

**EXPLANATORY MEMORANDUM TO**  
**THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT) REGULATIONS 2024**

**2024 No 305**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

**2. Declaration**

2.1 Nigel Huddleston MP, Financial Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Morgan, Deputy Director for Tax Administration Directorate, at HMRC confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

3.1 Terence Brown at HMRC Telephone: 03000 586418 or email: [terence.brown@hmrc.gov.uk](mailto:terence.brown@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

4.1 This instrument makes amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S. I. 2003/2682) (the "PAYE Regulations") which make provision for the assessment, charge, collection and recovery of income tax under the PAYE system. The changes have effect from 6 April 2024.

4.2 The amendments are intended to simplify the reporting process for employers whose employees receive advances of salary either directly from the employer or through a third party. Rather than reporting each salary advance when it is made or before it is made, employers will delay reporting a salary advance to HMRC's Real Time Information (RTI) system until the payment of the remainder of that salary instalment.

*Where does the legislation extend to, and apply?*

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

**5. Policy Context**

*What is being done and why?*

5.1 The measure relates to arrangements which allow employees access to some of their earned salary before the normal pay day. Such advances can be made through an

employer or through a third party. These arrangements are commonly known as salary advance schemes or earned wage access schemes.

- 5.2 Where the advance is made by a third-party scheme provider, the reporting obligation will nevertheless fall on the employer where the scheme provider is acting on the employer's behalf.
- 5.3 The instrument makes changes to reporting requirements and the deadline by which employers must make entries in deductions working sheets in respect of certain advances of salary.
- 5.4 These amendments change the application of the 'on or before' PAYE reporting requirement in some cases where a salary advance is made.
- 5.5 The amendments require employers to report payments for a pay period on one return (Full payment submission, or FPS). Employers are required to report by the date on which the reduced regular relevant payment is paid and not the (earlier) payment dates of individual salary advances.
- 5.6 The amendments apply where the employee's salary is ordinarily paid at regular intervals of between one week and one month and the employer pays part of the salary in advance. For the purposes of the amendments, advances must reasonably represent work undertaken or obligations performed by the employee in accordance with the employee's contract with the employer in respect of which no other payment of earnings has been made.
- 5.7 As well as easing employer reporting burdens, the new process minimises the risk of coding or Universal Credit errors that could arise from processing multiple returns within a pay period.
- 5.8 Other advance payments to employees or loans are covered by existing HMRC rules and guidance. Such payments fall outside the scope of this measure.

***What was the previous policy, how is this different?***

- 5.9 These amendments are being made because the PAYE rules currently require employers to report each salary advance when it is made or before it is made. This could result in multiple reports being made during a pay period. The employer may not always know about a salary advance paid through a third party in time to report it when or before the payment is made.

**6. Legislative and Legal Context**

***How has the law changed?***

- 6.1 The PAYE Regulations include record-keeping and reporting requirements to ensure that information relating to relevant payments made to employees is accurate and complete.
- 6.2 Regulation 67B of the PAYE Regulations requires that on or before making a relevant payment to an employee, the employer sends HMRC the information listed in Schedule A1 to the PAYE Regulations.
- 6.3 This instrument provides for how an employer should treat certain advance payments of salary for the purposes of regulations 66 and 67B of, and Schedule A1 to, the PAYE Regulations.
- 6.4 Where an employee receives salary advances, any advance payments and the regular relevant payment that follows (reduced by the amount of the advance payments)

should be treated as a single payment, made on the date that the regular payment is made.

- 6.5 The requirements of regulations 66, 67B and Schedule A1 do not apply to advance payments in the period beginning with the making of the advance payment and ending with the making of the reduced regular relevant payment.
- 6.6 This instrument is related to the Social Security (Contributions) (Amendment No3) Regulations 2024 (S.I. 2024/306), which makes amendments to S.I. 2001/1004 in respect of National Insurance contributions reporting obligations for salary advances.

*Why was this approach taken to change the law?*

- 6.7 This is the only possible approach to make the necessary long-term changes.

## **7. Consultation**

*Summary of consultation outcome and methodology*

- 7.1 On 11 September 2023, HMRC published an open technical consultation, inviting interested parties to identify any issues for employers and payroll service providers in operating the changes set out in the draft amendment regulations. The consultation closed on 9 October 2023.
- 7.2 The consultation received 19 responses from representatives of employers, payroll service providers and the media.
- 7.3 The measure was received positively by the majority of respondents and is generally seen as meeting HMRC's objectives of simplifying the reporting process and reducing administrative burdens.
- 7.4 One respondent expressed some general concern about the operation of commercial salary advance schemes and the potential impact on lower paid workers. Arrangements for making advances are matters between the employer and the employee, falling outside the remit of HMRC. The aim of this measure is to help employers better meet their PAYE obligations, when reporting remuneration which includes advances of salary.
- 7.5 Some responses asked for clarity as to whether, or how schemes arranged by third parties are covered and about the advance being restricted to accrued earnings. HMRC has amended the draft legislation such that the measure only applies to advances of pay already earned by the time of payment of the salary advance. On the question of third parties, the reporting obligation will fall on the employer where a third-party scheme provider is acting on the employer's behalf.

## **8. Applicable Guidance**

- 8.1 The policy intent and initial guidance was published in HMRC's Agent Update 102 on 16 November 2022<sup>1</sup>.
- 8.2 Further guidance will be published on GOV.UK by 6 April 2024.

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<sup>1</sup> HMRC's Agent Update 102: <https://www.gov.uk/government/publications/agent-update-issue-102>

## **Part Two: Impact and the Better Regulation Framework**

### **9. Impact Assessment**

9.1 A Tax Information and Impact Note has not been prepared for this instrument. Legislative changes arising from this instrument contain no substantive changes to tax policy.

#### *Impact on businesses, charities and voluntary bodies*

9.2 There is no, or no significant, impact on business, charities or voluntary bodies. Legislative changes arising from this instrument contain no substantive changes to tax policy.

9.3 The legislation does impact small or micro businesses.

9.4 As the measure represents a relaxation of current obligations, HMRC does not anticipate any adverse impact affecting small or micro businesses.

9.5 There is no, or no significant, impact on the public sector. Legislative changes arising from this instrument contain no substantive changes to tax policy.

### **10. Monitoring and review**

#### *What is the approach to monitoring and reviewing this legislation?*

10.1 The approach to the monitoring of this legislation is through normal compliance activity and regular communication with representative bodies.

10.2 In accordance with section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015, this instrument does not include a statutory review clause because it is made in relation to the imposition of a tax, duty, levy or other charge.

## **Part Three: Statements and Matters of Particular Interest to Parliament**

### **11. Matters of special interest to Parliament**

11.1 None.

### **12. European Convention on Human Rights**

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

### **13. The Relevant European Union Acts**

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).