



Finance Act 1994

1994 CHAPTER 9

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

PAYE

125 Payment by intermediary.

After section 203A of the Taxes Act 1988 there shall be inserted—

“203B PAYE: payment by intermediary.

- (1) Subject to subsection (2) below, where any payment of, or on account of, assessable income of an employee is made by an intermediary of the employer, the employer shall be treated, for the purposes of PAYE regulations, as making a payment of that income of an amount equal to the amount determined in accordance with subsection (3) below.
- (2) Subsection (1) above does not apply if the intermediary (whether or not he is a person to whom section 203 and PAYE regulations apply) deducts income tax from the payment he makes and accounts for it in accordance with PAYE regulations.
- (3) The amount referred to is—
 - (a) if the amount of the payment made by the intermediary is an amount to which the recipient is entitled after deduction of any income tax, the aggregate of the amount of that payment and the amount of any income tax due; and

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in any other case, the amount of the payment made by the intermediary.
- (4) For the purposes of this section, a payment of, or on account of, assessable income of an employee is made by an intermediary of the employer if it is made—
 - (a) by a person acting on behalf of the employer and at the expense of the employer or a person connected with him; or
 - (b) by trustees holding property for any persons who include or class of persons which includes the employee.
- (5) Section 839 applies for the purposes of subsection (4) above.”

126 Employees working for persons other than their employers, etc.

- (1) After section 203B of the Taxes Act 1988 (which is inserted by section 125 above) there shall be inserted—

“203C PAYE: employee of non-UK employer.

- (1) This subsection applies where—
 - (a) an employee during any period works for a person (“the relevant person”) who is not his employer;
 - (b) any payment of, or on account of, assessable income of the employee in respect of work done in that period is made by a person who is the employer or an intermediary of the employer;
 - (c) PAYE regulations do not apply to the person making the payment or, if he makes the payment as an intermediary of the employer, the employer; and
 - (d) income tax is not deducted or accounted for in accordance with the regulations by the person making the payment or, if he makes the payment as an intermediary of the employer, the employer.
- (2) Where subsection (1) above applies, the relevant person shall be treated, for the purposes of PAYE regulations, as making a payment of the assessable income of the employee of an amount equal to the amount determined in accordance with subsection (3) below.
- (3) The amount referred to is—
 - (a) if the amount of the payment actually made is an amount to which the recipient is entitled after deduction of any income tax, the aggregate of the amount of that payment and the amount of any income tax due; and
 - (b) in any other case, the amount of the payment actually made.
- (4) In this section and sections 203D and 203E “work”, in relation to an employee, means the performance of any duties of the office or employment of the employee and any reference to his working shall be construed accordingly.
- (5) Subsections (4) and (5) of section 203B apply for the purposes of this section as they apply for the purposes of that section.

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

203D PAYE: employee non-resident, etc.

- (1) This section applies in relation to an employee in a year of assessment only if—
 - (a) he is not resident or, if resident, not ordinarily resident in the United Kingdom; and
 - (b) he works or will work in the United Kingdom and also works or is likely to work outside the United Kingdom.
- (2) Where in relation to any year of assessment it appears to an officer of the Board that—
 - (a) some of the income of an employee to whom this section applies is assessable to income tax under Case II of Schedule E, but
 - (b) an as yet unascertainable proportion of the income may prove not to be assessable,the officer may, on an application made by the appropriate person, give a direction for determining a proportion of any payment made in that year of, or on account of, income of the employee which shall be treated for the purposes of PAYE regulations as a payment of assessable income of the employee.
- (3) In this section “the appropriate person” means—
 - (a) the person designated by the employer for the purposes of this section; or
 - (b) if no person is so designated, the employer.
- (4) An application for a direction under subsection (2) above shall provide such information as is available and is relevant to the giving of the direction.
- (5) A direction under subsection (2) above—
 - (a) shall specify the employee to whom and the year of assessment to which it relates;
 - (b) shall be given by notice to the appropriate person; and
 - (c) may be withdrawn by notice to the appropriate person from a date specified in the notice.
- (6) The date so specified may not be earlier than thirty days from the date on which the notice of the withdrawal is given.
- (7) Where—
 - (a) a direction under subsection (2) above has effect in relation to an employee to whom this section applies, and
 - (b) a payment of, or on account of, the income of the employee is made in the year of assessment to which the direction relates,the proportion of the payment determined in accordance with the direction shall be treated for the purposes of PAYE regulations as a payment of assessable income of the employee.
- (8) Where in any year of assessment—
 - (a) no direction under subsection (2) above has effect in relation to an employee to whom this section applies, and
 - (b) any payment is made of, or on account of, the income of the employee,

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the entire payment shall be treated for the purposes of PAYE regulations as a payment of assessable income of the employee.

