
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 3

DEDUCTION AND REPAYMENT OF TAX

CHAPTER 2

NEW EMPLOYEES (OTHER THAN PENSIONERS): FORMS P45 AND P46

Scope of Chapter 2

41. This Chapter sets out the procedure to be followed for deductions and repayments (Form P45 and P46 procedure) in cases to which Chapter 3 (new pensioners: Forms P45 and P46) does not apply (see regulation 54).

Procedure if employer receives Form P45

42.—(1) This regulation applies—

- (a) if an employee gives Parts 2 and 3 of Form P45 to the employer on commencing employment, and
- (b) in the circumstances mentioned in regulation 51(2) (late presentation of Form P45: before employer required to send Form P46).

(2) The new employer must prepare a deductions working sheet and record on it the following information shown in Parts 2 and 3 of Form P45—

- (a) the employee's name,
- (b) the employee's national insurance number.

(3) If Parts 2 and 3 of Form P45 show that the earlier employment ended in the current tax year, the new employer must comply with regulation 43.

(4) If—

- (a) Parts 2 and 3 of Form P45 show that the earlier employment ended in the previous tax year, and
- (b) the new employment commences on or before 24th May,

the new employer must comply with regulation 44.

(5) If—

- (a) Parts 2 and 3 of Form P45 show that the employment ended in the previous tax year, and
- (b) the employment commences after 24th May,

the new employer must comply with regulation 45.

(6) If Parts 2 and 3 of Form P45 show that the employment ended in any earlier tax year, the new employer must comply with regulation 45.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F1}(6A) Paragraphs (7) and (8) apply if the employer is either—
- (a) a non-Real Time Information employer, or
 - (b) a Real Time Information employer to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment.]
- (7) In all cases the new employer must then insert in Part 3 of Form P45—
- (a) the employer's employer reference,
 - (b) the date on which the new employment commenced,
 - (c) any number used to identify the employee,
 - (d) the employee's code in use by the employer if different from the code shown in Parts 2 and 3 of Form P45,
 - (e) any figure recorded in accordance with paragraph (5)(c) or (6)(c) of regulation 43 (Form P45 for current tax year), if different from the total tax to date shown on Parts 2 and 3 of Form P45,
 - (f) the employee's address,
 - (g) the employee's date of birth, ...
- [^{F2}(ga) the employee's sex,]
- (h) the employee's job title or description,
 - (i) the employer's name, and
 - (j) the employer's address.
- (8) The employer must then send Part 3 of Form P45 to the employer's Inland Revenue office.

Textual Amendments

- F1** Reg. 42(6A) inserted (6.4.2012) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822), regs. 1(1), **11**
- F2** Reg. 42(7)(ga) inserted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **4(b)**

Form P45 for current tax year

43.—(1) The new employer must record in the deductions working sheet the code shown in Parts 2 and 3 of Form P45 as the employee's code.

(2) Paragraphs (3) to (10) apply if Parts 2 and 3 of Form P45 show that the cumulative basis was used.

(3) The employer must record in the deductions working sheet the total payments to date (if any) shown in Parts 2 and 3 of Form P45.

(4) The employer must record in the deductions working sheet the following additional information, or keep such records as enable its production.

- (5) If the code shown in Parts 2 and 3 of Form P45 is a K code, the additional information is—
- (a) the total additional pay to date,
 - (b) the total taxable payments to date, and
 - (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 and the total net tax deducted shown in it.

- (6) In any other case, the additional information is—
- (a) the total free pay to date,
 - (b) the total taxable payments to date, and
 - (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.

(7) The amounts required by paragraphs (5)(a) and (b) and (6)(a) and (b) must be arrived at by the employer by reference to the information shown in Parts 2 and 3 of Form P45.

(8) On making any relevant payment to the employee, the employer must deduct or repay tax by reference to the employee's code on the cumulative basis.

