
STATUTORY INSTRUMENTS

2017 No. 414

**The Income Tax (Pay As You Earn)
(Amendment) Regulations 2017**

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

2.—(1) The Income Tax (Pay As You Earn) Regulations 2003 (“the PAYE Regulations”)(1) are amended as follows.

(2) In regulation 2(1) (interpretation)(2)—

- (a) in the definition of “additional rate”(3) for “the Scottish additional rate of income tax determined under section 6A of that Act” substitute “any Scottish additional rate of income tax set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998”(4);
- (b) in the definition of “basic rate”(5) for “determined under section 6A of that Act” substitute “set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998;
- (c) in the definition of “combined amount”(6) after paragraph (c) insert “(d) apprenticeship levy due under these Regulations;” and
- (d) in the definition of “higher rate”(7) for “the Scottish higher rate of income tax determined under section 6A of that Act” substitute “any Scottish higher rate of income tax set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998”.

(3) In regulation 7 (meaning of “code” etc) in paragraph (2A)(8), for “determined under section 6A of ITA” substitute “set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998”.

(4) After regulation 67F(3) (additional information about payments)(9) insert—

“(4) This regulation applies in addition to the provisions set out in regulation 147D (duty to report amount of apprenticeship levy to be paid).”.

(5) In regulation 97A(1) (interpretation)(10) after the interpretation of “qualifying period” insert—

““relevant apprenticeship levy debt” means a debt specified in regulation 97B;”.

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- (1) [S.I. 2003/2682](#). The relevant amending instruments are [S.I. 2008/782](#), [2009/56](#), [2009/588](#), [2010/688](#), [2011/729](#), [2013/52](#), [2015/2](#) and [2015/1667](#).
 - (2) Regulation 2(1) was amended by [S.I. 2008/782](#), [2009/56](#), [2011/729](#), [2013/52](#), [2015/2](#) and [2015/1667](#). There are other amending instruments which are not relevant to these Regulations.
 - (3) The definition of “additional rate” was inserted by [S.I. 2011/729](#) and amended by [S.I. 2015/1667](#).
 - (4) Section 80C of the Scotland Act 1998 (c. 46) was inserted by section 25 of the Scotland Act 2012 (c. 11) and amended by section 13 of the Scotland Act 2016 (c. 11).
 - (5) The definition of “basic rate” was amended by [S.I. 2015/1667](#).
 - (6) The definition of “combined amount” was amended by [S.I. 2008/782](#).
 - (7) The definition of “higher rate” was amended by [S.I. 2015/1667](#).
 - (8) Paragraph (2A) was inserted by [S.I. 2015/1667](#). There are other amendments to regulation 7 which are not relevant to these Regulations.
 - (9) Regulation 67F was inserted by [S.I. 2012/822](#) and amended by [S.I. 2013/521](#) and [2015/2](#).
 - (10) Regulation 97A to 97H were inserted by [S.I. 2007/2069](#) and amended by [S.I. 2009/56](#).

- (6) In regulation 97B (relevant PAYE debts of managed service companies)
- (a) in the heading, after “relevant PAYE” insert “and apprenticeship levy”,
 - (b) for paragraph (1) substitute—
 - “(1) A managed service company has a relevant PAYE debt or a relevant apprenticeship levy debt if a managed service company must pay an amount of tax or apprenticeship levy for a qualifying period, and—
 - (a) in the case of a relevant PAYE debt one of conditions A to E is met, and
 - (b) in the case of a relevant apprenticeship levy debt one of conditions F or G is met.”,
- (c) after paragraph (6) add—
 - “(7) Condition F is met if—
 - (a) an amount of apprenticeship levy for a qualifying period has been assessed in accordance with regulation 147L (assessment of unpaid apprenticeship levy), and
 - (b) any part of the apprenticeship levy assessed has not been paid within 14 days beginning with the date on which the assessment is served.
- (8) Condition G is met if—
- (a) an employer delivers a return under regulation 147D (duty to report the amount of apprenticeship levy to be paid), showing an amount of apprenticeship levy payable by the employer for the tax year,
 - (b) HM Revenue and Customs assesses the amount of apprenticeship levy under regulation 147L showing how much of that amount remains unpaid, and
 - (c) any part of that amount remains unpaid at the end of a period of 14 days beginning with the date on which the assessment is served.”.
- (7) In regulation 97C (transfer of debt of managed service company)—
- (a) in paragraph (1)(a) after “relevant PAYE debt” insert “or a relevant apprenticeship levy debt”,
 - (b) in paragraph (1)(b) after the first occurrence of “relevant PAYE debt” insert “or the relevant apprenticeship levy debt” and after the second occurrence of “relevant PAYE debt” insert “or part of the relevant apprenticeship levy debt”,
 - (c) in paragraph (3) after “relevant PAYE debt” insert “or the relevant apprenticeship levy debt”.
- (8) In regulation 97D (time limits for issue of transfer notices)—
- (a) in paragraph (2) for “(3) to (7)” substitute “(3) to (7B)”,
 - (b) after paragraph (7) insert—
 - “(7A) In a case in which condition F in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which the assessment became final and conclusive.
 - (7B) In a case in which condition G in regulation 97B is met, the transfer notice must be served before the end of a period of 12 months beginning with the date on which HM Revenue and Customs serves the assessment under regulation 147L.”.
- (9) In regulation 97E (contents of transfer notice)—
- (a) in paragraph (1)(a) to (e) after each occurrence of “relevant PAYE debt” insert “or the relevant apprenticeship levy debt”,

- (b) in paragraph (1)(f) for “conditions A to E” substitute “conditions A to G”.
- (10) In regulation 97G (appeals) in paragraph (3)(a) after “relevant PAYE debt” insert “or the relevant apprenticeship levy debt (or part of the relevant apprenticeship levy debt).”.
- (11) In regulation 97H (procedure on appeals) in paragraphs (3)(a), (3)(b) and (4) after each occurrence of “relevant PAYE debt” insert “or the relevant apprenticeship levy debt”.
- (12) In regulation 97L (repayment of surplus amounts)(**11**)—
 - (a) in paragraph (1) after “relevant PAYE debt” insert “or a relevant apprenticeship levy debt”,
 - (b) in paragraph (3) for the words “regulation 83” to the end substitute “section 102 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC)(**12**).”.

(11) Regulation 97L was inserted by [S.I. 2007/2069](#).

(12) [2009 c. 10](#). Section 102 was amended by section 25 of, and paragraphs 3 and 15 of Schedule 9 to, the Finance (No. 3) Act [2010 \(c. 33\)](#).