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STATUTORY INSTRUMENTS

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**2013 No. 521**

**The Income Tax (Pay As You Earn)  
(Amendment) Regulations 2013**

**PART 5**

**Real Time Information**

**Real Time Information employers**

- 14.** In regulation 2A (Real Time Information employers)(1)—
- (a) in paragraph (1)—
    - (i) omit sub-paragraph (c) (but not the “and” after it), and
    - (ii) in sub-paragraph (d), after “employers” insert “, except employers within paragraph (3)”, and
  - (b) after paragraph (2) insert—
    - “(3) An employer is within this paragraph if the employer—
      - (a) has an existing special arrangement under regulation 141 (direct collection and special arrangements), and
      - (b) has not been given a direction under paragraph (2) by the Commissioners for Her Majesty’s Revenue and Customs.”.

**Real Time Information pension payers**

- 15.** In regulation 2B(1) (Real Time Information pension payers)(2), omit the first sub-paragraph (c).

**Cessation of employment: Form P45**

- 16.** In regulation 36 (cessation of employment: Form P45)(3), after paragraph (1) insert—
- “(1A) If Part 3 of Form P45 is not available—
    - (a) the employer is not required to complete that Part of the Form, and
    - (b) where the employer does not complete that Part, any requirement, however expressed, in these Regulations which relates only to Part 3 does not apply.”.

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(1) Regulation 2A was inserted by regulation 4 of [S.I. 2012/822](#).

(2) Regulation 2B was inserted by regulation 4 of [S.I. 2012/822](#).

(3) Regulation 36 has been amended by regulation 3 of [S.I. 2007/2969](#) and regulation 6 of [S.I. 20012/822](#).

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

17. In regulation 46(2) (Form P46 where employer does not receive Form P45 and code not known)(4)—

- (a) in paragraph (a) of the first Statement A and paragraph (b) of the first Statement B, for “or incapacity benefit” substitute “, incapacity benefit or employment and support allowance”,
- (b) in the second Statement A, for “more than 6 months” substitute “183 days or more”, and
- (c) in the second Statement B, for “6 months” substitute “183 days”.

### **Real time returns of information about relevant payments**

18. Omit regulation 67B(6) and (7) (real time returns of information about relevant payments)(5).

### **Modifications of the requirements of regulation 67B**

19. After regulation 67B insert—

#### **“Employees in respect of whom employer is not required to maintain deductions working sheets**

**67BA.**—(1) This regulation applies if an employer makes a relevant payment to an employee in respect of whom the employer is not required by regulation 66 (deductions working sheets) to maintain a deductions working sheet.

(2) The employer need not deliver the information required by regulation 67B(1) on or before making the payment.

(3) The employer must deliver that information no later than the end of the period of 7 days starting with the day following the day on which the payment is made.

#### **Employees paid in specified circumstances**

**67BB.**—(1) This regulation applies if an employer makes a payment to an employee and all of the circumstances in paragraph (2) apply.

(2) The circumstances are that—

- (a) the payment includes an amount which is a relevant payment for work undertaken by the employee on—
  - (i) the day the payment is made, or
  - (ii) provided that the payment is made before the employee leaves the place of work at the end of the employee’s period of work, the day before the payment is made,
- (b) in respect of the work mentioned in sub-paragraph (a), it was not reasonably practicable for the employer to calculate the payment due before the completion of the work, and
- (c) it is not reasonably practicable for the employer to deliver the information required by regulation 67B(1) on making the payment.

(3) The employer need not deliver the information required by regulation 67B(1) on or before making the payment.

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(4) Regulation 46(2) has been amended by regulation 3(3) of [S.I. 2005/2691](#) and regulation 3(3) of [S.I. 2009/588](#).

(5) Regulation 67B was inserted by regulation 27 of [S.I. 2012/822](#).

(4) The employer must deliver that information no later than the end of the period of 7 days starting with the day following the day on which the payment is made.