- (9) For the purposes of—
- (a) paragraph (8), and
 - (b) item 8 of Table 2 in regulation 36(4) (Form P45), and
 - (c) regulation 55(4)(f) [^{F3}(Form P46(Pen))],

the total payments to date recorded in the deductions working sheet in accordance with paragraph (3), and the figure recorded in accordance with paragraph (5)(c) or (6)(c) must be treated as if they were relevant payments made to the employee by, and tax deducted by, the new employer.

(10) For the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date) the figure recorded in accordance with paragraph (5)(c) or (6)(c) must be treated as the previous total tax to date when the employer next makes a relevant payment to the employee.

(11) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used, on making any relevant payment to the employee the employer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax by reference to the employee's code on the non-cumulative basis.

(12) The receipt by the employer of Parts 2 and 3 of Form P45 is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the employee.

Textual Amendments

- F3** Word in [reg. 43\(9\)\(c\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), 5

Form P45 for previous tax year: employment starting on or before 24th May

- 44.**—(1) The new employer must—
- (a) record in the deductions working sheet the code shown in Parts 2 and 3 of Form P45 as the employee's code, and
 - (b) deduct or repay tax by reference to that code on the cumulative basis, subject to regulation 32 (higher rate code: deductions).

(2) The receipt by the employer of Parts 2 and 3 of Form P45 is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the employee.

Other Forms P45

- 45.**—(1) The new employer must—
- (a) record in the deductions working sheet the emergency code as the employee's code, and

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(b) deduct tax from each relevant payment using the emergency code on the non-cumulative basis.

(2) The emergency code is treated as having been issued to the employer by the Inland Revenue as the code for use in respect of the employee.

[^{F4}Application of regulations 46 to 49E: Real Time Information employers and non-Real Time Information employers

45A.—(1) Regulations 46 to 49 (procedure where no Form P45) apply in relation to—

- (a) non-Real Time Information employers, and
- (b) Real Time Information employers to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee’s employment.

(2) Regulations 49A to 49E (procedure where employee fails to assist with completion of new employee fields or no Form P45) apply in relation to Real Time Information employers other than those within paragraph (1)(b).]

Textual Amendments
F4 Reg. 45A inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **12**

Form P46 where employer does not receive Form P45 and code not known

46.—(1) This regulation applies if—

- (a) an employee commences employment without giving the employer Parts 2 and 3 of Form P45, and
- (b) a code in respect of the employee has not otherwise been issued to the employer.

[^{F5}(1A) The employee must provide the following information in Form P46.

(1B) The information is —

- (a) the employee’s national insurance number (if known),
- (b) the employee’s full name,
- (c) the employee’s sex,
- (d) the employee’s date of birth, and
- (e) the employee’s full address including postcode.

[^{F6}A seconded expatriate who is a national of an EEA state (see section 56(3)(za) of ITA) ... must provide confirmation of this as additional information.]]

(1C)

(2) The employee must indicate in Form P46 which ... of the following statements [^{F7}applies]—

[^{F8}Statement A: that the employment referred to in paragraph (1)(a) is the employee’s first employment since the preceding 6th April, and the employee has not since that date received—

- (a) jobseeker’s allowance [^{F9}, incapacity benefit or employment and support allowance] which is subject to income tax, or
- (b) a retirement pension or an occupational pension;

Statement B: that the employee is not receiving a retirement pension or an occupational pension and since the preceding 6th April—

- (a) has had another employment, but is not now in receipt of employment income from it, or
- (b) has received jobseeker's allowance [^{F9}, incapacity benefit or employment and support allowance] which is subject to income tax, but payment of that allowance or benefit has ceased;

Statement C: that the employee either has another employment (which is continuing) or is in receipt of a retirement pension or an occupational pension.]

...

[^{F10}A seconded expatriate must indicate instead which of the following statements applies—

Statement A: the employee intends to live in the United Kingdom for [^{F11}183 days or more];

Statement B: the employee intends to live in the United Kingdom for less than [^{F12}183 days];

Statement C: the employee will work both inside and outside the United Kingdom, but will live outside.]

[^{F13}(2A) A Form P46 must be—

- (a) signed by the employee; or
- (b) delivered by the employer by an approved method of electronic communications after he has complied with paragraph (2B).

