
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 10

COMMUNICATIONS

CHAPTER 4

MANDATORY USE OF ELECTRONIC COMMUNICATIONS

Mandatory use of electronic communications

205.—(1) A specified employer must deliver specified information by an approved method of electronic communications to the Inland Revenue.

(2) The Board may make a general or specific direction requiring a specified employer to deliver specified information by a particular approved method of electronic communication.

(3) Specified information may be delivered under this regulation by a person on behalf of a specified employer.

(4) References in this Chapter to information and to the delivery of information must be construed in accordance with section 135(8) of the Finance Act 2002⁽¹⁾ (mandatory e-filing).

(5) This regulation applies in relation to specified information—

- (a) in respect of the tax year ending 5th April 2005, for specified employers who are large employers,
- (b) in respect of the tax year ending 5th April 2006 and subsequent tax years, for specified employers who are large or medium sized employers.

Specified employers

206.—(1) In this Chapter, “specified employer” means—

- (a) a large employer, or
- (b) a large or medium sized employer,

to whom an e-filing notice for a tax year has been issued by 31st December following the specified date for the tax year.

(2) But the following are not specified employers—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a), and
- (c) a company, if all the directors and the company secretary fall within sub-paragraph (a).

(3) In paragraph (2)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

Specified information

207.—(1) In this Chapter, “specified information” means the return and accompanying information required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)).

(2) But specified information does not include information supplied under special arrangements for the collection of tax made under regulation 141 (direct collection and special arrangements).

E-filing notice and appeals

208.—(1) In this Chapter, “e-filing notice” means a notice issued by the Inland Revenue in respect of a tax year that an employer—

- (a) is a large or a large or medium sized employer, and
- (b) does not fall within regulation 206(2) (religious objection),

and accordingly is required to use an approved method of electronic communications for the delivery of specified information for the tax year.

(2) An employer may appeal against an e-filing notice by notice to the Inland Revenue within 30 days of the issue of the e-filing notice.

(3) The grounds of appeal are that the employer does not satisfy the description specified.

(4) If an appeal is successful the e-filing notice must be withdrawn.

(5) Regulation 217 (appeals: supplementary provisions) applies to appeals under this regulation.

Standards of accuracy and completeness

209.—(1) Specified information delivered by a method of electronic communications must meet the standards of accuracy or completeness set by specific or general directions given by the Board of Inland Revenue.

(2) Specified information which fails to meet those standards must be treated as not having been delivered.

Penalties and appeals

210.—(1) A specified employer who fails to deliver specified information or any part of it in accordance with regulation 205 is liable to a penalty.

(2) Table 9 sets out the penalties for specified employers for the tax years ending 5th April 2005 to 5th April 2009, depending on the number of employees for whom particulars should have been included with the specified information.

Table 9

Penalties: tax years ending 5th April 2005 to 5th April 2009

<i>1. Number of employees for whom particulars should have been included with the specified information</i>	<i>2. Penalty</i>
1 – 49	nil
50 – 249	nil for tax year ending 5th April 2005, £600 for subsequent tax years

<i>1. Number of employees for whom particulars should have been included with the specified information</i>	<i>2. Penalty</i>
250 – 399	£900
400 – 499	£1,200
500 – 599	£1,500
600 – 699	£1,800
700 – 799	£2,100
800 – 899	£2,400
900 – 999	£2,700
1000 or more	£3,000

(3) An employer is not liable to a penalty if the employer had a reasonable excuse for failing to comply with regulation 205 which had not ceased at the time the specified information was delivered.

(4) A notice of appeal against a determination under section 100 of TMA(2) of a penalty under this regulation can only be on the grounds that—

- (a) the employer is not a specified employer, subject to paragraph (5),
- (b) the employer did comply with regulation 205,
- (c) the amount of the penalty is incorrect, or
- (d) paragraph (3) applies.

(5) An employer may not appeal on the grounds that the employer is not a specified employer if the employer has already appealed under regulation 208(2) (appeal against e-filing notice).

(6) Section 103A of TMA(3) (interest on penalties) applies to penalties payable under this regulation.

(2) Section 100 was substituted by section 167 of the Finance Act 1989 (c. 26) and amended by S.I.1994/1813.

(3) Section 103A was inserted by paragraph 33 of Schedule 19 to the Finance Act 1994 (c. 9).