#### **Regulations 67BA and 67BB: supplementary**

**67BC** Where regulation 67BA or 67BB applies, the information required by regulation 67B(1) in respect of the relevant payment may be included in a return with the information for any other relevant payment.”.

#### **Modification of the requirements of regulation 67B: notional payments**

**20.** In regulation 67C (modification of the requirements of regulation 67B: notional payments)(**6**) for paragraph (2) substitute—

“(2) If the employer is unable to comply with the requirements in regulation 67B(1) to deliver the information required by that regulation on or before making the relevant payment, the employer must instead deliver the information as soon as reasonably practicable after the payment is made and in any event no later than 14 days after the end of the tax month in which the payment is made.”.

#### **Exceptions to regulation 67B**

**21.** In regulation 67D (exceptions to regulation 67B)(**7**)—

- (a) in paragraph (1)—
  - (i) omit the “and” after sub-paragraph (c), and
  - (ii) after paragraph (d) insert—
    - “, and
    - (e) an employer to whom a direction has been given under paragraph (11)”,
- (b) after paragraph (2) insert—
  - “(2A) Before 6th April 2014, a Real Time Information employer to whom this regulation applies may proceed as if the employer were a non-Real Time Information employer and the provisions of these Regulations apply accordingly to such an employer.”,
- (c) in paragraph (3), for “A” at the beginning substitute “On and after 6th April 2014, a”,
- (d) omit paragraphs (7) and (8), and
- (e) after paragraph (10) insert—
  - “(11) Where the Commissioners for Her Majesty’s Revenue and Customs are satisfied that—
    - (a) it is not reasonably practicable for an employer to make a return using an approved method of electronic communication, and
    - (b) it is the employer who delivers the return (and not some other person on the employer’s behalf)they may make a direction specifying that the employer is not required to make a return using an approved method of electronic communication.”.

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(6) Regulation 67C was inserted by regulation 27 of [S.I. 2012/822](#).

(7) Regulation 67D was inserted by regulation 27 of [S.I. 2012/822](#).

## Returns under regulations 67B and 67D: amendments

22. In regulation 67E (returns under regulations 67B and 67D: amendments)(8)—
- (a) in paragraph (7)(a)(i), for “13 and 15” substitute “13, 15 and 22A”,
  - (b) omit paragraph (7)(a)(ii),
  - (c) for paragraph (7)(a)(iv) substitute—
    - “(iv) the tax code used by the employer in respect of the employee in the tax year in question and,”, and
  - (d) in paragraphs (7)(a)(v) and (8)(c), for “44” substitute “43”.
23. After regulation 67E insert—

### “Failure to make a return under regulation 67B or 67D

67EA.—(1) This regulation applies where an employer does not make a return as required by regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B).

(2) The employer must provide the information in the next return made under regulation 67B or 67D for the tax year in question.

(3) If the information has not been provided before 20th April following the end of the tax year in question, the employer must make a return under this paragraph.

(4) A return under paragraph (3) must—

- (a) include the information specified in Schedule A1,
- (b) be made as soon as reasonably practicable after the discovery of the failure to make the return, and
- (c) be made using an approved method of electronic communications.

(5) If a return under paragraph (3) is not made before 20th May following the end of the tax year in question section 98A of TMA 1970 (special penalties in case of certain returns) will apply to the return.”.

## Additional information about payments

24. In regulation 67F(2) (additional information about payments)(9), after sub-paragraph (b) insert—

- “(c) if the notification is under paragraph (1)(b)(i), include the date on which the PAYE scheme ceased”.

## Payments to and recoveries from HMRC for each tax period by Real Time Information employers

25. In regulation 67G (payments to and recoveries from HMRC for each tax period by Real Time Information employers)(10), after paragraph (5) insert—

“(5A) If the employer makes a return under regulation 67EA(3) (failure to make a return under regulation 67B or 67D) a “relevant amount” for the purposes of paragraph (4) is the amount shown under paragraph 17 of Schedule A1 (real time returns) for an employee in that return for the tax year to which that return relates.”.