(2B) To the extent that the information contained in it relates to the employee, the employer must verify the content of a Form P46 before it is delivered.

(2C) If, despite the requirements of paragraphs (2) to (2B), a Form P46 is sent or delivered to an officer of Revenue and Customs without the requirements of those paragraphs being satisfied, the employer must deduct tax [^{F14}on the non-cumulative basis using code 0T] from the employee's earnings.]

[^{F15}(3) The employer must provide the following information in the Form P46—

- (a) the date on which the employment started;
- (b) the employee's works payroll number and the department or branch (if any) in which the employee is employed;
- (c) the title of the job;
- (d) the employer's PAYE reference;
- (e) the employer's name;
- (f) the employer's full address, including the postcode; and
- (g) the tax code used in relation to the employee's earnings.]

(4) The employer must keep the Form P46 until required to send it to the Inland Revenue in accordance with regulations 47 to 49.

(5) Before sending the Form P46, the employer must indicate in the Form which code is being used in respect of the employee and whether it is being used on the non-cumulative basis.

(6) For the purposes of paragraph (1)(b), the employer must ignore any code issued to the employer in respect of an employee's earlier employment which has ceased.

(7) This regulation ceases to apply in the circumstances mentioned in regulation [^{F16}51(2)(a)] (late presentation of Form P45: before employer required to send Form P46).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F5** Reg. 46(1A)(1B) inserted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(2)**
- F6** Words in reg. 46(1B) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(1)**
- F7** Word in reg. 46(2) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(a)(ii)**
- F8** Reg. 46(2): Statements A, B, C substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(b)**
- F9** Words in [reg. 46\(2\)](#) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **17(a)**
- F10** Words in reg. 46(2) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(3)**
- F11** Words in [reg. 46\(2\)](#) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **17(b)**
- F12** Words in [reg. 46\(2\)](#) substituted (6.4.2013 with application in relation to the tax year 2013-14 and subsequent tax years) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2013 \(S.I. 2013/521\)](#), regs. 1(2), **17(c)**
- F13** Reg. 46(2A)-(2C) inserted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(4)**
- F14** Words in reg. 46(2C) substituted (6.4.2011) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2011 \(S.I. 2011/729\)](#), regs. 1, **10**
- F15** Reg. 46(3) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(5)**
- F16** Words in reg. 46(7) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **13**

^{F17}Procedure in Form P46 cases: (a) seconded expatriate is national of EEA state or Commonwealth citizen, or (b) employee is not seconded expatriate and Statement A applies]

47.—^{F18}(1) This regulation applies in the case of an employee ^{F19}(not a seconded expatriate) who indicates that Statement A applies.

^{F19}It also applies to a seconded expatriate who confirms being a national of an EEA state ... (see regulation 46(1B)).]]

(2) On making the first relevant payment which ^{F20}equals or exceeds the lower earnings limit] to the employee, the employer must—

- ^{F21}(a) send the Form P46 to Her Majesty’s Revenue and Customs,]
- (b) prepare a deductions working sheet and enter the total payments to date, and
- (c) deduct tax on the cumulative basis using the emergency code.

^{F22}(2A) To comply with paragraph (2)(a)—

- (a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(3) On making any subsequent relevant payment before the Inland Revenue issue a code for use in respect of the employee, the employer must continue to deduct or repay tax on the cumulative basis using the emergency code.

(4)

Textual Amendments

- F17** Reg. 47 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(4)**
- F18** Reg. 47(1) substituted (6.4.2006) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **4(3)**
- F19** Words in reg. 47(1) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(5)**
- F20** Words in reg. 47(2) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **6(a)**
- F21** Reg. 47(2)(a) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **6(b)**
- F22** Reg. 47(2A) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **6(c)**

[^{F23}Procedure in Form P46 cases: (a) Statement B applies (not seconded expatriate), or (b) Statement B or C applies (seconded expatriate)]

48.—(1) This regulation applies in the case of an employee [^{F24}(not a seconded expatriate)] who indicates in the Form P46 that ... Statement B applies.

