



# Finance Act 2016

## 2016 CHAPTER 24

### PART 6

#### APPRENTICESHIP LEVY

##### *Payment, collection and recovery*

#### **105      Assessment, payment etc**

- (1) The Commissioners may by regulations make provision about the assessment, payment, collection and recovery of apprenticeship levy.
- (2) Regulations under subsection (1) may include—
  - (a) provision which applies, with or without modifications, provisions of PAYE regulations;
  - (b) provision for combining any arrangements under the regulations with arrangements under PAYE regulations.
- (3) Regulations under subsection (1) may—
  - (a) require payments to be made on account of apprenticeship levy;
  - (b) determine periods (“tax periods”) by reference to which payments are to be made;
  - (c) make provision about the times at which payments are to be made and methods of payment;
  - (d) require the amounts payable by reference to tax periods to be calculated (and levy allowance to be taken into account) in the manner and on the basis determined by or under the regulations;
  - (e) make provision for dealing with cases where such calculations lead to overpayment of levy (by repayment or otherwise);
  - (f) make other provision about the recovery of overpayments of levy.
- (4) Regulations under subsection (1) may make provision requiring persons to make returns, including provision about—

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- (a) the periods by reference to which returns are to be made,
  - (b) the information to be included in returns,
  - (c) timing, and
  - (d) the form of, and method of making, returns.
- (5) Regulations under subsection (1) may—
  - (a) authorise HMRC to assess to the best of their judgement amounts payable by a person in respect of apprenticeship levy;
  - (b) make provision about the treatment of amounts so assessed, including provision for treating such amounts as apprenticeship levy payable by the person;
  - (c) make provision about the process of assessments.
- (6) Regulations under subsection (1) may make, in relation to amounts of apprenticeship levy which have been repaid to a person and ought not to have been repaid, any provision which may be made in relation to apprenticeship levy payable by a person.
- (7) Where—
  - (a) a repayment of apprenticeship levy has been increased in accordance with section 102 of FA 2009 (repayment interest), and
  - (b) the whole or part of the repayment has been paid to any person but ought not to have been paid to the person,

any amount by which the repayment paid to the person ought not to have been increased is to be treated for the purposes of regulations made by virtue of subsection (6) as if it were an amount of apprenticeship levy repaid to the person which ought not to have been repaid.
- (8) Regulations under subsection (1) may make provision for enabling the repayment or remission of interest under section 101 of FA 2009.
- (9) The provision that may be made under subsection (1) includes—
  - (a) provision for the making of decisions (other than relevant assessments) by HMRC as to any matter required to be decided for the purposes of the regulations and for appeals against such decisions;
  - (b) provision for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal;
  - (c) provision for the way in which any matters provided for by the regulations are to be proved.
- (10) In subsection (9) “relevant assessment” means an assessment of amounts payable by a person in respect of apprenticeship levy.
- (11) Regulations under subsection (1) must not affect any right of appeal to the tribunal which a person would have apart from the regulations.
- (12) In this section (except where the context requires otherwise) references to payments are to payments of, or on account of, apprenticeship levy.

## **106 Recovery from third parties**

- (1) Regulations under section 105(1) may make corresponding provision for the recovery of amounts in respect of apprenticeship levy from persons other than the person liable to pay the amounts by virtue of section 99(3).

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- (2) In subsection (1) “corresponding provision” means provision which corresponds to provision made by regulations under the Contributions and Benefits Act for secondary Class 1 contributions in respect of any earnings to be recovered from a person other than the secondary contributor.

## **107 Real time information**

- (1) Regulations under section 105(1) may make provision—
- (a) for authorising or requiring relevant service providers to supply to HMRC information about payments of apprenticeship levy with respect to which their service is provided, or any information the Commissioners may request about features of the service provided or to be provided with respect to particular payments of apprenticeship levy;
  - (b) for requiring clients to provide relevant service providers with information about payments of apprenticeship levy;
  - (c) for prohibiting or restricting the disclosure, otherwise than to HMRC, of information by a person to whom it was supplied pursuant to a requirement imposed under paragraph (b);
  - (d) for conferring power on the Commissioners to specify by directions circumstances in which provision made by virtue of paragraph (a) or (b) is not to apply in relation to a payment;
  - (e) for requiring relevant service providers to take steps for facilitating the meeting by clients of obligations imposed under paragraph (b);
  - (f) for requiring compliance with any directions the Commissioners may give—
    - (i) specifying, or further specifying, steps for the purposes of paragraph (e), or
    - (ii) specifying information that a person making payments of apprenticeship levy must provide about the method by which the payments are made.
- (2) Directions made under the regulations may make different provision for different cases or different classes of case.
- (3) In this section—
- “client”, in relation to a relevant service provider, means a person to whom that relevant service provider provides or is to provide a service with respect to a payment of apprenticeship levy;
  - “payment of apprenticeship levy” includes a payment on account of apprenticeship levy;
  - “relevant service provider” means a person who provides or is to provide with respect to payments of apprenticeship levy a service that is specified, or of a description specified, by the regulations.

## **108 Time limits for assessment**

- (1) The general rule is that no assessment under regulations under section 105 may be made more than 4 years after the end of the tax year to which it relates.
- (2) An assessment on a person in a case of loss of apprenticeship levy brought about carelessly by the person may be made at any time not more than 6 years after the end of the tax year to which it relates.

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- (3) An assessment on a person in a case falling within subsection (4) may be made at any time not more than 20 years after the end of the tax year to which it relates.
- (4) A case falls within this subsection if it involves a loss of apprenticeship levy—
  - (a) brought about deliberately by the person,
  - (b) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of FA 2004 (obligation of parties to tax avoidance schemes to provide information to HMRC), or
  - (c) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners under section 253 of FA 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.
- (5) An assessment made by virtue of section 105(6) (amounts of levy repaid which ought not to have been repaid etc) is not out of time as a result of subsection (1) if it is made before the end of the tax year following that in which the amount assessed was repaid or paid (as the case may be).
- (6) Subsections (2), (3) and (5) do not limit one another's application.
- (7) An objection to the making of an assessment on the ground that the time limit for making it has expired may only be made on an appeal against the assessment.
- (8) In subsections (2) and (4) references to a loss brought about by a person include a loss brought about by another person acting on behalf of that person.

#### **109 No deduction in respect of levy to be made from earnings**

- (1) A person (“P”) must not—
  - (a) make from any payment of earnings any deduction in respect of apprenticeship levy for which P (or any other person) is liable,
  - (b) otherwise recover the cost, or any part of the cost, of P's (or any other person's) liability to apprenticeship levy from any person who is or has been a relevant earner, or
  - (c) enter into any agreement with any person to do anything prohibited by paragraph (a) or (b).
- (2) In this section “relevant earner” means an earner in respect of whom P is or has been liable to pay any secondary Class 1 contributions under Part 1 of the Contributions and Benefits Act.

#### **110 Collectors and court proceedings**

- (1) The following provisions of Part 6 of TMA 1970 apply in relation to apprenticeship levy as they apply in relation to income tax—
  - (a) section 60 (issue of demand notes and receipts);
  - (b) section 61 (distrain by collectors: Northern Ireland);
  - (c) sections 65 to 68 (court proceedings).
- (2) See also Chapter 5 of Part 7 of FA 2008 (which makes general provision about payment and enforcement).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)