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(8) Regulation 67E was inserted by regulation 27 of [S.I. 2012/822](#).

(9) Regulation 67F was inserted by regulation 27 of [S.I. 2012/822](#).

(10) Regulation 67G was inserted by regulation 27 of [S.I. 2012/822](#).

### **Payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under regulation 67E(6)**

**26.** In regulation 67H (payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under regulation 67E(6))(11)—

(a) for paragraph (2) substitute—

“(2) If the return shows an adjustment under regulation 67E(7)(a)(iii) and the value of the adjustment is a positive amount, that amount is an amount due to be paid to HMRC for the final tax period of the tax year the return relates to.”, and

(b) in paragraph (3), for “if the value of the adjustment required by paragraph (2) is a negative amount” substitute “if the return shows such an adjustment and the value of the adjustment is a negative amount, that amount is an amount due to be repaid to the employer for the final tax period of the tax year the return relates to and”.

### **Due date and receipts for payment of tax**

**27.** In regulation 69(1) and (2) (due date and receipts for payments of tax)(12), after “67G(2)”, insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Quarterly tax periods**

**28.** In regulation 70(3) (quarterly tax periods)(13) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Modification of regulations 67G and 68 in case of trade disputes**

**29.** In regulation 71 (modification of regulations 67G and 68 in case of trade disputes)(14)—

(a) in paragraph (3) after “67G(2)” insert “, as adjusted by regulation 67H(2) where appropriate,”, and

(b) In paragraph (4) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Power of HMRC to issue a notice and certificate in cases where regulation 67B or 67D returns are not made**

**30.** In regulation 75A (power of HMRC to issue a notice and certificate in cases where regulation 67B or 67D returns are not made etc)(15)—

(a) in paragraph (3)—

(i) in sub-paragraph (a) after “employers”, insert “as adjusted by regulation 67H(2) where appropriate,”, and

(ii) in sub-paragraph (b) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate”,

(b) in paragraph (4) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”, and

(c) in paragraph (10)(a) after “67G” insert “, where appropriate”.

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(11) Regulation 67H was inserted by regulation 27 of [S.I. 2012/822](#).

(12) Regulation 69 has been amended by regulation 30 of [S.I. 2012/822](#).

(13) Regulation 70(3) has been amended by regulation 3 of [S.I. 2010/2496](#) and regulations 31 and 63 of [S.I. 2012/822](#).

(14) Regulation 71 has been amended by regulations 32 and 33 of [S.I. 2012/822](#).

(15) Regulation 75A was inserted by regulation 35 of [S.I. 2012/822](#).

### **Certificates under regulation 75A: excess payments**

- 31.** In regulation 75B (certificates under regulation 75A: excess payments)(**16**)—
- (a) in the heading for “regulations” substitute “regulation”, and
  - (b) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Determination of unpaid tax and appeal against determination**

- 32.** In regulation 80(1) and (4)(a) (determination of unpaid tax and appeal against determination)(**17**) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Interest on tax overdue**

- 33.** In regulation 82(6)(a) (interest on tax overdue)(**18**) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Requirement for security**

- 34.** In regulation 97N(1) (requirement for security)(**19**) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate”.

### **Succession to a business: trade disputes**

- 35.** In regulation 104(4) (succession to a business: trade disputes)(**20**) after “67G(3)(b)” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Large employers required to make specified payments electronically**

- 36.** In regulation 199(2) (large employers required to make specified payments electronically)(**21**) after the first occurrence of “employers)” insert “, as adjusted by regulation 67H(2) where appropriate,”.

