

2005 No. 2691

INCOME TAX

**The Income Tax (Pay as You Earn) (Amendment) Regulations
2005**

Made - - - - - *26th September 2005*
Laid before the House of Commons *3rd October 2005*
Coming into force - - - *6th April 2006*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 684(1) and 707 of the Income Tax (Earnings and Pensions) Act 2003(a), section 113(1) of the Taxes Management Act 1970(b) and section 133(1) of the Finance Act 1999(c) and now exercisable by them, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Pay as You Earn) (Amendment) Regulations 2005 and shall come into force on 6th April 2006.

Amendment of the Income Tax (Pay as You Earn) Regulations 2003

2. The Income Tax (Pay as You Earn) Regulations 2003(d) shall be amended as follows.

3.—(1) Amend regulation 46 (Form P46 where employer does not receive Form P45 and code not known) as follows.

(2) After paragraph (1) insert—

“(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.”

(a) 2003 c. 1. Section 684 has been amended by section 145 of the Finance Act 2003 (c. 14) and paragraphs 101, 102 and 117 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11: “CRCA”). Section 707 is cited because of the meaning it ascribes to “prescribed”.

(b) 1970 c. 9.

(c) 1999 c. 16. The functions of the Commissioners of Inland Revenue (“the former Commissioners”) were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005. See also section 50 of that Act in relation to the construction of references to the former Commissioners in other enactments.

(d) S.I. 2003/2682.

- (3) In paragraph (2)—
- (a) in the words before Statement A—
 - (i) omit “(if any)”; and
 - (ii) for “apply” substitute “applies”;
 - (b) for Statements A, B and C substitute—

“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 or incapacity benefit 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 or incapacity benefit 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.”; and
 - (c) omit the words after Statement C.
- (4) After paragraph (2) insert—
- “(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 at the basic rate from the employee’s earnings.”.
- (5) For paragraph (3) substitute—
- “(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.”.

Amendment of regulation 47

- 4.—(1) Amend regulation 47 as follows.
- (2) For the heading substitute—

“Procedure in Form P46 Cases: Statement A applies”.

(3) For paragraph (1) substitute—

“(1) This regulation applies in the case of an employee who indicates that Statement A applies.”.

Amendment of regulation 48

5.—(1) Amend regulation 48 as follows.

(2) For the heading substitute—

“Procedure in Form P46 Cases: Statement B applies”.

(3) In paragraph (1) omit “only”.

Amendment of regulation 49

6.—(1) Amend regulation 49 (Form P 46 cases: other new employees) as follows.

(2) For the heading substitute—

“Procedure in Form P46 Cases: Statement C applies or Form P46 not signed when required”.

Amendment of regulation 57

7.—(1) Amend regulation 57 (information to be provided in form P46: non UK resident pension payee) as follows.

(2) For paragraph (3) substitute—

“(3) The information is—

- (a) the pensioner’s national insurance number (if known),
- (b) the pensioner’s full name,
- (c) the pensioner’s sex,
- (d) the pensioner’s date of birth,
- (e) the pensioner’s full address including postcode,
- (f) date upon which payment of the pension started,
- (g) the pensioner’s works payroll number and the department or branch (if any),
- (h) the fact that the recipient is a pensioner,
- (i) the pension payer’s PAYE reference,
- (j) the pension payer’s name,
- (k) the pension payer’s full address, including the postcode.”.

Amendment of regulation 58

8.—(1) Amend regulation 58 (information to be provided in form P46: UK resident pension payee for whom code not known) as follows.

(2) For paragraph (4) substitute—

“(4) The information is—

- (a) the pensioner’s national insurance number (if known),
- (b) the pensioner’s full name,
- (c) the pensioner’s sex,

- (d) the pensioner's date of birth,
- (e) the pensioner's full address including postcode,
- (f) date upon which payment of the pension started,
- (g) the pensioner's works payroll number and the department or branch (if any),
- (h) the fact that the recipient is a pensioner,
- (i) the pension payer's PAYE reference,
- (j) the pension payer's name,
- (k) the pension payer's full address, including the postcode, and
- (l) the tax code used in relation to the pension."

Amendment of regulation 74

9.—(1) Amend regulation 74 (annual return of payments not liable to deduction of tax (Form P38A)) as follows.

(2) In paragraph (4)(b) for "(or both) apply" substitute "applies".

*David Varney
Helen Ghosh*

26th September 2005

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) to give effect to changes to the information to be required, from the start of the tax year 2006-07, on the Form P46.

Regulation 1 provides for the citation and commencement of the instrument.

Regulation 2 introduces the amendments.

Regulations 3, 7 and 8 make amendments to the information required to be provided on a Form P46 in relation respectively to employees, pensioners not resident in the United Kingdom and pensioners who are resident there.

The other regulations make consequential changes.

A regulatory impact assessment has been prepared in respect of the costs to the Exchequer and employers involved in the changes made by these Regulations (and those involved by the Education (Student Loans) (Repayment) (Amendment No. 2) Regulations 2005 (S.I. 2005/2690).

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