

# FINANCE ACT 2009

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 110 and Schedule 58: Recovery of Debts under Paye Regulations*

#### Summary

1. [Section 110](#) and Schedule 58 provide for the Commissioners for HM Revenue & Customs (HMRC) to make regulations to collect debts owed to HMRC through the Pay as You Earn (PAYE) system.

#### Details of the Schedule

2. Paragraph (1) provides that section 684 of the Income Tax (Earnings and Pensions Act 2003 (ITEPA) is amended. Section 684 of ITEPA allows the Commissioners for HMRC to make regulations for the assessment, collection and recovery of tax under PAYE.
3. Paragraph (3) amends section 684 of ITEPA to allow the Commissioners to make regulations for deductions in respect of specified relevant debts, the circumstances in which deductions may be made and the time that any deductions are treated as paid.
4. Paragraph (4) provides that no more than £2,000 may be deducted in any year without the employee's consent. This amount may be changed by Treasury order.
5. Paragraph (6) provides that section 684 of ITEPA is amended to insert new subsections (7AA) and (7AB). New subsection (7AA) defines a relevant debt as a sum payable under or by virtue of an enactment other than an excluded debt, or one payable under a contract settlement. "Under or by virtue of an enactment" brings in those debts arising from taxes, duties etc imposed by statute. "Contract settlements" are contractual agreements made in connection with a person's liability, usually as the result of an enquiry covering a number of years.
6. New subsection (7AB) defines terms and expressions used in new subsection (7AA). The definition of "excluded debts" preserves the Commissioners' existing powers to make regulation for the collection of income tax or capital gains tax through PAYE in section 684 of ITEPA and for the collection of tax credits through PAYE in section 29(5) of the Tax Credits Act 2002.
7. Paragraph 10 allows the necessary consequential changes to ITEPA and other enactments to be made by Treasury order.

#### Background Note

8. This section and Schedule give HMRC the power to collect small debts through the PAYE system, allowing debtors to spread payments and reducing HMRC's costs. Small debts account for a large proportion of the volume of tax debts but a small proportion of their value.
9. HMRC's aim is to secure immediate payment of debts in full or, where this is not possible, to set up a Time to Pay arrangement to reschedule the debt. If neither of these

*These notes refer to the Finance Act 2009 (c.10)  
which received Royal Assent on 21 July 2009*

options are feasible, HMRC would consider collecting smaller debts through PAYE as one of a number of remedies available to it as a creditor. If the debtor did not want to pay in this way, HMRC would expect them to make other arrangements for payment. If no such arrangements were forthcoming, HMRC would have the ability to collect debts in this way at its option.

10. The right to object to collecting underpayments of income tax and capital gains tax under Self Assessment, where the due date had not already passed, would not be disturbed. The right to object to collecting tax credit overpayments in this way would also not be disturbed. A taxpayer would, as now, be able to appeal against their tax code. The existing safeguards, limiting the amount that may be collected in this way through the PAYE system and protecting the level of the taxpayer's income, would be preserved.
11. This measure was the subject of initial consultation in June 2007 and further consultation in December 2008 (*Payments, Repayments and Debt: the Next Stage*). A response document together with a final Impact Assessment was published in April 2009