### **Real time returns**

- 37.** In Schedule A1 (real time returns)(**22**)—
- (a) in paragraph 5, after “ceased” insert “(and, in that case, the date of cessation)”,
  - (b) in paragraph 7(f) omit “or a managed service company”,
  - (c) in paragraph 13, for “, if any” substitute “in this employment”,
  - (d) after paragraph 14 insert—
    - “**14A.** If applicable, an indication that the payment to which the return relates is a payment to any one of—
    - (a) a body corporate,
    - (b) a trustee of a trust of which the employee is a beneficiary,
    - (c) if the employee has died, the employee’s personal representative.

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(16) Regulation 75B was inserted by regulation 35 of [S.I. 2012/822](#).

(17) Regulation 80 has been relevantly amended by regulation 38 of [S.I. 2012/822](#).

(18) Regulation 82(6) has been amended by regulation 39 of [S.I. 2012/822](#).

(19) Regulation 97N was inserted by regulation 58 of [S.I. 2012/822](#).

(20) Regulation 104(4) has been amended by regulation 44 of [S.I. 2012/822](#).

(21) Regulation 199(2) has been amended by regulation 6 of [S.I. 2010/668](#) and by regulation 47 of [S.I. 2012/822](#).

(22) Schedule A1 was inserted by regulation 52 of [S.I. 2012/822](#).

- 14B** Where the return relates to a payment within paragraph 14A, the information required by paragraphs 8 to 12 need not be provided.”
- (e) after paragraph 22 insert—
- “**22A.** If applicable, an indication that comprised within the payment is—
- (a) a pension and if so—
- (i) the amount of the pension.
- (ii) an indication of whether it is an occupational pension, and
- (iii) an indication of whether the pension is being paid because the pensioner is a bereaved spouse or civil partner,
- (b) a trivial commutation lump sum, within the meaning given by paragraph 7 or 7A of Schedule 29 to the Finance Act 2004<sup>(23)</sup> and, if so, the amount of that lump sum,
- (c) a lump sum that falls within regulation 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(24)</sup> and, if so, the amount of that lump sum,
- (d) a lump sum that falls within regulation 11A (payments by schemes which are not public service pension schemes or occupational pension schemes) of those Regulations and, if so, the amount of that lump sum.”
- (f) after paragraph 26 insert—
- “**26A.** The value of the amounts referred to in paragraph 26 in the tax year to date.”
- (g) in paragraph 27, for “The”, at the beginning, substitute “If the employer is required by regulation 67CA(1)(a) (notifications of relevant payments to and by providers of certain electronic payment methods)<sup>(25)</sup> to include a reference in the return, the”
- (h) in paragraph 28, for “The”, at the beginning, substitute “If the employer is required by regulation 67CA(1)(a) to include a reference in the return, the”
- (i) after paragraph 30 insert—
- “**30A.** The value of the contributions referred to in paragraph 30 in the tax year to date.”
- (j) after paragraph 31 insert—
- “**31A.** The value of the contributions referred to in paragraph 31 in the tax year to date.”
- (k) after paragraph 34 insert—
- “**34A.** If applicable, an indication that during the period since the employer last made a return under regulation 67B or 67D containing information about the employee—
- (a) regulation 64 (trade disputes) has at any time applied in relation to the employee, or
- (b) the employee has been absent from the employment without pay.”
- (l) in paragraph 41(a)(i) and (b)(ii), for “or incapacity benefit” substitute “, incapacity benefit or employment and support allowance”

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<sup>(23)</sup> 2004 c. 12. Paragraph 7 has been amended by paragraph 4 of Schedule 18 to the Finance Act 2011 (c. 11). Paragraph 7A was inserted by article 23C(1) and (4) of S.I. 2006/572.

<sup>(24)</sup> S.I. 2009/1171 as amended by S.I. 2011/17512012/522 and 2012/1881.

<sup>(25)</sup> Regulation 67CA was inserted by regulation 2 of S.I. 2012/1895.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (m) in paragraph 43(a) and (b), for “six months” substitute “183 days”,
- (n) omit paragraph 44.