Part 3 of the 2003 Act (benefits in kind);
 - (e) excluding Employment and Support Allowance paid under the Welfare Reform Act 2007⁽²⁾;
 - (f) deducting the amount of any loss in respect of which relief is given under any of the following—
 - (i) section 64 of the 2007 Act (trade loss relief against general income);
 - (ii) section 83 of the 2007 Act (carry-forward trade loss relief);
 - (iii) section 118 of the 2007 Act (carry-forward property loss relief);
 - (iv) section 120 of the 2007 Act (property loss relief against general income);
 - (v) section 128 of the 2007 Act (in respect of losses in an employment);
 - (g) deducting the amount of any payment in respect of which relief is given under section 96 of the 2007 Act (relief for post-cessation expenditure); and
 - (h) deducting any amounts in respect of which relief is given under Part 4 Chapter 4 of the Finance Act 2004⁽³⁾ (pension schemes etc) and that have not been included in the calculation of total income at step 1 of section 23 of the 2007 Act.
- (5) For the purposes of this regulation, unearned income is income other than—
- (a) income charged under the provisions of either the 2003 Act or Part 2 of the 2005 Act except jobseeker’s allowance to which Chapter 3 of Part 10 of the 2003 Act applies; and
 - (b) the profits of a UK furnished holiday lettings business within the meaning of section 127(2) of the 2007 Act.
- (6) For the purposes of this regulation, “jobseeker’s allowance” means an allowance within the meaning of Part 1 of the jobseekers Act 1995⁽⁴⁾.
- (7) The repayment threshold for a borrower with a postgraduate master’s degree loan is an amount of £21,000.

Personal return

- 40.** For the purposes of establishing the amount of the repayment which a borrower is required to make for a tax year under regulation 39, HMRC may require the borrower—
- (a) to include such information as may reasonably be required, in a return required to be made and delivered under section 8 of the 1970 Act; and
 - (b) to deliver with the return such accounts, statements and documents as may reasonably be required relating to information contained in the return as a result of paragraph (a).

Returns to include self-assessment

- 41.—**(1) Subject to paragraph (2), every return made and delivered by a borrower under section 8 of the 1970 Act must include a self-assessment, namely—
- (a) an assessment of the amount of the repayment which, on the basis of the information contained in the return and taking into account any relief or allowance mentioned in regulation 39, the borrower is required to make for the tax year under regulation 39; and
 - (b) an assessment of the amount payable by the borrower by way of repayment, being the difference between the amount of the repayment which the borrower is assessed to make

(2) 2007 c.5.

(3) 2004 c.12.

(4) 1995 c.18.

for the tax year under sub-paragraph (a) and the aggregate amount of any repayments deducted from earnings under Chapter 4 of this Part during that year.

(2) Section 9(2) to (3A) (self-assessment) and section 9A (power to enquire into returns) of the 1970 Act apply to a self-assessment under this regulation as they apply to a self-assessment under section 9(1) of that Act, and any references in the Taxes Acts to those sections is to be construed as a reference to them as extended by this regulation.

Records

42. Section 12B of the 1970 Act (records to be kept for the purposes of returns) applies in the case of a borrower as if any reference to a return includes reference to a return including the information required by regulation 40(b).

Other returns and information

43.—(1) Sections 20BA (orders for the delivery of documents) and 20BB (falsification etc of documents) of the 1970 Act, Schedule 23 to the Finance Act 2011 and Schedule 38 to the Finance Act 2012 apply for the purposes of establishing the amount of the repayment a borrower may be required to make under this Chapter as they apply for the purposes of establishing the amount in respect of which a person is chargeable to income tax.

(2) Schedule 36 to the Finance Act 2008⁽⁵⁾ (information and inspection powers) applies in relation to checking a borrower's compliance with this Chapter as it applies in relation to checking a person's tax position (as defined in that Schedule) subject to the modifications in paragraph (3).

(3) The modifications are—

- (a) any reference to any provision of the Taxes Acts is to be treated as a reference to this Chapter;
- (b) any reference to prejudice to the assessment or collection of tax is to be treated as a reference to prejudice to the assessment or collection of postgraduate master's degree loan repayments;
- (c) the reference to information relating to the conduct of a pending appeal relating to tax is to be treated as a reference to information relating to the conduct of a pending appeal relating to compliance with this Chapter; and
- (d) in paragraph 21(6)—
 - (i) paragraphs (a) and (c) are omitted; and
 - (ii) in paragraph (b) the reference to relevant tax for the chargeable period is to be treated as a reference to the amount of the postgraduate master's degree loan repayment shown in the self-assessment under regulation 41.

