
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 3

DEDUCTION AND REPAYMENT OF TAX

CHAPTER 4

MISCELLANEOUS

Deductions in respect of notional payments

62.—(1) This regulation applies if an employer makes a relevant payment which is a notional payment to an employee.

(2) The employer must, so far as possible, deduct tax required to be deducted in respect of a notional payment in accordance with any of the following regulations from any relevant payment or payments which the employer actually makes to the employee at the same time as the notional payment.

(3) The regulations are—

regulations 22 to 25	cumulative basis
regulations 26 to 31	non-cumulative basis
regulation 32	higher rate code: deductions
regulation 34	simplified deduction scheme for personal employees
regulation 37	PAYE income paid after employment ceased.

(4) If the employer cannot deduct the full amount of tax as required by paragraph (2) from another relevant payment made at the same time as the notional payment, the employer must, so far as possible, deduct the tax from any payment or payments which the employer makes later in the same tax period.

(5) If the relevant payments actually made are insufficient to enable the employer to deduct the full amount of tax due in respect of notional payments, the employer must account to the Board of Inland Revenue for any amount which the employer is unable to deduct.

(6) Regulations 23(5) and 28(5) (deductions on cumulative or non-cumulative basis not to exceed the overriding limit) do not apply to the extent that the tax to be deducted is in respect of a notional payment.

Repayment during unpaid leave

63.—(1) This regulation applies if—

- (a) an employee is not entitled to receive any relevant payments on a normal pay day because of absence from work,
 - (b) the cumulative basis would have been used in relation to a payment made on that day,
 - (c) the employee does not fall within regulation 64(1) (absence from work due to participation in trade dispute), and
 - (d) the employee, or the employee's authorised representative, makes an application in person to the employer.
- (2) The employer must—
- (a) comply with regulation 23 (cumulative basis: deduction and repayment) and accordingly repay any tax due to the employee, and
 - (b) comply with regulation 66(4) to (6) (completion of deductions working sheet),
- as if the pay day were one on which relevant payments of nil had been made.

Trade disputes

- 64.**—(1) This regulation applies if an employee—
- (a) is absent from work because of a trade dispute at the employee's place of work, and
 - (b) is participating or directly interested in the trade dispute.
- (2) The employer must—
- (a) on making any relevant payment, calculate the amount of tax to be deducted or repaid, and
 - (b) comply with paragraphs (5) to (8).
- (3) If no relevant payments are to be made on the normal pay day but the employee's code would be used on the cumulative basis if a relevant payment were made on that day, the employer must—
- (a) calculate, in accordance with regulation 23 (cumulative basis: deduction and repayment) whether any tax is due to be repaid on that day as if it were a day on which relevant payments of nil had been paid, and
 - (b) comply with paragraphs (5) to (8).
- (4) Paragraphs (2) and (3) are subject to paragraphs (9) and (10).
- (5) The employer—
- (a) must not repay any tax due to be repaid until the end of the employee's strike action, but
 - (b) must deduct any tax due to be deducted, less any repayment for the tax year which has not been made.
- (6) The amount of any repayment—
- (a) made at the end of the employee's strike action under paragraph (5)(a), or
 - (b) set against tax due to be deducted under paragraph (5)(b),
- must be reduced by any amount previously set off in accordance with paragraph (5)(b).
- (7) If the absence of an employee extends beyond the end of the tax year, the employer must—
- (a) before 1st June following the end of the tax year, give notice to the employee of the amount of any repayment of tax for the tax year in question calculated in accordance with paragraph (2) which has not been set off against any tax due to be deducted under paragraph (5)(b); and
 - (b) complete the certificate which must be given under regulation 67 (Form P60) and the return which must be sent under regulation 73 (Form P35 and P14) as if that tax had been repaid to the employee.

(8) If the employer has not made any repayment of tax withheld under paragraph (5) within 42 days after the end of the employee's strike action, the employer must instead immediately pay the tax not repaid to the Inland Revenue, and regulation 69(2) (receipt where requested) applies to that payment.

(9) An employee from whom a repayment of tax has been withheld in accordance with paragraph (5) may request a benefit officer to certify that—

- (a) section 14 of the Jobseekers Act 1995⁽¹⁾, or
- (b) in Northern Ireland, article 16 of the Jobseekers (Northern Ireland) Order 1995⁽²⁾,

(no allowance to those involved in trade dispute) does not disqualify the employee from receiving jobseeker's allowance, whether or not the employee is in fact entitled to receive jobseeker's allowance.

(10) If a benefit officer certifies in accordance with paragraph (9), the employer must make such repayment to the employee as may be due.

(11) In this regulation—

“benefit officer” means the appropriate officer—

- (a) of the Department for Work and Pensions or,
- (b) in Northern Ireland, of the Department for Social Development;

“end of the employee's strike action” means any of the following—

- (a) the employee is no longer absent from work because of the trade dispute,
- (b) the employer ceases to employ the employee,
- (c) the employee has become genuinely employed elsewhere in the occupation which the employee usually follows,
- (d) the employee has become regularly engaged in some other occupation, or
- (e) the employee dies;

“jobseeker's allowance” has the same meaning as in regulation 148;

“place of work” has the meaning given in section 14(4) of the Jobseekers Act 1995 or, in Northern Ireland, in article 16(4) of the Jobseekers (Northern Ireland) Order 1995.