[^{F24}It also applies in the case of a seconded expatriate who indicates in the Form P46 that Statement B or C applies.]

(2) On making the first relevant payment which [^{F25}equals or exceeds the lower earnings limit] to the employee, the employer must—

- [^{F26}(a) send the P46 to Her Majesty’s Revenue and Customs,]
- (b) prepare a deductions working sheet and enter the total payments to date, and
- (c) deduct tax on the non-cumulative basis using the emergency code.

[^{F27}(2A) To comply with paragraph (2)(a)—

- (a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the employee’s code is issued, the employer must continue to deduct or repay tax on the non-cumulative basis using the emergency code.

(4)

Textual Amendments

- F23** Reg. 48 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(6)**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F24** Words in reg. 48(1) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **3(7)**
- F25** Words in reg. 48(2) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **7(a)**
- F26** Reg. 48(2)(a) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **7(b)**
- F27** Reg. 48(2A) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **7(c)**

[^{F28}Procedure in Form P46 cases: (a) Statement C applies (not seconded expatriate), or (b) Statement A applies (seconded expatriate)...]

49.—(1) This regulation applies in any case which is not dealt with by regulation 47 or 48 which concerns an employee to whom regulation 46(1) applies.

(2) On making the first relevant payment to the employee, the employer must—

[^{F29}(a) send the Form P46 to Her Majesty’s Revenue and Customs,]

(b) prepare a deductions working sheet and enter both the total payments to date and the total tax to date before the first payment as nil,

(c) deduct tax on the cumulative basis using the basic rate code.

[^{F30}(2A) To comply with paragraph (2)(a)—

(a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and

(b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the employee’s code is issued, the employer must continue to deduct tax on the cumulative basis using the basic rate code.

[^{F31}(4) In the case of a seconded expatriate, the emergency code must be used instead of the basic rate code mentioned in paragraphs (2)(c) and (3) (see also regulation 7(3) about the codes).]

Textual Amendments

- F28** Reg. 49 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **3(8)**
- F29** Reg. 49(2)(a) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **8(a)**
- F30** Reg. 49(2A) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **8(b)**
- F31** Reg. 49(4) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **3(9)**

[^{F32}Procedure where employee fails to assist with completion of new employee fields in returns under regulations 67B and 67D]

49A.—(1) If, despite the requirements of regulation 40A(1) and (2) (duty of employee to assist with completion of new employee fields in returns under regulations 67B and 67D) and regulations 67B (real time returns of information about relevant payments) and 67D (exceptions to regulation 67B), a return is sent to HMRC under those regulations without the new employee fields

being completed in respect of the employee, the employer must deduct tax on the non-cumulative basis using code 0T.

(2) In paragraph (1), “the new employee fields” has the same meaning as in regulation 40A.

Textual Amendments

F32 Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 14

Procedure where no Form P45 and code not known: application of regulations 49C to 49E

49B.—(1) Regulations 49C to 49E (procedure where no Form P45) apply if—

- (a) regulation 49A does not apply,
- (b) an employee commences employment without giving the employer Parts 2 and 3 of Form P45 and the circumstances mentioned in regulation 51(2)(b) (late presentation of Form P45) do not apply, and
- (c) a code in respect of the employee has not otherwise been issued to the employer.

(2) For the purposes of paragraph (1)(c), the employer must ignore any code issued to the employer in respect of an employee’s earlier employment which has ceased.

Textual Amendments

F32 Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 14

Procedure where no Form P45 and: (a) employee is not a seconded expatriate and paragraph 41(a) of Schedule A1 applies; or (b) seconded expatriate is national of EEA state

49C.—(1) This regulation applies where—

- (a) the employee is not a seconded expatriate and has indicated in accordance with regulation 40A(1) (duty of employee to assist with completion of new employee fields in returns under regulations 67B and 67D) that the statement in paragraph 41(a) of Schedule A1 (real time returns) is correct, or
- (b) the employee is a seconded expatriate and has confirmed in accordance with regulation 40A(1) being a national of an EEA state.

