

2013 No. 521

INCOME TAX

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

Made - - - - 12.05 p.m. on 14th March 2013

Laid before the House of Commons 14th March 2013

Coming into force in accordance with regulation 1(2) to (4)

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 59A(10), 59B(8), 98A and 113(1) of the Taxes Management Act 1970(a), section 133 of the Finance Act 1999(b), section 136 of the Finance Act 2002(c) and section 684 of the Income Tax (Earnings and Pensions) Act 2003(d) and now exercisable by them(e).

PART 1

General

Citation commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment) Regulations 2013.

(2) Regulations 1 to 3 and 12 to 40 come into force on 6th April 2013 and apply in relation to the tax year 2013-14 and subsequent tax years.

(a) 1970 c. 9. Section 59A was inserted by section 192 of the Finance Act 1994 (c. 9). Subsection (10) was inserted by section 126(1) of the Finance Act 1996 (c. 8) and amended by paragraph 130(b) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) and section 145(7) of the Finance Act 2003 (c. 14). Section 59B was inserted by section 193 of the Finance Act 1994. Subsection (8) was inserted by section 126(2) of the Finance Act 1996 and amended by paragraph 131(4) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) and section 145(7) (b) of the Finance Act 2003 (c. 14). Section 98A was inserted by section 165 of the Finance Act 1989 (c. 26) and has been relevantly amended by paragraph 138 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 and paragraph 29(a) of Schedule 24 to the Finance Act 2007 (c. 11).

(b) 1999 c. 16.

(c) 2002 c. 23.

(d) 2003 c. 1. Section 684 has been relevantly amended by section 145 of the Finance Act 2003, paragraphs 102(2) and 117 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11), section 94(3) of the Finance Act 2006 (c. 25), by paragraphs 2 to 7 of Schedule 58 to the Finance Act 2009 (c. 10) and by section 225 of the Finance Act 2012 (c. 14).

(e) The powers of the Board of Inland Revenue under section 684 of the Income Tax (Earnings and Pensions) Act 2003 were transferred to the Commissioners for Revenue and Customs Act 2005 by paragraph 102(2) of that Act. The powers of the Board of Inland Revenue under section 113(1) of the Taxes Management Act 1970, section 133 of the Finance Act 1999 and sections 135 and 136 of the Finance Act 2002 were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005. Section 50(1) of that Act provides that, in so far as appropriate, in consequence of section 5 a reference in an enactment, instrument or other document to the Commissioners of Inland Revenue (however expressed) shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(3) Regulation 4 comes into force on 6th April 2013 and applies in relation to the tax year 2013-14 only.

(4) Regulations 5 to 11 come into force on 6th April 2014.

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

2. The Income Tax (Pay As You Earn) Regulations 2003(a) are amended as follows.

PART 2

High Income Child Benefit Charge

3. After regulation 14A (determination of code in respect of recovery of relevant debts)(b) insert—

“Determination of code in respect of high income child benefit charge

14B. HMRC may determine a code, if and to the extent that the payee does not object, to secure that—

- (a) income tax payable for a tax year by the payee by virtue of section 681B of ITEPA(c) (high income child benefit charge) is deducted from PAYE income of the payee paid during that year, and
- (b) repayments are made in a tax year in respect of any amounts overpaid on account of income tax under that section for that tax year.”.

PART 3

Closure of the Simplified Deduction Scheme

Simplified deduction scheme: tax year 2013-14

4. In regulation 34 (simplified deduction scheme for personal employees)(d), before paragraph (1), insert—

“(A1) This regulation only applies to employers who are care and support employers for the purposes of regulation 67D(10) (exceptions to regulation 67B) of these Regulations.”.

