
STATUTORY INSTRUMENTS

2022 No. 227

INCOME TAX

**The Income Tax (Pay As You Earn) and the Income Tax
(Construction Industry Scheme) (Amendment) Regulations 2022**

Made - - - - 4th March 2022
Laid before the House of
Commons - - - - 7th March 2022
Coming into force in accordance with regulation 1(2)
and (3)

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by sections 132 and 133 of the Finance Act 1999⁽¹⁾, section 136 of the Finance Act 2002⁽²⁾, section 684(1) and (2) of the Income Tax (Earnings and Pensions) Act 2003⁽³⁾ and section 73(1) and (3) of the Finance Act 2004⁽⁴⁾, and now exercisable by them⁽⁵⁾.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Pay As You Earn) and the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2022.

(2) Subject to paragraph (3), these Regulations come into force on 6th April 2022.

(3) Regulation 3 comes into force on 6th May 2022.

(4) Regulation 4 has effect in relation to elections made under regulation 98 of the Income Tax (Pay As You Earn) Regulations 2003⁽⁶⁾ (multiple PAYE schemes) on or after 6th April 2022.

(1) 1999 c. 16. Section 132 was amended by paragraph 156 of Schedule 17 to the Communications Act 2003 (c. 21).

(2) 2002 c. 23.

(3) 2003 c. 1 ("ITEPA"). Section 684 was relevantly amended by section 145 of the Finance Act 2003 (c. 14), paragraphs 102 and 117 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 ("CRCA") (c. 11), section 94 of the Finance Act 2006 (c. 25), paragraphs 2, 3, 5, 6 and 7 of Schedule 58 to the Finance Act 2009 (c. 10), and section 225 of, and paragraph 5 of Schedule 1 to, the Finance Act 2012 (c. 14).

(4) 2004 c. 12 ("the 2004 Act").

(5) The powers of the Board of Inland Revenue under section 684 of ITEPA were transferred to the Commissioners for Revenue and Customs by paragraph 102(2) of Schedule 4 to CRCA. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs ("HMRC") by section 5(2) of CRCA. Section 50(1) of CRCA provides that a reference to the Commissioners for Inland Revenue, however expressed, shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(6) S.I. 2003/2682 ("the PAYE Regulations"); there are amending instruments but none is relevant.

(5) Regulation 6 has effect in relation to elections made under regulation 3 of the Income Tax (Construction Industry Scheme) Regulations 2005⁽⁷⁾ (multiple contractors) on or after 6th April 2022.

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

2. The Income Tax (Pay As You Earn) Regulations 2003 are amended as follows.
3. After regulation 65 insert—

“Relief from income tax on PAYE income: information about deductible expenses

65A.—(1) This regulation applies if, in relation to a tax year⁽⁸⁾—

- (a) an employee⁽⁹⁾ is entitled to relief from income tax⁽¹⁰⁾ in consequence of deductions allowed under Chapter 2 of Part 5 of ITEPA⁽¹¹⁾ (deductions for employee’s expenses) (“the deductible expenses”),
- (b) the total amount of the deductible expenses for that employee in respect of all employments in that tax year does not exceed £2,500, and
- (c) the employee has not been given a notice under section 8 of TMA⁽¹²⁾ (personal return) or delivered a purported return within section 12D of TMA⁽¹³⁾ (returns made otherwise than pursuant to a notice) for the tax year to which the deductible expenses relate.

(2) For the purposes of paragraph (1)(c), a notice under section 8 of TMA is treated as not having been given to an employee if that notice has been withdrawn in accordance with section 8B⁽¹⁴⁾ of that Act (withdrawal by HMRC of notice under section 8 or 8A).

(3) Without prejudice to section 711 of ITEPA⁽¹⁵⁾ (right to make a return), the employee may notify HMRC of the deductible expenses by providing specified information relating to those expenses to HMRC in accordance with this regulation.

(4) For the purposes of paragraph (3), the specified information in relation to each tax year is the nature and amount of each of the deductible expenses incurred in respect of each of the employee’s employments.