Assessment, claims and appeals

44.—(1) Subject to paragraph (2), Parts 4 (assessment and claims) and 5 (appeals and other proceedings) of the 1970 Act apply with any necessary modifications for the purposes of—

- (a) assessing the amount of the repayment a borrower is required to make under this Chapter;
- (b) claims or other matters concerning such assessment; and
- (c) appeals against any such assessment,

as if any reference to an assessment or a self-assessment included a reference to an assessment or self-assessment for the purposes of this Chapter.

(5) 2008 c.9.

(2) HMRC may not determine the amount of a repayment which a borrower may be required to make under this Chapter under section 28C of the 1970 Act (determination of tax where no return delivered).

Payment

45.—(1) Any repayment by a borrower under this Chapter must be paid as if the repayment were an amount of income tax payable by the borrower under section 59B of the 1970 Act (payment of income tax and capital gains tax) in accordance with the following paragraphs.

(2) In a case where the borrower—

- (a) gives the notice required by section 7 of the 1970 Act within 6 months from the end of the tax year; but
- (b) is not given notice under section 8 of the 1970 Act until after 31 October next following that year,

any repayment by a borrower must be made at the end of the period of three months beginning with the day on which the notice under section 8 of the 1970 Act was given.

(3) In any other case the repayment must be made on or before 31 January next following the tax year.

(4) Section 59B(4A), (5) or (6) of the 1970 Act applies where an enquiry, an amendment of a self-assessment or an assessment is made in respect of a repayment under this Chapter respectively, and any reference to tax payable in those subsections is to be treated as a reference to a repayment by a borrower.

(5) Sections 59B(5A), (7) and (8) of the 1970 Act do not apply for the purposes of this regulation.

Late payment penalties

46. Schedule 56 to the Finance Act 2009 (penalty for failure to make payments on time) applies to repayments which have become payable by a borrower under this Chapter as it applies to an amount of income tax which is payable for a tax year, and falls within—

- (a) item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule; or
- (b) insofar as the tax falls within item 1 of that Table, item 17, 23 or 24 of that Table.

Collection and recovery

47. Part 6 of the 1970 Act (collection and recovery) applies to repayments, interest and penalties which have become due and payable by a borrower under this Part as it applies to income tax and interest charged and penalties imposed under that Act.

Persons chargeable in a representative capacity

48. Sections 74 (personal representatives) and 75 (receivers appointed by a court) of the 1970 Act apply in the case of repayments due and payable by a borrower under this Chapter as they apply in the case of income tax chargeable to any person.

Interest

49.—(1) Subject to paragraph (2), any repayment due and payable under this Chapter carries interest at the rate applicable under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from whichever of the following days is applicable—

- (a) the last day of the period referred to in regulation 45(2); or

(b) the date mentioned in regulation 45(3),
until payment, whether or not the applicable day is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(6).

(2) Sections 90 and 91 of the 1970 Act apply to interest under this regulation as they apply to interest on income tax.

(3) A refund by HMRC to a borrower of an overpayment of amounts payable under this Chapter carries interest at the rate applicable under section 103 of the Finance Act 2009 from the date on which the overpayment arose to the date on which the order for the refund is issued.

Penalties

50.—(1) Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc) applies—

- (a) in relation to a return or other document which is required to be made or delivered to HMRC for a tax year;
- (b) which falls within item 1 of the Table in paragraph 1 of that Schedule; and
- (c) which is required to include information under regulation 40,

as it applies to income tax on that same return.

(2) The references to liability to tax in Schedule 55 to the Finance Act 2009 are construed as references to aggregate of the amounts which, if a proper return had been delivered on the filing date, would have been payable—

- (a) by the taxpayer under section 59B of the 1970 Act (payment of income tax and capital gains tax); and
- (b) where the taxpayer is a borrower, by way of repayment under regulation 39.

(3) Schedule 24 to the Finance Act 2007 (penalties for errors) applies—

- (a) in relation to anything done for the purposes of or in connection with the ascertainment of liability of a borrower to make a repayment under this Chapter as it applies for the purposes of or in connection with the ascertainment of liability to income tax; and
- (b) in the case of returns, statements, declarations, accounts, information or documents for the purposes of repayments under this Chapter as it applies for the purposes of income tax.

(6) 1882 c.61; Section 92 was amended by the Banking and Financial Dealings Act 1971 c.80 and the Consumer Credit Act 1974 (c.39).