Simplified deduction scheme: tax year 2014-15 and subsequent tax years

5. Regulations 34 and 35 (simplified deduction scheme: records) are omitted.

Consequential amendments

6. In regulation 2(1) (interpretation)(e)—

- (a) in paragraph (b) of the definition of “deductions working sheet”, omit “regulations 34 and 35 (simplified deduction scheme), and”, and
- (b) in paragraph (a) of the definition of “tax period”, omit “regulation 34 (simplified deduction scheme for personal employees) or”.

(a) S.I. 2003/2682 as amended by S.I. 2005/2691, 2007/1077, 2007/2969, 2009/588; 2009/2029, 2010/668, 2011/1584, 2011/2496, 2012/1895 and 2012/822. There are other amending instruments, but none are relevant.

(b) Regulation 14A was inserted by regulation 2(2) of S.I. 2011/1584.

(c) Section 681B was inserted by paragraph 1 of Schedule 1 to the Finance Act 2012 (c. 14).

(d) Regulation 34 has been amended by regulation 64 of S.I. 2012/822.

(e) Regulation 2 has been amended but none are relevant.

7. In the lists in regulations 10(4) (application to agencies and agency workers), 11(2) (application to pension payers and pensioners)(a) and 12(2) (application to other payers and payees), omit the references to regulations 34 and 35.

8. In the list in regulation 62(3) (deductions in respect of notional payments)(b), omit the reference to regulation 34.

9. Omit regulation 97O(1)(c) (employers)(c).

10. Omit regulation 206(2)(d) (employers)(d).

11. In Table 10 in regulation 211(4) (how information must or may be delivered by employers)(e), omit the references to regulation 35.

PART 4

Relevant lump sum payments

Relevant lump sum payments

12. In regulation 58 (procedure if no Form P45 and code not known: UK pensioners)(f)—

(a) after paragraph (1) insert—

“(1A) This regulation does not apply where the relevant pension payment is a relevant lump sum payment.”, and

(b) after paragraph (6) insert—

“(7) In this regulation, and in regulation 58A (procedure if no Form P45 and code not known where payment is a relevant lump sum payment)(g), a “relevant lump sum payment” is—

- (a) a payment of taxable pension income under section 636B or 636C of ITEPA, or treated as such a payment, and
- (b) which is made at a time when the pension payer is not making any other payments of PAYE pension income to the pensioner under the same registered pension scheme.”.

13. After regulation 58 (procedure if no Form P45 and code not known: UK pensioners) insert—

“Procedure if no Form P45 and code not known where payment is a relevant lump sum payment

58A.—(1) This regulation applies if—

- (a) a pension payer makes a payment of a relevant lump sum payment,
- (b) the pensioner is resident in the United Kingdom,
- (c) the pensioner does not give to the pension payer Parts 2 and 3 of Form P45, and
- (d) a code in respect of the pensioner has not otherwise been issued to the pension payer.

(a) Regulation 11 has been amended but none are relevant.

(b) Regulation 62(3) has been amended by regulation 8 of S.I. 2007/1007.

(c) Regulation 97O was inserted by regulation 58 of S.I. 2012/2822.

(d) Regulation 206 has been substituted by regulation 7 of S.I. 2009/2029.

(e) There are amending instruments but non are relevant to the entry in Table 10 relating to regulation 35.

(f) Regulation 58 has been amended by regulation 8 of S.I. 2005/2691 and regulation 15 of S.I. 2007/2969.

(g) Regulation 58A is inserted by regulation 13 of these Regulations.

(2) On making a relevant lump sum payment to the pensioner before HMRC issue a code for use in respect of the pensioner, the pension payer must deduct tax using the basic rate code on the non-cumulative basis.

(3) Where the pension payer is one to whom paragraph (6) applies on the day on which the relevant lump sum payment is made, or if that is not practicable, without unreasonable delay, the pension payer must complete Form P45 and provide—

- (a) Part 1 of Form P45 to HMRC, and
- (b) Parts 1A, 2 and 3 to the pensioner.