Repayment if no longer employed

65.—(1) This regulation applies if, in a tax year, a person (“P”)—

- (a) was employed,
- (b) is no longer employed, and
- (c) applies for a repayment of tax.

(2) P must give the Inland Revenue—

- (a) Parts 2 and 3 of Form P45,
- (b) either certificate A or B, depending on P's circumstances, and
- (c) such evidence of P's unemployment as the Inland Revenue may require.

(3) Certificate A is one which certifies that P is unemployed and, to the best of P's knowledge and belief, P—

- (a) will not be a claimant during the period starting with the date on which the application is made and ending at the end of the tax year, and

(1) 1995 c. 18.

(2) S.I.1995/2705 (N.I. 15).

- (b) will not be employed during that period.
- (4) Certificate B is one which certifies that P is unemployed and is not a claimant when the application is made.
- (5) On receiving P's application, the Inland Revenue must make any repayment of tax which is appropriate, having regard to P's employee's code and the following information.
- (6) If P gives certificate A the information is—
 - (a) the total payments to date and the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 (or, if lower, the total net tax deducted shown in it),
 - (b) any other relevant payments received by P in the tax year to date, and
 - (c) any other payments P will receive in the tax year.
- (7) If P does not give certificate A the information is—
 - (a) the total payments to date and the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 (or, if lower, the total net tax deducted shown in it), and
 - (b) any other relevant payments received by P in the tax year to date.
- (8) For the purposes of this regulation, "claimant" means a person who is—
 - (a) a claimant as defined by regulation 148 (jobseeker's allowance), or
 - (b) a claimant in receipt of taxable benefit as defined by regulation 173 (incapacity benefit).

Deductions working sheets

- 66.**—(1) Paragraph (2) applies if a code has been issued to an employer in respect of an employee.
- (2) The employer must, on making a relevant payment to the employee, prepare a deductions working sheet (unless the employer has already done so).
- (3) The employer must record in the deductions working sheet—
- (a) the employee's name,
 - (b) the employee's national insurance number, if known,
 - (c) the employee's code, and
 - (d) the tax year to which the deductions working sheet relates.
- (4) The employer must record in the deductions working sheet in respect of every relevant payment which the employer makes to the employee—
- (a) the date of the payment,
 - (b) the amount of the payment, and
 - (c) the amount of tax, if any, deducted or repaid on making the payment, or to be deducted or accounted for under regulation 62(4) or (5) (notional payments).
- (5) If the employee's code is used on the cumulative basis, the employer must, in respect of every relevant payment which the employer makes to the employee, either—
- (a) record the following information in the deductions working sheet, or
 - (b) keep such records as enable its production.
- (6) The information is—
- (a) the total payments to date in relation to the date of payment,
 - (b) the total free pay to date or, as the case may be, the total additional pay to date, in relation to that date,
 - (c) the total taxable payments to date in relation to that date,

- (d) the corresponding total tax to date,
 - (e) if the employee's code is a K code—
 - (i) the tax due to be deducted at that date (subject to the overriding limit),
 - (ii) the overriding limit, if any, in relation to the payment,
 - (iii) the amount of any tax not deducted at that date because of the overriding limit, and
 - (f) any amount of tax which is not to be repaid because of regulation 64 (trade disputes).
- (7) If the employee's code is not used on the cumulative basis, the employer must, in respect of every relevant payment which the employer makes to the employee, either—
- (a) record the following information in the deductions working sheet, or
 - (b) keep such records as enable its production.
- (8) The information is—
- (a) the free pay, or, as the case may be, the additional pay for the employee's code,
 - (b) the taxable payments, and
 - (c) if the employee's code is a K code, the tax due to be deducted and the overriding limit.

Information to employees about payments and tax deducted (Form P60)

67.—(1) Before 1st June following the end of the tax year, an employer must give a certificate (Form P60) to every employee—

- (a) who was in the employer's employment on the last day of the tax year, and
 - (b) from whose relevant payments the employer was required to deduct tax at any time during that tax year.
- (2) The certificate must show—
- (a) the tax year to which it relates,
 - (b) the employer's PAYE reference,
 - (c) the employee's name,
 - (d) the employee's national insurance number, if known,
 - (e) any number used by the employer to identify the employee,
 - (f) the total amount of the relevant payments made by the employer to the employee during the tax year in respect of the employment in question,
 - (g) the total net tax deducted in relation to those payments, subject to regulation 64(7)(b) (trade disputes),
 - (h) the employee's code,
 - (i) the employer's name, and
 - (j) the employer's address.
- (3) In the case of an employee taken into employment after the beginning of the tax year, the certificate must also show—
- (a) any amounts required by regulation 43(9), 52(11), 53(3) or 61(3) to be treated as relevant payments made by the employer to the employee during the tax year,
 - (b) any amounts treated as tax deducted by the employer at the end of the tax year by any of those regulations,
 - (c) the sum of the figures given under sub-paragraph (a) of this paragraph and paragraph (2)(f),

- (d) the sum of the figures given under sub-paragraph (b) of this paragraph and paragraph (2) (g).