- (9) Subsections (7) and (8) above are without prejudice to—
- (a) any assessment in respect of the income of the employee in question; and
 - (b) any right to repayment of income tax overpaid and any obligation to pay income tax underpaid.

203E PAYE: mobile UK workforce.

- (1) This subsection applies where it appears to the Board that—
- (a) a person (“the relevant person”) has entered into or is likely to enter into an agreement that employees of another person (“the contractor”) shall in any period work for, but not as employees of, the relevant person;
 - (b) payments of, or on account of, assessable income of the employees in respect of work done in that period are likely to be made by or on behalf of the contractor; and
 - (c) PAYE regulations would apply on the making of such payments but it is likely that income tax will not be deducted or accounted for in accordance with the regulations.
- (2) Where subsection (1) above applies, the Board may give a direction that, if—
- (a) any employees of the contractor work in any period for, but not as employees of, the relevant person, and
 - (b) any payment is made by the relevant person in respect of work done by the employees in that period,
- income tax shall be deducted in accordance with the provisions of this section by the relevant person on making that payment.
- (3) A direction under subsection (2) above—
- (a) shall specify the relevant person and the contractor to whom it relates;
 - (b) shall be given by notice to the relevant person; and
 - (c) may at any time be withdrawn by notice to the relevant person.
- (4) The Board shall take such steps as are reasonably practicable to ensure that the contractor is supplied with a copy of any notice given under subsection (3) above which relates to him.
- (5) Where—
- (a) a direction under subsection (2) above has effect, and
 - (b) any employees of the contractor specified in the direction work for, but not as employees of, the relevant person so specified,
- income tax shall, subject to and in accordance with PAYE regulations, be deducted by the relevant person on making any payment in respect of that work as if so much of the payment as is attributable to work done by each employee were a payment of assessable income of that employee.”

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

127 Tradeable assets.

After section 203E of the Taxes Act 1988 (which is inserted by section 126 above) there shall be inserted—

“203F PAYE: tradeable assets.

- (1) Where any assessable income of an employee is provided in the form of a tradeable asset, the employer shall be treated, for the purposes of PAYE regulations, as making a payment of that income of an amount equal to the amount specified in subsection (3) below.
- (2) For the purposes of subsection (1) above “tradeable asset” means—
 - (a) any asset capable of being sold or otherwise realised on a recognised investment exchange (within the meaning of the Financial Services Act 1986) or the London Bullion Market;
 - (b) any asset capable of being sold or otherwise realised on any market for the time being specified in PAYE regulations; and
 - (c) any other asset for which, at the time when the asset is provided, trading arrangements exist.
- (3) The amount referred to is—
 - (a) in the case of an asset falling within subsection (2)(a) or (b) above, the amount for which it is capable of being sold or the amount for which it can be realised on the exchange or market in question; and
 - (b) in the case of an asset for which trading arrangements exist at the time when the asset is provided, the amount which is obtained under those arrangements.
- (4) For the purposes of subsection (2) above, “asset” does not include—
 - (a) any payment actually made of, or on account of, assessable income;
 - (b) any non-cash voucher, credit-token or cash voucher (as defined in sections 141 to 143); or
 - (c) any description of property for the time being excluded from the scope of this section by PAYE regulations.
- (5) Subject to subsection (4) above, for the purposes of subsection (2) above “asset” includes any property and in particular any right or interest falling within any paragraph in Part I of Schedule 1 to the Financial Services Act 1986.”

128 Non-cash vouchers.

After section 203F of the Taxes Act 1988 (which is inserted by section 127 above) there shall be inserted—

“203G PAYE: non-cash vouchers.