(4) Where paragraph (6) does not apply, on the day on which the relevant lump sum payment is made, or if that is not practicable, without unreasonable delay, the pension payer must complete and provide Parts 1A, 2 and 3 of Form P45 to the pensioner.

(5) The information listed in rows 1 to 6, and 10 to 16 of column 1 of Table 2 to regulation 36 must, subject to the conditions set out in column 2, be provided in the various Parts of Form P45 as indicated in columns 3 to 5, as if—

- (a) references to “employer” were to “pension payer”, and
- (b) references to “employee” were to “pensioner.

(6) This paragraph applies to—

- (a) a pension payer who is a non-Real Time Information pension payer, and
- (b) a Real Time Information pension payer to whom HMRC has given a notice requiring the pension payer to send to HMRC Form P45.”.

PART 5

Real Time Information

Real Time Information employers

14. In regulation 2A (Real Time Information employers)(a)—

- (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)(b), omit the first sub-paragraph (c).

(a) Regulation 2A was inserted by regulation 4 of S.I. 2012/822.

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

Cessation of employment: Form P45

16. In regulation 36 (cessation of employment: Form P45)(a), 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.”.

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)(b)—
- (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)(c).

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

(a) Regulation 36 has been amended by regulation 3 of S.I. 2007/2969 and regulation 6 of S.I. 20012/822.
(b) Regulation 46(2) has been amended by regulation 3(3) of S.I. 2005/2691 and regulation 3(3) of S.I. 2009/588.
(c) Regulation 67B was inserted by regulation 27 of S.I. 2012/822.

- (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.
- (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)(a) 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)(b)—

- (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

(a) Regulation 67C was inserted by regulation 27 of S.I. 2012/822.
 (b) Regulation 67D was inserted by regulation 27 of S.I. 2012/822.

- (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.”.

Returns under regulations 67B and 67D: amendments

- 22.** In regulation 67E (returns under regulations 67B and 67D: amendments)(a)—
- (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)(b), after sub-paragraph (b) insert—

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

Payments to and recovers 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)(c), after paragraph (5) insert—

(a) Regulation 67E was inserted by regulation 27 of S.I. 2012/822.
(b) Regulation 67F was inserted by regulation 27 of S.I. 2012/822.
(c) Regulation 67G was inserted by regulation 27 of S.I. 2012/822.

“(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.”.

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))(a)—

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

Quarterly tax periods

28. In regulation 70(3) (quarterly tax periods)(c) 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)(d)—

(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)(e)—

(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”,

(a) Regulation 67H was inserted by regulation 27 of S.I. 2012/822.

(b) Regulation 69 has been amended by regulation 30 of S.I. 2012/822.

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

(d) Regulation 71 has been amended by regulations 32 and 33 of S.I. 2012/822.

(e) Regulation 75A was inserted by regulation 35 of S.I. 2012/822.

- (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”.

Certificates under regulation 75A: excess payments

31. In regulation 75B (certificates under regulation 75A: excess payments)(a)—
- (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)(b) 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)(c) after “67G” insert “, as adjusted by regulation 67H(2) where appropriate,”.

Requirement for security

34. In regulation 97N(1) (requirement for security)(d) 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)(e) 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)(f) 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)(g)—
- (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,

(a) Regulation 75B was inserted by regulation 35 of S.I. 2012/822.
(b) Regulation 80 has been relevantly amended by regulation 38 of S.I. 2012/822.
(c) Regulation 82(6) has been amended by regulation 39 of S.I. 2012/822.
(d) Regulation 97N was inserted by regulation 58 of S.I. 2012/822.
(e) Regulation 104(4) has been amended by regulation 44 of S.I. 2012/822.
(f) Regulation 199(2) has been amended by regulation 6 of S.I. 2010/668 and by regulation 47 of S.I. 2012/822.
(g) Schedule A1 was inserted by regulation 52 of S.I. 2012/822.