(2) On making the first relevant payment which equals or exceeds the lower earnings limit to the employee, the employer must—

- (a) prepare a deductions working sheet and enter the total payments to date, and
- (b) deduct tax on the cumulative basis using the emergency code.

(3) On making any subsequent relevant payment before HMRC issue a code for use in respect of the employee, the employer must continue to deduct or repay tax on the cumulative basis using the emergency code.

Textual Amendments

F32 Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 14

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Procedure where no Form P45 and: (a) employee is not a seconded expatriate and paragraph 41(b) of Schedule A1 applies; or (b) employee is a seconded expatriate and paragraph 43(b) or 43(c) of Schedule A1 applies

49D.—(1) This regulation applies where—

- (a) the employee is not a seconded expatriate and has indicated in accordance with regulation 40A(1) that the statement in paragraph 41(b) of Schedule A1 is correct, or
- (b) the employee is a seconded expatriate to whom regulation 49C does not apply and has indicated in accordance with regulation 40A(1) that the statement in paragraph 43(b) or 43(c) of Schedule A1 is correct.

(2) On making the first relevant payment which equals or exceeds the lower earnings limit to the employee, the employer must—

- (a) prepare a deductions working sheet and enter the total payments to date, and
- (b) deduct tax on the non-cumulative basis using the emergency code.

(3) On making any subsequent relevant payment before the employee's code is issued, the employer must continue to deduct or repay tax on the non-cumulative basis using the emergency code.

Textual Amendments

F32 Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 14

Procedure where no Form P45 and: (a) employee is a not seconded expatriate and paragraph 41(c) of Schedule A1 applies; or (b) employee is a seconded expatriate and paragraph 43(a) of Schedule A1 applies

49E.—(1) This regulation applies in any case which is not dealt with by regulation 49C or 49D.

(2) On making the first relevant payment to the employee, the employer must—

- (a) prepare a deductions working sheet and enter both the total payments to date and the total tax to date before the first payment as nil,
- (b) deduct tax on the cumulative basis using the basic rate code.

(3) On making any subsequent relevant payment before the employee's code is issued, the employer must continue to deduct tax on the cumulative basis using the basic rate code.

(4) In the case of a seconded expatriate, the emergency code must be used instead of the basic rate code mentioned in paragraphs (2)(b) and (3).]

Textual Amendments

F32 Regs. 49A-49E inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), 14

[^{F33}No Form P45: code treated as issued by HMRC]

50.—(1) [^{F34}Code 0T, the] emergency code or the basic rate code used by the employer in accordance with regulations [^{F35}46] to [^{F36}49E] is treated, for the purposes of Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information) as having been issued by the Inland Revenue as the code for use in respect of the employee.

(2) This does not apply for the purposes of regulation 18 (objections and appeals) and regulations 46 to [F3649E] and 51 to 53 (... late presentation of Form P45).

Textual Amendments

- F33** Reg. 50 heading substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **15**
- F34** Words in reg. 50 substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **16(a)**
- F35** Word in reg. 50 substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **16(b)**
- F36** Word in reg. 50 substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **16(c)**

[F37] Procedure in cases of retrospective earnings: code treated as issued by HMRC

50A.—(1) If—

- (a) as a result of a retrospective tax provision, a qualifying payment was made in a year (whether open or closed) to a person, and
- (b) a code has never been issued to the employer in respect of employment with whom that qualifying payment was made,

paragraph (2) applies.

(2) Where this paragraph applies the higher rate code applicable to the year in which the qualifying payment was made is treated, for the purposes of Parts 2 to 4 (codes, deduction and repayment of tax, payments, information and returns) as having been issued by HMRC as the code for use in respect of the employee in relation to that year.

(3) Paragraph (2) does not apply for the purposes of regulation 18 (objections and appeals) and regulations 46 to [F3849E] and 51 to 53 (Form P46 procedure and late presentation of Form P45).]