- (1) Where a non-cash voucher to which this section applies is received by an employee, the employer shall be treated, for the purposes of PAYE regulations, as making a payment of assessable income of the employee of an amount equal to the amount ascertained in accordance with section 141(1)(a).
- (2) This section applies to a non-cash voucher to which section 141(1) applies if—

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) either of the two conditions set out below is fulfilled with respect to the voucher; and
 - (b) the voucher is not of a description for the time being excluded from the scope of this section by PAYE regulations.
- (3) The first condition is fulfilled with respect to a voucher if it is capable of being exchanged for goods—
- (a) which, at the time when the voucher is provided, are capable of being sold or otherwise realised on an exchange or market falling within section 203F(2)(a) or (b); or
 - (b) for which, at the time when the voucher is provided, trading arrangements exist.
- (4) The second condition is fulfilled with respect to a voucher if, at the time when the voucher is provided, the voucher itself—
- (a) is capable of being sold or otherwise realised on an exchange or market falling within section 203F(2)(a) or (b); or
 - (b) is a voucher for which trading arrangements exist.”

129 Credit-tokens.

After section 203G of the Taxes Act 1988 (which is inserted by section 128 above) there shall be inserted—

“203H PAYE: credit-tokens.

- (1) Subject to subsection (3) below, on each occasion on which an employee uses a credit-token provided to him by reason of his employment to obtain—
 - (a) money, or
 - (b) goods falling within subsection (2) below,
 the employer shall be treated, for the purposes of PAYE regulations, as making a payment of assessable income of the employee of an amount equal to the amount ascertained in accordance with section 142(1)(a).
- (2) Goods fall within this subsection if, at the time when they are obtained, they are goods—
 - (a) which are capable of being sold or otherwise realised on an exchange or market falling within section 203F(2)(a) or (b); or
 - (b) for which trading arrangements exist.
- (3) PAYE regulations may make provision for excluding from the scope of this section any description of use of a credit-token.
- (4) In this section “credit-token” has the same meaning as in section 142.”

130 Cash vouchers.

After section 203H of the Taxes Act 1988 (which is inserted by section 129 above) there shall be inserted—

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“203I PAYE: cash vouchers.

- (1) Subject to subsection (2) below, where a cash voucher to which section 143(1) applies is received by an employee, the employer shall be treated, for the purposes of PAYE regulations, as making a payment of assessable income of the employee of an amount equal to the amount ascertained in accordance with section 143(1)(a).
- (2) PAYE regulations may make provision for excluding from the scope of this section the provision of cash vouchers in such description of circumstances as may be specified in the regulations.”

131 Supplementary.

After section 203I of the Taxes Act 1988 (which is inserted by section 130 above) there shall be inserted—

“203J S.203B to s.203I: accounting for tax.

- (1) Where an employer makes a notional payment of assessable income of an employee, the obligation to deduct income tax shall have effect as an obligation on the employer to deduct income tax at such time as may be prescribed by PAYE regulations from any payment or payments he actually makes of, or on account of, such income of that employee.
- (2) For the purposes of this section—
 - (a) a notional payment is a payment treated as made by virtue of any of sections 203B, 203C and 203F to 203I, other than a payment whose amount is determined in accordance with section 203B(3)(a) or 203C(3)(a); and
 - (b) any reference to an employer includes a reference to a person who is treated as making a payment by virtue of section 203C(2).
- (3) Where, by reason of an insufficiency of payments actually made, the employer is unable to deduct the amount (or the full amount) of the income tax as required by virtue of subsection (1) above, the obligation to deduct income tax shall have effect as an obligation on the employer to account to the Board at such time as may be prescribed by PAYE regulations for an amount of income tax equal to the amount of income tax he is required, but is unable, to deduct.
- (4) PAYE regulations may make provision—
 - (a) with respect to the time when any notional payment (or description of notional payment) is made;
 - (b) applying (with or without modifications) any specified provisions of the regulations for the time being in force in relation to deductions from actual payments to amounts accounted for in respect of any notional payments;
 - (c) with respect to the collection and recovery of amounts accounted for in respect of notional payments.
- (5) Any amount which an employer deducts or for which he accounts as mentioned in subsections (1) and (3) above shall be treated as an amount paid by the

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

employee in question in respect of his liability to income tax for such year of assessment as may be specified in PAYE regulations.

203K Trading arrangements.