- (b) a trustee of a trust of which the employee is a beneficiary,
- (c) if the employee has died, the employee's personal representative.

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

(a) 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.

(b) S.I. 2009/1171 as amended by S.I. 2011/1751 2012/522 and 2012/1881.

(c) Regulation 67CA was inserted by regulation 2 of S.I. 2012/1895.

PART 6

Real Time Information: Consequential Amendments

Amendment of the Income Tax (Pay As You Earn) (Amendment) Regulations 2012

38. The Income Tax (Pay As You Earn) (Amendment) Regulations 2012(a) are amended as follows.

39. In regulation 53(c) (transitional provisions: information about employees) after subparagraph (xi) insert—

“(xia) if applicable, an indication that payments are made to a person listed in paragraph 14A of Schedule A1 to the 2003 Regulations(b),”.

40. In regulation 54 (information about payments to employers)—

(a) in paragraph (1) omit “, as inserted by these Regulations,”, and

(b) in paragraph (2)—

(i) after “13,” insert “14A,”, and

(ii) omit “, as inserted by these Regulations”.

*Jim Harra
Jennie Granger*

14th March 2013

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) (“the principal Regulations”) which make provision for the assessment, charge, collection and recovery of income tax in respect of all pay as you earn (“PAYE”) income.

Part 2 of these Regulations amends the principal Regulations to allow Her Majesty’s Revenue and Customs (“HMRC”) to use PAYE coding to collect the new high income child benefit charge. That charge was inserted into Part 10 of the Income Tax (Earning and Pensions) Act 2003 (c. 1) by section 8 and paragraph 5(4) of Schedule 1 to the Finance Act 2012 (c. 14).

Part 3 of these Regulations amends the principal Regulations as a consequence of the closure of the simplified deduction scheme for personal employers (“the Scheme”) which was closed to new employers by virtue of the amendments made to regulation 34 of the principal Regulations by regulation 64(a) of the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 2012/822). Regulation 4 of these Regulations amends regulation 34 of the principal Regulations with the effect that the scheme is closed to all employers, other than care and support employers (as defined by regulation 67D(10) of the principal Regulations) from 6th April 2013. Regulation 5 closes the Scheme altogether with effect from tax year 2014-15. Regulations 6 to 11 make further amendments to the principal Regulations as a consequence of the closure of the Scheme.

Part 4 of these Regulations make provision for relevant lump sum payments (which term is defined in regulation 58(7) of the principal Regulations, now inserted). Regulation 12 amends regulation 58 of the principal Regulations so that that regulation no longer applies where the payment is a relevant lump sum payment and the pension payer does not know which code is to be applied to the payment and the pension scheme is not already in payment. Regulation 13 inserts a new regulation 58A into the principal Regulations which changes the code that is applied to relevant lump sum payments to pensioners in cases where the pension payer is unaware of the

(a) S.I. 2012/822.

(b) Regulation 1(2) of the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 defines “the 2003 Regulations” as the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682).

code to be applied to the payment. The pension payer is no longer required to apply the emergency code on the non-cumulative (week 1/month1) basis, but the basic rate code (also applied on the non-cumulative basis).

Part 5 of these Regulations amends the principal Regulations to make further provision in relation to the provision of Real Time Information (“RTI”) to the Commissioners for Her Majesty’s Revenue and Customs (“HMRC”) on or before the making of a payment to an employee.

Regulation 14 amends the definition of an RTI employer in regulation 2A to exclude certain employers from becoming RTI employers on 6th April 2013.

Regulation 15 makes a similar amendment to the definition of an RTI pension payer in regulation 2B of the principal Regulations.

Regulation 16 amends regulation 36 of the principal Regulations to make provision for the situation where Part 3 of Form 45 is not available to an employer.

Regulation 17 amends regulation 46(2) of the principal Regulations to take into account the introduction of employment and support allowance and to amend the periods of time set out in Statements A, B and C, referred to in that regulation, one of which must be given by an employee who is a seconded expatriate.

