
STATUTORY INSTRUMENTS

2015 No. 171

**The Income Tax (Pay As You Earn)
(Amendment No. 2) Regulations 2015**

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

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

(2) In regulation 2—

(a) for the definition of “agency worker” substitute—

““agency worker” means a worker who is treated by section 44 of ITEPA(1) as holding an employment with the agency for income tax purposes;”;

(b) after the definition of “Board of Inland Revenue” insert—

““the client” has the meaning given in section 44 of ITEPA, and cognate expressions shall be construed accordingly;”;

(c) after the definition of “employment” insert—

““employment intermediary” has the meaning given in section 716B(2) of ITEPA;”;
and

(d) after the definition of “tribunal”(2) insert—

““United Kingdom continental shelf” means the area designated under section 1(7) of the Continental Shelf Act 1964(3).”.

(3) After regulation 84D insert—

*“Employment Intermediaries: return of information relating
to agency workers for whom they have not operated PAYE*

Specified employment intermediaries

84E. An employment intermediary is a specified employment intermediary if at any time during a tax quarter—

(a) the employment intermediary is an agency;

(b) more than one individual provides services to a client under or in consequence of a contract between the employment intermediary and one or more clients;

(c) those services are not provided exclusively on the United Kingdom continental shelf;
and

(1) ITEPA has the meaning given in regulation 2(1) of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682). Section 44 was substituted by section 16 of the Finance Act 2014.
(2) The definition of tribunal was inserted by paragraph 93 of Schedule 2 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order (S.I. 2009/56).
(3) 1964 c. 29. Section 1(7) was amended by paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c. 23) and section 103 of the Energy Act 2011 (c. 16).

- (d) the employment intermediary makes one or more payments in respect of, or connected with, the services provided by one or more individuals that—
- (i) is required by regulation 67B to be included in a return delivered to HMRC by the employment intermediary when the payment is made but has not been (“a reporting failure”); or
 - (ii) is not required by regulation 67B to be included in a return delivered to HMRC by the employment intermediary when the payment is made because the individual is not an employee or treated as an employee under regulation 10 (“no reporting requirement”).

Returns by specified employment intermediaries

84F.—(1) A specified employment intermediary must, for each tax quarter, provide to HMRC the information specified in regulation 84G no later than the end of the tax month following that quarter.

(2) The information must be included in a return in a form prescribed by HMRC and include a declaration that the information provided in the return is correct and complete to the best of the knowledge and belief of the person completing it.

(3) The return is to be made using an approved method of electronic communication.

(4) The return may be amended until the end of the tax month following the tax quarter after the tax quarter to which the return relates.

(5) Where a return is made in relation to a tax quarter, the specified employment intermediary shall continue to provide a return to HMRC in relation to every subsequent tax quarter until either—

- (a) regulation 84E(b) to 84E(d) has not been satisfied for 4 consecutive tax quarters in respect of the specified intermediary; or
- (b) the specified employment intermediary notifies HMRC that it is no longer an employment intermediary.

Specified information

84G. The specified information is—

- (a) in respect of the specified employment intermediary making the return its—
 - (i) name;
 - (ii) address;
 - (iii) postcode;
 - (iv) employer’s PAYE reference number where it is required to have one⁽⁴⁾;
- (b) in respect of each individual providing the services referred to in regulation 84E—
 - (i) the individual’s—
 - (aa) full name;
 - (bb) address;
 - (cc) postcode;

⁽⁴⁾ Employer’s PAYE reference number is defined in regulation 2(1) of the Income Tax (Pay As You Earn) Regulations 2003 (S.I.2003/2682).

- (dd) national insurance number (if the individual has one) or gender and date of birth (where the individual does not have a national insurance number);
- (ee) Unique Taxpayer Reference issued by HMRC (if self-employed or a member of a partnership);
- (ii) the date on which the individual began providing the services referred to in regulation 84E;
- (iii) the date (if any) on which the individual stopped providing the services referred to in regulation 84E; and
- (c) where a payment is made to an individual in respect of, or in connection with, the services referred to in regulation 84E, but that payment is not included in a return delivered to HMRC under regulation 67B at the time the payment was made because there is no reporting requirement or there is a reporting failure—
 - (i) the full name (or if a partnership the name under which they trade) and address of the person receiving the payment made by the specified employment intermediary (if not the same as in 84G(b)(i)(aa) and (bb));
 - (ii) the total of the payments made by the specified employment intermediary to the person in the tax quarter;
 - (iii) the reason why the specified employment intermediary has not deducted income tax from those payments;
 - (iv) where the reason for the non deduction given in (iii) is that the payments made are to a limited company the full name of the company and company registration number of that company; and
 - (v) whether the payments included amounts in respect of Value Added Tax.

Retention of records

84H.—(1) A specified employment intermediary must keep and preserve non-PAYE records which are not required to be sent to HMRC under any other provision of these Regulations for not less than three years after the end of the tax year to which they relate.

(2) The duty under paragraph (1) to keep and preserve non-PAYE records may be discharged by preserving them in any form or by any means.

(3) In this regulation “non-PAYE records” means information, records and documents which evidence the specified information.”.