
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 8

SOCIAL SECURITY BENEFITS

CHAPTER 3

INCAPACITY BENEFIT

Interpretation of Chapter 3

173. In this Chapter—

“award” means an award of incapacity benefit;

“claim” means a claim for incapacity benefit;

“claimant” means a person who has made a claim;

“Department” means the Department for Work and Pensions or, in Northern Ireland, the Department for Social Development;

“incapacity benefit” means short-term incapacity benefit or long-term incapacity benefit payable under—

- (a) sections 30A(1), 30A(5), 40 or 41 of the Social Security Contributions and Benefits Act 1992(1), or
- (b) in Northern Ireland, section 30A(1), 30A(5), 40 or 41 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2);

“single-income claimant” means a claimant who, for a tax year—

- (a) is not entitled to receive any relevant payments in addition to the payments of taxable incapacity benefit, or
- (b) is so entitled but has failed to provide any details relating to those payments when making the claim,

and who is not a self-employed earner as defined by section 2 of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“taxable incapacity benefit” means any amount of incapacity benefit which is chargeable to income tax under Chapter 2 of Part 10 of ITEPA (tax on social security income).

(1) 1992 c. 4. Section 30A was inserted by section 1(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c. 30); section 40 was substituted by paragraph 8 and section 41 by paragraph 9 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994.

(2) 1992 c. 7. Section 30A was inserted by article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and amended by article 61 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 40 was substituted by paragraph 8 and section 41 by paragraph 9 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994.

Application of other regulations

174.—(1) The following regulations apply, subject to this Chapter, to payments of taxable incapacity benefit with the modifications mentioned in paragraphs (2) to (4)—

regulation 2	interpretation
regulation 15	flat rate codes
regulation 16	continued application of employee's code
regulation 17	notice to employee of code
regulation 18	objections and appeals against employee's code
regulation 19	amendment of code
regulation 20	notice to employer of amended code
regulation 21	deduction and repayment of tax by reference to employee's code
regulations 22 to 25	cumulative basis
regulations 26 to 31	non-cumulative basis
regulation 33	nil tax code: no deductions or repayments
regulation 36	cessation of employment: Form P45
regulation 66	deductions working sheets
regulation 67	information to employees about payments and tax deducted
regulation 68	periodic payments to and recoveries from the Revenue
regulation 69	due date and receipts for payments of tax
regulation 70	quarterly tax periods
regulation 72	recovery from employee of tax not deducted by employer
regulation 73	annual return of relevant payments liable to deduction of tax
regulation 74	annual return of relevant payments not liable to deduction of tax
regulation 76	certificate if tax in regulation 73 return is unpaid
regulation 79	certificate after inspection of PAYE records
regulation 84	recovery of tax and interest
regulation 97	inspection of employer's PAYE records
regulation 98	multiple PAYE schemes
regulation 102	succession to a business etc
regulation 141	direct collection and special arrangements

regulation 185	adjusting total net tax deducted for purposes of sections 59A(1) and 59B(1) TMA
regulation 188	assessments other than self-assessments
regulation 211	how information must or may be delivered by employers
regulation 216	service by post
regulation 218	certificate that sum due
regulation 219	payment by cheque.

(2) In the application of those regulations, the expressions listed in column 1 of Table 7 have the meanings shown in column 2 of the table.

Table 7

Meaning of expressions in application of other regulations

<i>1. Expression</i>	<i>2. Meaning for purposes of this Chapter</i>
employee	claimant
employer	Department
employment	award
relevant payments	taxable incapacity benefit.

(3) In regulation 15 (flat rate codes)—

- (a) omit paragraph (1);
- (b) omit paragraph (3)(a); and
- (c) for paragraph (3)(c) substitute—

“(c) the Inland Revenue consider that the code which would otherwise be the claimant’s code would result in too much tax being deducted for the tax year in question.”

(4) In regulation 21(1) (deduction and repayment of tax by reference to employee’s code), for “in accordance with these Regulations” substitute “in accordance with Chapter 3 of Part 8”.

Emergency IB code to be used before claimant’s code issued

175.—(1) Paragraph (2) applies if the Department makes a payment of taxable incapacity benefit during a tax year to a single-income claimant before a code has been issued by the Inland Revenue for that year in respect of that award.

(2) The Department must—

- (a) deduct tax using an emergency IB code on the non-cumulative basis, and
- (b) keep records in a deductions working sheet which it must prepare for the purpose.

(3) The use of an emergency IB code under this regulation is treated as the issue of a code for the purposes of regulations 21, 36 and 180.