(5) The specified information must be provided in the form and manner given in a direction made by the Commissioners for Her Majesty’s Revenue and Customs for this purpose.

(6) A direction made under paragraph (5) may also—

(7) *S.I. 2005/2045* (“the CIS Regulations”); there are amending instruments but none is relevant.

(8) Regulation 2 of the PAYE Regulations defines “tax year” as a year for which any Act provides for income tax to be charged.

(9) Regulation 2 of the PAYE Regulations provides that “employment”, for the purposes of Chapter 5 of Part 2 and subject to regulations 10 to 12, has the meaning given in sections 4 and 5 of ITEPA; and that “employer” and “employee” have corresponding meanings. Section 712(1) of ITEPA further provides that, in Part 11 of that Act (which includes s684 ITEPA, under which the PAYE Regulations and these Regulations are made), “employee” means a person who holds or has held employment with another person.

(10) Regulation 2 of the PAYE Regulations provides that “reliefs from income tax” includes allowances and deductions.

(11) Regulation 2 of the PAYE Regulations defines “ITEPA” as “the Income Tax (Earnings and Pensions) Act 2003”.

(12) Regulation 2 of the PAYE Regulations provides that “TMA” means the Taxes Management Act 1970 (c. 9). Section 8 of TMA was substituted by section 90(1) of the Finance Act 1990 (c. 29) and amended by sections 178(1) and 199(1) of the Finance Act 1994 (c. 9), section 104 of the Finance Act 1995 (c. 4), section 121(1)-(3) of the Finance Act 1996 (c. 8), section 88 of, and Part 5 of Schedule 27 to, the Finance Act 2007 (c. 11), paragraphs 11 and 12 of Schedule 7 to the Taxation (International and Other Provisions) Act 2010 (c. 8) and paragraph 51(1) and (2) of Schedule 1 to the Finance Act 2016 (c. 24).

(13) Section 12D was inserted by section 87(1) of the Finance Act 2019 (c. 1).

(14) Section 8B of TMA was inserted by paragraphs 1 and 3 of Schedule 51 to the Finance Act 2013 (c. 29) and amended by section 169(1)-(5) of the Finance Act 2016.

(15) Section 711 was amended by paragraph 102(1) of Schedule 4 to CRCA and paragraph 49 of Schedule 39 to the Finance Act 2008 (c. 9).

- (a) authorise, or specify a requirement for, the delivery of information by an approved method of electronic communication⁽¹⁶⁾, and
 - (b) where such a requirement is specified, specify the persons required to deliver information to HMRC by the approved method of electronic communication.
- (7) The specified information cannot be provided more than 4 years after the end of the tax year to which the information relates.”.
4. In regulation 98 (multiple PAYE schemes)—
- (a) at the end of paragraph (2)(c) omit “and”;
 - (b) at the end of paragraph (2)(d) insert—
 - “;
 - (e) an employee who is allocated to more than one group has more than one employment; and
 - (f) an employee who is deallocated from one group has left an employment”;
 - (c) in paragraphs (3) and (4)(b), before “one of the groups” insert “at least”;
 - (d) in paragraph (4), before sub-paragraph (a) insert—
 - “(za) the tax month⁽¹⁷⁾ from which the election is to have effect.”;
 - (e) in paragraph (5)—
 - (i) omit “, subject to paragraph (6).”;
 - (ii) for “tax year for which it” substitute “tax month immediately preceding the tax month from which the election”;
 - (f) after paragraph (5) insert—
 - “(5A) A late election will be treated as if it had been made in relation to the tax month immediately following the tax month from which the election was stated to have had effect.”;
 - (g) omit paragraphs (6) and (7);
 - (h) in paragraph (9), for “tax year”, in each place where it occurs substitute “tax month”;
 - (i) in paragraph (10), for “tax year” substitute “tax month”.

