

## STATUTORY INSTRUMENTS

# 2003 No. 2682

## The Income Tax (Pay As You Earn) Regulations 2003

### PART 6

#### PAYE SETTLEMENT AGREEMENTS

##### *Making and effect of PSA*

##### **[<sup>F1</sup>HMRC] and employer may make PSA**

**105.**—(1) [<sup>F2</sup>HMRC] and an employer may agree that paragraph (2) applies in respect of income tax on qualifying general earnings of the employer's employees for a tax year [<sup>F3</sup>and for any subsequent tax years].

(2) In relation to qualifying general earnings included in the agreement, the employer is—

- (a) accountable to [<sup>F4</sup>HMRC] in accordance with the terms of the agreement and this Part, and
- (b) not accountable in accordance with the rest of these Regulations.

(3) Such an agreement is referred to as a PAYE settlement agreement (“PSA”).

[<sup>F5</sup>(4) A PSA will continue to have effect until cancelled.]

##### **Textual Amendments**

- F1** Word in [reg. 105 heading](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(a\)](#)
- F2** Words in [reg. 105\(1\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(b\)\(i\)](#)
- F3** Words in [reg. 105\(1\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(b\)\(ii\)](#)
- F4** Word in [reg. 105\(2\)\(a\)](#) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(c\)](#)
- F5** [Reg. 105\(4\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), [regs. 1, 7\(d\)](#)

##### **Commencement Information**

- I1** [Reg. 105](#) in force at 6.4.2004, see [reg. 1](#)

##### **Qualifying general earnings**

**106.**—(1) Qualifying general earnings are those general earnings which meet conditions A and B.

(2) Condition A is that the general earnings consist of—

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- (a) taxable benefits provided or made available by reason of employments with the employer, or
  - (b) expenses paid to persons holding those employments.
- (3) Condition B is that the employer and the Inland Revenue agree that the general earnings are—
- (a) minor, as regards the amount of the sums paid or the type of benefit provided or made available,
  - (b) irregular, as regards the frequency in which, or the times at which, the sums are paid or the benefit is provided or made available,
  - (c) paid in circumstances where deduction of tax by reference to the tax tables is impracticable, or
  - (d) in the case of a benefit provided or made available, shared between employees so that apportionment of the benefit between the employees is impracticable.
- (4) “Taxable benefit”, in relation to an employee, means any benefit provided or made available, other than in the form of a payment of money, to the employee or to a person who is a member of the employee’s family or household.
- (5) General earnings to which regulation 112(2)(a) or (b) (pre-agreement general earnings etc) apply are not qualifying general earnings.

#### Commencement Information

**I2** Reg. 106 in force at 6.4.2004, see [reg. 1](#)

#### Effect of PSA

**107.**—(1) Qualifying general earnings included in the PSA are treated as excluded from an employee’s income for the purposes of determining the amount of the employee’s liability to income tax for the tax [<sup>F6</sup>years] to which the PSA relates.

- (2) But this does not affect—
  - (a) the chargeability of those qualifying general earnings to income tax, or
  - (b) the employer’s liability under the PSA to account for income tax in respect of those qualifying general earnings.

(3) Sums in respect of income tax for which an employer is accountable to [<sup>F7</sup>HMRC] under a PSA are not to be treated, for the purposes of these Regulations, as tax deducted from relevant payments.

(4) An employee has no right to be treated as having paid tax in respect of sums for which the employer is accountable under a PSA, and accordingly is not entitled to claim or receive any refund of tax paid by the employer under the PSA.

(5) An employee must, subject to paragraph (6), be treated as relieved from any obligations under the Income Tax Acts—

- (a) to keep records containing information relating to qualifying general earnings included in a PSA, or
- (b) to deliver returns in respect of those qualifying general earnings.

(6) Paragraph (5) does not apply for the purposes of the obligations imposed on the employer under regulation 117 ([<sup>F8</sup>retention] of PSA records).

- (7) Qualifying general earnings comprised in a PSA are not to be included—

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- (a) in a return by the employer under regulation [<sup>F9</sup>67B, 67D, 67E,] 73, 74, or 75 (returns of relevant payments and tax deducted), nor
- (b) in particulars provided by the employer under regulation 85 (annual return of other earnings ([<sup>F10</sup>Form P11D])).

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#### Textual Amendments

- F6** Word in reg. 107(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **8(a)**
- F7** Word in reg. 107(3) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **8(b)**
- F8** Word in reg. 107(6) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2018 \(S.I. 2018/267\)](#), regs. 1, **8(c)**
- F9** Words in reg. 107(7)(a) inserted (6.4.2012) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S.I. 2012/822\)](#), regs. 1(1), **45**
- F10** Words in reg. 107(7)(b) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), **12**

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#### Commencement Information

- I3** Reg. 107 in force at 6.4.2004, see [reg. 1](#)

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**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\(2\)](#)