

2003 No. 2495

INCOME TAX

**The Income Tax (Incentive Payments for Voluntary Electronic
Communication of PAYE Returns) Regulations 2003**

<i>Made</i>	- - - -	<i>29th September 2003</i>
<i>Laid before the House of Commons</i>		<i>29th September 2003</i>
<i>Coming into force</i>	- -	<i>20th October 2003</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 143(1) of, and Schedule 38 to, the Finance Act 2000(a), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Tax (Incentive Payments for Voluntary Electronic Communication of PAYE Returns) Regulations 2003 and shall come into force on 20th October 2003.

(2) In these Regulations—

“approved” means approved by means of a general or specific direction of the Board;

“the Board” means the Commissioners of Inland Revenue;

“direction” means a direction given by the Board;

“incentive payment” has the meaning given in Schedule 38;

“the Management Act” means the Taxes Management Act 1970(b);

“the PAYE Regulations” means the Income Tax (Employments) Regulations 1993(c);

“Schedule 38” means Schedule 38 to the Finance Act 2000;

“the specified date” means, in relation to a year of assessment, such date in the immediately preceding year of assessment as is announced annually by means of a direction given by the Board not later than 30th November of that preceding year; and

references to the delivery of information have the same meaning as they have in section 132 of the Finance Act 1999(d).

(3) In these Regulations “a small employer” is a person treated as paying PAYE income to 49 or fewer recipients at the specified date.

A person is treated as paying PAYE income to a recipient at the specified date if at that date—

(a) 2000 c. 17.

(b) 1970 c. 9.

(c) S.I. 1993/744: relevant amendments are those made by S.I. 1998/2484, 2001/1081 and 2003/2494.

(d) 1999 c. 16.

- (a) he is required by the PAYE Regulations or by regulation 6(6) of the Working Tax Credit (Payment by Employers) Regulations 2002^(a) to prepare or maintain a deductions working sheet in respect of the recipient; and
- (b) he has not delivered, sent or transmitted to the inspector a statement required by regulation 23 of the PAYE Regulations for the recipient.

Construction of references to numbers of employees

2.—(1) If an election has been made under regulation 3 of the PAYE Regulations (multiple employers) and—

- (a) no notice under paragraph (6) of that regulation (elections for improper purposes)^(b) has been given, or
- (b) any notice under that paragraph has been withdrawn,

paragraph (2) applies.

(2) Where this paragraph applies, a reference in these Regulations to a number of recipients shall be construed as a reference to the number of such employees treated as employed in a separate undertaking by virtue of regulation 3(1) of the PAYE Regulations.

Scope

3.—(1) These Regulations apply to the persons specified in paragraph (2) who deliver, or cause to be delivered, the return and supporting information required under regulation 43 of the PAYE Regulations by an approved method of electronic communications if—

- (a) the return and that information are delivered in respect of a year of assessment specified in paragraph (3); and
- (b) the return satisfies the conditions mentioned in regulation 4(1)(b).

(2) The persons specified in this paragraph are those who—

- (a) are small employers on the specified date; or
- (b) not being small employers on that date, are treated as making payments of PAYE income for the first time after that date.

(3) The years of assessment specified in this paragraph are 2004-05 to 2008-09.

Incentive payment — return under regulation 43 of the PAYE Regulations

4.—(1) The Board shall make an incentive payment in the amount prescribed in paragraph (3) to a person specified in regulation 3(2) for the year of assessment in question, if—

- (a) he delivers, or causes to be delivered, a return under regulation 43 of the PAYE Regulations for that year of assessment by an approved method of electronic communications; and
- (b) the return satisfies the conditions as to accuracy and completeness specified in any direction given by the Board.

This is subject to the following qualification.

(2) An incentive payment shall not be made in respect of a return which contains only information supplied in accordance with any of the provisions and arrangements mentioned in regulation 102(2) of the PAYE Regulations^(c).

(3) The amounts prescribed are those shown in the Table 1 for the relevant year of assessment.

^(a) S.I. 2002/2172, to which there are amendments not relevant for the purposes of this instrument.

^(b) Paragraph (6) is inserted by regulation 4(3) of S.I. 2003/2494.

^(c) Regulation 102 was amended by regulation 8 of S.I. 1996/1312.

Table 1

Amounts of incentive payment

<i>Year of assessment</i>	<i>Amount of incentive payment</i>
2004-05	£250
2005-06	£250
2006-07	£150
2007-08	£100
2008-09	£75

(4) Where an officer of the Board considers that a person, who has claimed to be entitled to an incentive under these Regulations—

- (a) does not satisfy one or more of the requirements of these Regulations or the directions made under them, or
- (b) is not entitled to an incentive payment by virtue of paragraph (2).

the officer shall give notice to that person that the conditions are not met or, where the incentive payment has already been authorised or made, notice withdrawing the incentive payment.

(5) Where, prior to the giving of a notice under paragraph (4), an incentive payment has already been made to the person referred to in that paragraph, an officer of the Board may recover the amount of the incentive payment in accordance with paragraph (6).