Amendments to the Income Tax (Construction Industry Scheme) Regulations 2005

5. The Income Tax (Construction Industry Scheme) Regulations 2005 are amended as follows.
6. In regulation 3 (multiple contractors)—
- (a) at the end of paragraph (2)(a) omit “and”;
 - (b) at the end of paragraph (2)(b) insert—
 - “and;
 - (c) a sub-contractor⁽¹⁸⁾ who is allocated to more than one group has more than one contractor⁽¹⁹⁾ from whom it receives payments under contracts relating to construction operations⁽²⁰⁾.”;

⁽¹⁶⁾ Regulation 2 of the PAYE Regulations provides that “approved method of electronic communications” has the meaning given in regulation 189 of the PAYE Regulations.

⁽¹⁷⁾ Regulation 2 of the PAYE Regulations provides that “tax month” means the period beginning on the 6th day of a calendar month and ending on the 5th day of the following calendar month.

⁽¹⁸⁾ Regulation 2 of the CIS Regulations provides that “sub-contractor” has the meaning given in section 58 of the 2004 Act.

⁽¹⁹⁾ Regulation 2 of the CIS Regulations provides that “contractor”, save for the purposes of Part 3A, has the meaning given in section 57 of the 2004 Act.

- (c) in paragraph (3) before “one of the groups” insert “at least”;
- (d) in paragraph (4), before sub-paragraph (a) insert—
 - “(za) the tax month⁽²¹⁾ from which the election is to have effect,”;
- (e) in paragraph (5)—
 - (i) omit “, subject to paragraph (6),”;
 - (ii) for “tax year for which it” substitute “tax month immediately preceding the tax month from which the election”;
- (f) after paragraph (5) insert—
 - “(5A) A late election will be treated as if it had been made in relation to the tax month immediately following the tax month from which the election was stated to have had effect.”;
- (g) omit paragraphs (6) and (7);
- (h) in paragraph (9) for “tax year”, in each place where it occurs substitute “tax month”;
- (i) in paragraph (10) for “tax year” substitute “tax month”.

*Angela MacDonald
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Two of the Commissioners for Her Majesty’s
Revenue and Customs

4th March 2022

(20) Regulation 2 of the CIS Regulations provides that “construction operations” has the meaning given in section 74 of the 2004 Act.

(21) Regulation 2 of the CIS Regulations provides that “tax month” means the period beginning on the 6th day of a calendar month and ending on the 5th day of the following calendar month.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the PAYE Regulations”). The Regulations also amend the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) (“the CIS Regulations”).

Regulation 1 provides for citation, commencement and effect. Regulation 3 comes into force on 6th May 2022, and the remaining provisions come into force on 6th April 2022. Regulation 4 has effect in relation to elections made under regulation 98 of the PAYE Regulations on or after 6th April 2022. Regulation 6 has effect in relation to elections made under regulation 3 of the CIS Regulations on or after 6th April 2022.

Regulation 3 inserts new regulation 65A into the PAYE Regulations. New regulation 65A deals with the way in which information relating to deductions from net taxable earnings for expenses incurred by an employee (referred to as “deductible expenses”), which are allowed under Chapter 2 of Part 5 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1), should be notified to Her Majesty’s Revenue and Customs (“HMRC”).

Paragraphs (1) and (2) of new regulation 65A set out the circumstances where the notification provisions apply. Paragraph (3) requires, in such circumstances, that information is to be provided in accordance with new regulation 65A. Paragraph (4) sets out the specified information that should be provided to HMRC. Paragraphs (5) and (6) provide for the Commissioners for HMRC to specify (in a direction) the form and manner in which the information is to be provided, including by the use of electronic communications. Paragraph (7) specifies the time limit for providing the information.

Regulation 4 amends regulation 98 of the PAYE Regulations, which contains the rules permitting an employer to make an election so that they are treated as different employers in relation to different groups of employees (referred to as “multiple PAYE schemes”). The amendments to regulation 98 provide for mid-year elections, allow employees to be allocated to more than one group, and make consequential changes to the rules about the information that is required to be included in an election notice, as well as the time periods within which an election can be made or revoked.

Regulation 6 amends regulation 3 of the CIS Regulations, in order to make equivalent changes (to those in regulation 4) to the rules relating to elections made by a contractor to be treated as different contractors in relation to different groups of sub-contractors.

A Tax Information and Impact Note has not been prepared in relation to these changes as they contain no substantive changes to tax policy.