
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 9

ASSESSMENT AND SELF-ASSESSMENT

Adjusting total net tax deducted for purposes of sections 59A(1) and 59B(1) TMA

185.—(1) This regulation applies for the purpose of determining—

- (a) the excess mentioned in section 59A(1) of TMA(1) (payments on account of income tax: income tax assessed exceeds amount deducted at source), and
- (b) the difference mentioned in section 59B(1) of TMA(2) (payments of income tax and capital gains tax: difference between tax contained in self-assessment and aggregate of payments on account or deducted at source).

(2) For those purposes, the amount of income tax deducted at source under these Regulations is the total net tax deducted during the relevant tax year (“A”) after making any additions or subtractions required by paragraphs (3) to (5).

(3) Subtract from A any repayments of A which are made before the taxpayer’s return and self-assessment is made under section 8 or 8A of TMA(3) (personal return and trustee’s return).

(4) Add to A any overpayment of tax from a previous tax year, to the extent that it was taken into account in determining the taxpayer’s code for the relevant tax year.

(5) Add to A any tax treated as deducted, other than any direction tax, but—

- (a) only if there would be an amount payable by the taxpayer under section 59B(1) of TMA on the assumption that there are no payments on account and no addition to A under this paragraph, and then
- (b) only to a maximum of that amount.

(6) In this regulation—

“direction tax” means any amount of tax which is the subject of a direction made under regulation 72(5) or regulation 81(4) in relation to the taxpayer in respect of one or more tax periods falling within the relevant tax year;

“relevant tax year” means—

- (a) in relation to section 59A(1) of TMA, the immediately preceding year referred to in that subsection;

(1) Section 59A was inserted by section 192 of the Finance Act 1994 (c. 9), and subsection (1) was amended by section 108(1) of the Finance Act 1995 (c. 4).

(2) Section 59B was inserted by section 193 of the Finance Act 1994, and subsection (1) was amended by section 122(2) of the Finance Act 1996 (c. 8) and paragraph 131(2) of Schedule 6 to ITEPA.

(3) Section 8 was substituted by section 90(1) of the Finance Act 1990 (c. 29) and amended by section 178(1) of the Finance Act 1994 (c. 9), section 104(1) to (3) of the Finance Act 1995 (c. 4) and section 121(1) to (3) of the Finance Act 1996 (c. 8); section 8A was inserted by section 90(1) of the Finance Act 1990 and amended by section 178(2) of the Finance Act 1994, sections 103(3) and (4) and 104(1) and (2) of the Finance Act 1995 and section 121(1) to (3) of the Finance Act 1996.

(b) in relation to section 59B(1) of TMA, the tax year for which the self-assessment referred to in that subsection is made;

“tax treated as deducted” means any tax which in relation to relevant payments made by an employer to the taxpayer in the relevant tax year—

(a) the employer was liable to deduct from payments but failed to do so, or

(b) the employer was liable to account for in accordance with regulation 62(5) (notional payments) but failed to do so;

“the taxpayer” means the person referred to in section 59A(1) of TMA or the person whose self-assessment is referred to in section 59B(1) of TMA (as the case may be).