Textual Amendments

- F37** Reg. 50A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **7**
- F38** Word in reg. 50A(3) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **17**

Late presentation of Form P45

51.—(1) This regulation applies if an employee gives Parts 2 and 3 of Form P45 to the employer after commencing employment.

[F39](2) If the employee gives Parts 2 and 3 of Form P45 to the employer before, as the case may be—

- (a) the employer is required to send Form P46 to HMRC under regulations 47 to 49, or
- (b) the employer is required to send the first return in relation to the employee under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) to HMRC,

regulation 42 (procedure if employer receives Form P45) applies.]

(3) If the employee gives Parts 2 and 3 of Form P45 to the employer—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F40}(a) after, as the case may be—

- (i) Form P46 is required to have been sent to HMRC, or
- (ii) the employer is required to send the first return in relation to the employee under regulation 67B or 67D to HMRC,

but]

(b) before the employee's code has been issued to the employer,

this regulation and regulation 52 (late presentation of Form P45: employer's duties) apply.

(4) If the employee gives Parts 2 and 3 of Form P45 to the employer after the employee's code has been issued to the employer, they must be destroyed.

(5) If Parts 2 and 3 of Form P45 show that the employment ended in the current tax year then, unless the employer has already ceased to employ the employee—

- (a) the code shown in Parts 2 and 3 of Form P45 is treated as having been issued by the Inland Revenue to the employer on the day the employee gives them to the employer, and
- (b) the employer must comply with regulation 52.

(6) If Parts 2 and 3 of Form P45 show that the employment ended in the previous tax year and the employee gives them to the employer on or before 24th May then, unless the employer has already ceased to employ the employee—

- (a) the code shown in Parts 2 and 3 of Form P45 is treated as having been issued by the Inland Revenue to the employer on the day the employee gives them to the employer,
- (b) the employer must deduct or repay tax by reference to that code using the cumulative basis, subject to regulation 32 (higher rate code: deductions), and
- (c) the employer must comply with paragraphs (2) and (3) of regulation 52.

(7) Parts 2 and 3 of Form P45 must be destroyed—

- (a) if they show that the employment ended in the previous tax year and the employee gives them to the employer after 24th May, or
- (b) if they show that the employment ended in an earlier tax year.

Textual Amendments

F39 Reg. 51(2) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **18(a)**

F40 Reg. 51(3)(a) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **18(b)**

Late presentation of Form P45: employer's duties

52.—(1) This regulation applies in the circumstances mentioned in regulation 51(5); and paragraphs (2) and (3) of this regulation also apply in the circumstances mentioned in regulation 51(6).

[^{F41}(1A) Paragraphs (2) and (3) apply if the employer is either—

- (a) a non-Real Time Information employer, or
- (b) a Real Time Information employer to whom HMRC has given a notice requiring the employer to send to HMRC Form P45 or Form P46 on the commencement of a new employee's employment.]