Return in respect of all claimants to taxable incapacity benefit

176.—(1) When the Department first makes a payment of taxable incapacity benefit to a claimant it must immediately deliver a return to the Inland Revenue containing the following information.

(2) The information is—

- (a) the claimant's name,
- (b) the claimant's address,
- (c) the claimant's date of birth, if known,
- (d) the claimant's national insurance number,
- (e) the date on which the claimant's entitlement to taxable incapacity benefit began,
- (f) the weekly rate of taxable incapacity benefit being paid to the claimant,
- (g) if a code is being used for the payment, that code and whether it is used on the non-cumulative basis,
- (h) if the payment was preceded by payment of incapacity benefit which was not taxable, the date that benefit was first paid, and
- (i) the claimant's tax reference, if known.

Further return required in certain cases

177.—(1) On making a subsequent payment of taxable incapacity benefit to the claimant, the Department must deliver a further return in accordance with regulation 176 as if that subsequent payment were the first payment, if conditions A and B are met.

(2) Condition A is that the Inland Revenue have previously determined the claimant's code in relation to the payments of incapacity benefit to be a nil tax code.

(3) Condition B is that the subsequent payment is the first payment to be made at a different rate from the rate subsisting at the time of that determination.

(4) In addition to providing the information listed in regulation 176(2), the Department must indicate in the further return that the weekly rate of taxable incapacity benefit being paid to the claimant represents a revised amount.

Delivery of Form P45 to Department

178.—(1) This regulation applies if a single-income claimant—

- (a) has Parts 2 and 3 of Form P45, and
- (b) has not made, and does not intend to make, a claim for repayment of tax.

(2) The claimant must deliver Parts 2 and 3 of Form P45 when making a claim, and the Department must immediately send them to the Inland Revenue office.

Determination of claimant's code by Inland Revenue

179.—(1) On receiving a return under regulation 176 relating to a single-income claimant, the Inland Revenue must determine the code for the claimant.

(2) The Inland Revenue may determine the code for a claimant who is not a single-income claimant if they consider that it would be impractical to collect tax arising on the claimant's taxable incapacity benefit by other means.

(3) In determining the code for a claimant under this regulation, regulation 14(1) (matters to which Revenue must have regard in determining an employee's code) does not apply.

(4) If the Inland Revenue are satisfied the claimant is entitled, for the tax year for which the code is determined, to any of the following reliefs from income tax, they must have regard to that relief in determining the code for the claimant under this regulation.

(5) The reliefs are—

- (a) personal allowance (section 257(1) of ICTA(3)),
- (b) married couple's allowance (section 257A of ICTA(4)), and
- (c) blind person's allowance (section 265(1) of ICTA(5)).

(6) If the Inland Revenue determine the code for a claimant before the beginning of the tax year for which it is determined, the Inland Revenue—

- (a) must have regard to any expected change in the amounts of those reliefs, but
- (b) may disregard any of those reliefs if they are not satisfied that the claimant will be entitled to it for the tax year for which it is determined.

Death of claimant

180.—(1) On the death of a claimant in respect of whom a code has been issued by the Inland Revenue, the Department must—

- (a) complete Form P45 indicating in Part 1 that the claimant has died, and
- (b) send it to the Inland Revenue.

(2) The Department must comply with paragraph (1)—

- (a) on the day on which it learns of the claimant's death, or
- (b) if that is not practicable, without unreasonable delay.

(3) Paragraph (4) applies if the Department makes any payment of taxable incapacity benefit after the date of the claimant's death—

- (a) before completing Form P45, or
- (b) after completing Form P45 but during the tax year in which the claimant died.

(4) The Department must, on making the payment, deduct or repay tax as if the deceased claimant were still alive and the award had not ceased at the date of payment.

(5) Regulation 37(2) to (6) (PAYE income paid after employment ceased) applies to any payment of taxable incapacity benefit which—

- (a) is made in a tax year following the tax year in which the claimant died, and
- (b) is not included in Form P45.

(3) Section 257 was substituted by section 33 of the Finance Act 1988 (c. 39).

(4) Section 257A was inserted by section 33 of the Finance Act 1988, and amended by section 33(8)(a) and (9)(b) of the Finance Act 1989 (c. 26), section 77(2) of, and paragraph 1 of Schedule 8 to, the Finance Act 1994 (c. 9), paragraph 14 of Schedule 20 to the Finance Act 1996 and section 31(1) to (8) of the Finance Act 1999 (c. 16).

(5) Section 265 was substituted by paragraph 8 of Schedule 3 to the Finance Act 1988, and subsection (1) was amended by paragraph 19 of Schedule 20 to the Finance Act 1996 (c. 8).