(6) For the purpose of paragraph (5), subsections (1), (4), (5) and (6) of section 30 and section 30A of the Management Act (recovery of overpayment of tax, etc and assessing procedure)(a) shall apply as if the amount to be recovered were an amount of income tax repaid to a person which ought not to have been repaid to him.

Notice of non-entitlement to incentive payment

5. If, during the year of assessment 2003-04, an officer of the Board considers that a person—

- (a) is not a small employer in respect of the year of assessment 2004-05; but
- (b) is treated as paying PAYE income to less than 250 employees at the specified date in respect of that year;

the officer shall give notice to that person that he is not entitled to an incentive payment under these Regulations for the year of assessment 2004-05.

Appeals

6.—(1) An appeal lies against a decision made by an officer of the Board under regulation 4(4) or 5 and may be brought—

- (a) by notice to an officer of the Board; and
- (b) within 30 days of the issue of the officer's notice under that regulation.

(2) An appeal may be brought against an officer's notice under regulation 4(4) on the grounds that the recipient of the notice—

- (a) has satisfied all the requirements of these Regulations and the directions made under them so far as they apply to him; and
- (b) is not precluded from receiving an incentive payment by virtue of regulation 4(2).

(a) Section 30 was substituted by section 149(1) of the Finance Act 1982 (c. 39): the relevant amendments are those made by section 88 of the Finance (No. 2) Act 1987 (c. 51), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1), section 149(3)(a) of the Finance Act 1989 (c. 26), paragraph 2(6) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), paragraph 4(1) of Schedule 19 to the Finance Act 1994 (c. 9), paragraph 13 of Schedule 19 to the Finance Act 1998 (c. 36) and paragraph 23 of Schedule 29 to the Finance Act 2001 (c. 9). Section 30A was inserted by paragraph 5 of Schedule 19 to the Finance Act 1994.

(3) The recipient of an officer's notice under regulation 5 may appeal against it on the grounds that he is entitled to an incentive payment for the year of assessment 2004-05.

(4) The following provisions of the Management Act apply to an appeal under these Regulations as they apply to an appeal under section 31 of that Act—

- (a) section 31A(5) and (6) (notice of appeal)(a);
- (b) section 31B (appeals to General Commissioners); and
- (c) section 31D (election to bring appeal before Special Commissioners).

(5) Paragraphs 3 and 8 of Schedule 3 to the Management Act (rules for assigning proceedings to General Commissioners)(b) shall apply for the purposes of an appeal under these Regulations as they apply to an appeal under the PAYE Regulations.

(6) In relation to an appeal under these Regulations the “relevant place” for the purposes of paragraph 3 of Schedule 3 to the Management Act (as applied by paragraph (5) of this regulation) is—

- (a) the appellant's place of business in the United Kingdom; or
- (b) where the appellant has no place of business in the United Kingdom, the appellant's place of residence in the United Kingdom.

(7) For the purposes of paragraph (6) “place of business” and “place of residence” have the same meanings as they have for the purposes of paragraph 2(2) of Schedule 3 to the Management Act.

Ann Chant
Helen Ghosh

29th September 2003

Two of the Commissioners of Inland Revenue

(a) Sections 31A to 31D were substituted by section 88 of, and paragraph 11 of Schedule 29 to the Finance Act 2001.
(b) Schedule 3 was substituted by paragraph 10 of Schedule 22 to the Finance Act 1996(c. 8). Paragraph 3 was amended by paragraph 123 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the payment of incentive in respect of the years of assessment 2004-05 to 2008-09 to employers, who are not required to file their end of year return electronically by virtue of the provisions of regulation 46ZC of the Income Tax (Employments) Regulations 1993 (S.I. 1993/744, referred to below as “the Employments Regulations”: regulation 46ZC is inserted by regulation 8 of S.I. 2003/2494) but do so voluntarily. The amounts of the incentive are shown in the Table in regulation 4(2).

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 provides for the construction of references in these Regulations to numbers of employees, applying the rule in regulation 3 of the Employment Regulations. Accordingly, if an employer has elected to have groups of employees treated as being employed in a separate undertaking, and that election does not fall to be disregarded by virtue of regulation 3(6) of those Regulations, references in these Regulations to a number of employees that the employer has is a reference to the number treated as employed in a separate undertaking by that regulation.

Regulation 3 defines the scope of the Regulations.

Regulation 4 provides the rules for determining, in accordance with directions given by the Commissioners of Inland Revenue (“the Board”), whether an incentive will be payable in respect of a particular employer for a year of assessment.

Regulation 5 provides a mechanism enabling entitlement to an incentive for a particular year of assessment to be determined in advance.

Regulation 6 provides for appeals against decisions made by officers of the Board, and applies procedural provisions of the Taxes Management Act 1970 (c. 9) for the purposes of such appeals.

A Regulatory Impact Assessment for these Regulations is available, and the directions referred to in the Regulations will, when published in October 2003, be available on the Inland Revenue website at www.inlandrevenue.gov.uk. The Assessment and the directions will also be available from the Inland Revenue Press Office, whose telephone number is 020 7438 6420.

STATUTORY INSTRUMENTS

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