(2) The employer must insert in Part 3 of Form P45—

- (a) the employer's employer reference,
 - (b) the date on which the new employment commenced,
 - (c) any number used to identify the employee,
 - (d) the employee's code in use by the employer if different from the code shown in Parts 2 and 3 of Form P45,
 - (e) if Parts 2 and 3 of the Form P45 show that the cumulative basis has been used, the figure (if any) recorded in accordance with paragraph (7)(c) or (8)(c) if different from the total tax to date shown on Parts 2 and 3 of Form P45,
 - (f) the employee's address,
 - (g) the employee's date of birth, ...
 - [^{F42}(ga) the employee's sex,]
 - (h) the employee's job title or description,
 - (i) the employer's name, and
 - (j) the employer's address.
- (3) The employer must then send Part 3 of Form P45 to the employer's Inland Revenue office.
- (4) The employer must prepare a deductions working sheet (unless the employer has already prepared one) in accordance with the following information shown in Parts 2 and 3 of Form P45—
- (a) the employee's name,
 - (b) the employee's national insurance number, and
 - (c) the employee's code.
- (5) The employer must record in the deductions working sheet the sum of—
- (a) the total payments to date (if any) shown in Parts 2 and 3 of Form P45, and
 - (b) the relevant payments which have been made by the employer since the employment commenced which have not already been recorded in the deductions working sheet.
- (6) If Parts 2 and 3 of Form P45 show that the cumulative basis has been used, the employer must also record the following additional information in the deductions working sheet, or keep such records as enable its production.
- (7) If the code shown in Parts 2 and 3 of Form P45 is a K code, the additional information is—
- (a) the total additional pay to date,
 - (b) the total taxable payments to date, and
 - (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 or the total net tax deducted shown in it.
- (8) In any other case, the additional information is—
- (a) the total free pay to date,
 - (b) the total taxable payments to date, and
 - (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.
- (9) The employer must ascertain the amounts required by paragraphs (7)(a) and (b) and (8)(a) and (b) by reference solely to the information shown in Parts 2 and 3 of Form P45.
- (10) If Parts 2 and 3 of Form P45 show that the cumulative basis has been used, the employer, on making any subsequent relevant payment to the employee, must deduct or repay tax by reference to the code shown in Parts 2 and 3 of Form P45 on the cumulative basis.
- (11) For the purposes of—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) paragraph (10), and
- (b) item 8 of Table 2 in regulation 36(4) (Form P45), and
- (c) regulation 55(4)(f) [^{F43}(Form P46(Pen))],

the total payments to date recorded in the deductions working sheet in accordance with paragraph (5) and the figure recorded in accordance with paragraph (7)(c) or (8)(c) must be treated as if they were relevant payments made to the employee by, and tax deducted by, the new employer.

(12) For the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date), the figure recorded in accordance with paragraph (7)(c) or (8)(c) must be added to any actual previous total tax to date, and the total treated as the previous total tax to date when the employer next makes a relevant payment to the employee.

(13) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used, on making any relevant payment to the employee, the employer must, subject to regulation 32 (higher rate code: deductions), deduct tax by reference to the code shown in Parts 2 and 3 of Form P45 on the non-cumulative basis.

Textual Amendments

- F41** Reg. 52(1A) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **19**
- F42** Reg. 52(2)(ga) inserted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **9(a)(ii)**
- F43** Word in reg. 52(11) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **9(b)**

[^{F44}No Form P45: subsequent procedure on issue of employee's code]

53.—(1) On making any relevant payment to an employee falling within regulation 47 to [^{F45}49E (procedure where no Form P45)] after the Inland Revenue have issued a code to the employer for use in respect of the employee, the employer must deduct or repay tax by reference to that code.

- (2) For the purposes of paragraph (1) and regulation 66 (deductions working sheets)—
 - (a) any total payments to date notified to the employer by the Inland Revenue are treated as if they represented relevant payments made by the employer; and
 - (b) the total net tax deducted before the first payment made in accordance with this regulation is taken to be the sum of—
 - (i) the total net tax deducted, if any, notified to the employer by the Inland Revenue, and
 - (ii) any tax which the employer was liable to deduct from the employee's relevant payments under regulation 47, 48 [^{F46}, 49, 49C, 49D or 49E].
- (3) For the purposes of—
 - (a) item 8 of Table 2 in regulation 36(4) (Form P45), and
 - (b) regulation 55(4)(f) [^{F47}(Form P46(Pen))],

any total payments to date and total net tax deducted which are notified to the employer by the Inland Revenue must be treated as if they were relevant payments made to the employee by, and tax deducted by, the employer.

(4) If the employee's previous code was used on the cumulative basis, any amount notified to the employer under paragraph (2)(b)(i) must be added to the previous total tax to date for the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Textual Amendments

- F44** [Reg. 53](#) heading substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **20**
- F45** Words in [reg. 53\(1\)](#) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **21(a)**
- F46** Words in [reg. 53\(2\)\(b\)\(ii\)](#) substituted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **21(b)**
- F47** Word in [reg. 53\(3\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **10**

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Income Tax (Pay As You Earn) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 67BD inserted by [S.I. 2024/305 reg. 2\(2\)](#)
- reg. 72GA-72GC inserted by [S.I. 2024/355 reg. 2\(2\)](#)