- (1) “Trading arrangements” in sections 203F to 203H shall be construed in accordance with this section.
- (2) Trading arrangements—
 - (a) for an asset, are arrangements for the purpose of enabling the person to whom the asset is provided to obtain an amount similar to the expense incurred in the provision of the asset;
 - (b) for goods for which a non-cash voucher is capable of being exchanged, are arrangements for the purpose of enabling the person to whom the voucher is provided to obtain an amount similar to the expense incurred in the provision of the goods;
 - (c) for a non-cash voucher, are arrangements for the purpose of enabling the person to whom the voucher is provided to obtain an amount similar to the expense incurred as mentioned in section 141(1)(a);
 - (d) for goods obtained by the use of a credit-token, are arrangements for the purpose of enabling the person to whom the credit-token is provided to obtain an amount similar to the expense incurred in the provision of the goods.
- (3) For the purposes of subsection (2) above—
 - (a) any reference to enabling a person to obtain an amount includes—
 - (i) a reference to enabling a class or description of persons which includes that person to obtain the amount; and
 - (ii) a reference to enabling an amount to be obtained by any means, including in particular by using an asset or goods as security for a loan or an advance; and
 - (b) an amount is similar to an expense incurred if it is greater than, equal to or not substantially less than that expense.
- (4) PAYE regulations may exclude any description of arrangements from being trading arrangements for the purposes of sections 203F to 203H.

203L S.203B to s.203K: interpretation, etc.

- (1) In sections 203B to 203J “employee” means a person holding an office or employment under or with any other person, and (subject to section 203J(2)(b)) any reference to the employer is a reference to that other person.
- (2) In sections 203B to 203J “assessable” means assessable to income tax under Schedule E.
- (3) In sections 203B to 203K and this section “PAYE regulations” means regulations under section 203.
- (4) PAYE regulations made by virtue of any of sections 203B to 203K may—
 - (a) make different provision for different classes of case;
 - (b) contain such incidental, consequential and supplementary provision as appears to the Board to be expedient.”

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

132 Payments etc. received free of tax.

After section 144 of the Taxes Act 1988 there shall be inserted—

“144A Payments etc. received free of tax.

(1) In any case where—

- (a) an employer is treated, by virtue of any of sections 203B to 203I, as having made a payment of income of an employee which is assessable to income tax under Schedule E,
- (b) the employer is required, by virtue of section 203J(3), to account for an amount of income tax (“the due amount”) in respect of that payment, and
- (c) the employee does not, before the end of the period of thirty days from the date on which the employer is treated as making that payment, make good the due amount to the employer,

the due amount shall be treated as income of the employee which arises on the date mentioned in paragraph (c) above and is assessable to income tax under Schedule E.

(2) In this section any reference to an employer includes a reference to a person who is treated as making a payment by virtue of section 203C(2).”

133 PAYE regulations: past cases.

(1) Regulation 4 of the 1993 Regulations (intermediate employers) is hereby revoked; but in relation to any time before its revocation it shall be deemed to have been validly made.

(2) Regulation 3 of the 1973 Regulations (intermediate employers) shall, in relation to any time before its revocation, be deemed to have been validly made.

(3) Where, at any time before the passing of this Act—

- (a) a payment has been made of, or on account of, any income of an employee not resident or, if resident, not ordinarily resident in the United Kingdom,
- (b) at the time when the payment was made it appeared that some of the income would be assessable to income tax under Case II of Schedule E, but that some of the income might prove not to be assessable to income tax under that Schedule, and
- (c) the payment or any proportion of it was treated for the purposes of the 1993 Regulations or the 1973 Regulations as a payment to which the regulations applied,

then the treatment of that payment or that proportion of the payment as being a payment to which the regulations applied shall be deemed to have been lawful.

(4) In this section—

- (a) “employee” means a person holding an office or employment under or with any other person;
- (b) “the 1993 Regulations” means the ^{M1}Income Tax (Employments) Regulations 1993; and
- (c) “the 1973 Regulations” means the ^{M2}Income Tax (Employments) Regulations 1973.

Status: Point in time view as at 01/04/2003.

Changes to legislation: Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M1 S.I. 1993/774.

M2 S.I. 1973/334.

Status:

Point in time view as at 01/04/2003.

Changes to legislation:

Finance Act 1994, Cross Heading: PAYE is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.