
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 [F¹59A(1), 59B(1) and 59BA(2)]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), ^{F²}...
- (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 [^{F³}at source), and]

[^{F⁴}(c) the difference mentioned in section 59BA(2) of TMA (payments of income tax and capital gains tax: difference between tax contained in simple 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—

(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.

“direction tax” means any amount of tax which is the subject of a direction made under [^{F5}regulation 72(5), regulation 72F] 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;
- (b) in relation to section 59B(1) of TMA, the tax year for which the self-assessment referred to in that subsection is made;
- (c) [^{F6}in relation to section 59BA(2) of TMA the tax year for which the simple 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 [^{F7}or the person whose simple assessment is referred to in section 59BA(2) of TMA] (as the case may be).

- | | |
|----|---|
| F1 | Words in reg. 185 heading substituted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414) , regs. 1, 6(a) |
| F2 | Word in reg. 185(1)(a) omitted (6.4.2017) by virtue of The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414) , regs. 1, 6(b) |
| F3 | Words in reg. 185(1)(b) substituted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414) , regs. 1, 6(c) |
| F4 | Reg. 185(1)(c) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414) , regs. 1, 6(d) |
| F5 | Words in reg. 185(6) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2008 (S.I. 2008/782) , regs. 1, 14 |
| F6 | Words in reg. 185(6) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414) , regs. 1, 6(e) |
| F7 | Words in reg. 185(6) inserted (6.4.2017) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2017 (S.I. 2017/414) , regs. 1, 6(f) |

Commencement Information

- I1 [Reg. 185](#) in force at 6.4.2004, see [reg. 1](#)

Recovery: adjustment of employee’s code

186.—(1) This regulation applies if, on the assumption mentioned in paragraph (2), the difference for a tax year mentioned in section 59B(1) of TMA (difference between tax contained in a self-assessment and aggregate of payments on account) would be payable by the taxpayer.

(2) The assumption is that, in respect of the tax year, nothing will be deducted at source under these Regulations in a subsequent tax year.

(3) The Inland Revenue must have regard to the difference in determining a taxpayer’s code for a subsequent tax year under regulation 14 (matters relevant to determination of code) if—

- (a) it is less than [^{F8}£3,000], and
- (b) the return for the tax year is—

- (i) delivered by an approved method of electronic communications before 31st December following the end of the tax year, or
- (ii) delivered by any other method before [^{F9}1st November] following the end of the tax year.

(4) In a case not falling within paragraph (3)(b)(i), the Inland Revenue may have regard to the difference in determining a taxpayer's code for a subsequent tax year under regulation 14 if—

- (a) it is less than [^{F10}£3,000], and
- (b) the return for the tax year is delivered on or after [^{F11}1st November] following the end of the tax year and the code is determined before 31st December.

(5) But the Inland Revenue must not have regard to the difference if the taxpayer objects at the time the return is delivered or subsequently.

- F8** Sum in reg. 186(3)(a) substituted (with effect from 6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.3\) Regulations 2011 \(S.I. 2011/1584\)](#), regs. 1(1), **2(3)**
- F9** Words in reg. 186(3)(b)(ii) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **18**
- F10** Sum in reg. 186(4)(a) substituted (with effect from 6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.3\) Regulations 2011 \(S.I. 2011/1584\)](#), regs. 1(1), **2(3)**
- F11** Words in reg. 186(4)(b) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **18**

Commencement Information

- I2** [Reg. 186](#) in force at 6.4.2004, see [reg. 1](#)

Repayment: adjustment of employee's code

187.—(1) This regulation applies if the difference for a tax year mentioned in section 59B(1) of TMA (difference between tax contained in a self-assessment and aggregate of payments on account) is payable to the taxpayer.

(2) The Inland Revenue may have regard to the difference in determining the employee's code for a subsequent tax year under regulation 14 (matters relevant to determination of code).

(3) But the Inland Revenue must not have regard to the difference if the taxpayer objects at the time the return is delivered or subsequently.

Commencement Information

- I3** [Reg. 187](#) in force at 6.4.2004, see [reg. 1](#)

Assessments other than self-assessments

188.—(1) In this regulation, “assessment” means an assessment other than one under section 9 of TMA(4) (self-assessment).

(2) The tax payable by the employee is—

$$A - (B - C)$$

(4) Section 9 was substituted by section 179 of the Finance Act 1994 (c. 9), and amended by sections 121(4) and 122(1) of the Finance Act 1996 (c. 8), section 98(2) of the Finance Act 1998 (c. 36), paragraphs 1 and 2(1) of Schedule 29 to the Finance Act 2001 (c. 9) and paragraph 125 of Schedule 6 to ITEPA.

A is the tax payable under the assessment;

B is the total net tax deducted in relation to the employee's relevant payments during the tax year for which the assessment is made, adjusted as required by paragraph (3); and

C is so much, if any, of B as is subsequently repaid.

(3) For the purpose of determining the tax payable by the employee, and subject to paragraphs (4) and (5)—

(a) add to B any tax which—

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

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

(b) make any necessary adjustment to B in respect of any tax overpaid or remaining unpaid for any tax year; and

(c) make any necessary adjustment to B in respect of any amount to be recovered as if it were unpaid tax under section 30(1) of TMA(5) (recovery of overpayment of tax etc) to the extent that—

(i) [F12HMRC] took that amount into account in determining the employee's code, and

(ii) the total net tax deducted was in consequence greater than it would otherwise have been.

(4) No direction tax is to be included in calculating the amount of tax referred to in paragraph (3) (a).

(5) If a direction is made after the making of the assessment, the amount (if any) shown in the notice of assessment as a deduction from, or a credit against, the tax payable under the assessment is to be taken as reduced by so much of the direction tax as was included in calculating the amount of tax referred to in paragraph (3)(a).

(6) Instead of requiring payment by the employee, [F13HMRC] may take the tax payable by the employee into account in determining the employee's code for a subsequent tax year.

(7) In this regulation—

“direction” means a direction made under [F14regulation 72(5), regulation 72F] or 81(4) in relation to the employee in respect of one or more tax periods falling within the tax year in question;

“direction tax” means any amount of tax which is the subject of a direction;

“tax payable under the assessment” means the amount of tax shown in the assessment as payable without regard to any amount shown in the notice of assessment as a deduction from, or a credit against, the amount of tax payable.

F12 Word in reg. 188(3)(c)(i) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **15(a)**

F13 Word in reg. 188(6) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **15(b)**

F14 Words in reg. 188(7) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2008 \(S.I. 2008/782\)](#), regs. 1, **15(c)**

(5) Section 30 was substituted by section 149(1) of the Finance Act 1982 (c. 39), and subsection (1) was amended by paragraph 13(2) of Schedule 19 to the Finance Act 1998.

Changes to legislation: *There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 9. (See end of Document for details)*

Commencement Information

I4 [Reg. 188](#) in force at 6.4.2004, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 9.