Regulation 18 makes a consequential amendment to regulation 67B of the principal Regulations following the insertion of new regulation 67EA into the principal Regulations (by regulation 21 of these Regulations). Regulation 67B(6) and (7) made provision for a penalty to be charged if the return containing information about the final payment for the tax year 2012-13 was not delivered.

Regulation 19 inserts new regulations 67BA, 67BB and 67BC into the principal Regulations. Regulations 67BA and 67BB make provision for exceptions from the requirement in regulation 67B to deliver information on or before the making of a payment. Where regulations 67BA and 67BB apply the employer is required to deliver the information by the end of a period of seven days beginning with the day after the day on which the payment is made. Regulation 67BC makes provision for including such information in a return in respect of any other relevant payment.

Regulation 20 amends regulation 67C of the principal Regulations to require an employer who makes a notional payment to deliver information regarding the payment no later than 14 days after the end of the tax month in which the payment is made.

Regulation 21 amends regulation 67D of the principal Regulations to extend the time limit and the categories of employers who are not required to deliver information regarding a payment on or before making a payment to an employee. The employers specified in regulation 67D(1), which includes those employers whom HMRC has directed are unable to file using an approved method of electronic communications, are for the tax year 2013-14 entitled to file in accordance with the provisions in the principal Regulations which do not relate to Real Time Information employers.

Regulation 22 makes consequential amendments to regulation 67E to expand the information that an employer must provide when making a return which includes details of information omitted from an earlier return.

Regulation 23 inserts new regulation 67EA into the principal Regulations to make provision for the situation where an employer has failed to make a return of information. Regulation 67EA requires the employer to provide the information in the next return made under regulation 67B or 67D of the principal Regulations for the tax year in question. If by 20th April following the tax year the information has not been included in such a return, the employer is required to report the information under regulation 67EA(3). Regulation 67EA(5) makes provision for section 98A of the Taxes Management Act 1970 (c. 1) to apply if the return has not been made before 20th May following the end of the tax year to which the information relates. As a consequence of new regulation 67EA(5) an employer who has not reported all the payments (either under regulation 67B or 67D or under regulation 67EA(3) before 20th April or under regulation 67EA(5) on or after 20th April but before 20th May following the tax year) could be liable to a penalty.

Regulation 24 amends regulation 67F(2) of the principal Regulations to make provision for an employer to notify the date of cessation of a PAYE scheme.

Regulation 25 amends regulation 67G of the principal Regulations to make provision for the situation where an employer has failed to make a return during the tax year. As a consequence of the amendment, where an employer makes a return under regulation 67EA(3) after 19th April following the tax year in question, the relevant amount in the definition of A in the formula in paragraph (4) is the amount shown in that return.

Regulation 26 amends regulation 67H of the principal Regulations to make provision for a return sent to HMRC after 19th April to be treated as if it were sent in respect of the final tax period of the tax year to which it applies.

Regulations 27 to 36 make consequential amendments to the principal Regulations following the amendment made by regulation 26 of these Regulations.

Regulation 37 amends Schedule AI to the principal Regulations in respect of the data that employers are required to include on a return to HMRC when making a relevant payment to an employee.

Part 6 of these Regulations amends Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S.I. 21012/822) in consequence of the changes being made to the principal Regulations. Regulations 39 and 40 include new data items to be submitted by employers who become a Real Time Employer on or after 6th April 2013.

A Tax Information and Impact Note covering Part 2 of this instrument was published on 21st March 2012 alongside clause 8 and Schedule 1 to the Finance (No. 4) Bill 2012 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note covering Part 3 of this instrument was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note covering Parts 4 and 6 of this instrument was published on 16th November 2012 alongside the draft legislation and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Notes covering Part 5 of this instrument was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S. I. 2012/822). This has been updated as a result of changes to the impacts as a result of the year long RTI pilot and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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