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STATUTORY INSTRUMENTS

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**2003 No. 2682**

**The Income Tax (Pay As You Earn) Regulations 2003**

**PART 3**

**DEDUCTION AND REPAYMENT OF TAX**

**CHAPTER 1**

**DEDUCTION AND REPAYMENT**

*Deduction and repayment by reference to employee's code*

**Deduction and repayment of tax by reference to employee's code**

**21.**—(1) On making a relevant payment to an employee during a tax year, an employer must deduct or repay tax in accordance with these Regulations by reference to the employee's code, if the employer has one for the employee.

(2) The employer must deduct or repay tax by reference to the employee's code, even if the code is the subject of an objection or appeal.

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**Commencement Information**

**I1** [Reg. 21](#) in force at 6.4.2004, see [reg. 1](#)

*The cumulative basis*

**The cumulative basis**

**22.** An employer must deduct or repay tax on the cumulative basis, unless these Regulations provide otherwise.

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**Commencement Information**

**I2** [Reg. 22](#) in force at 6.4.2004, see [reg. 1](#)

**Cumulative basis: deduction and repayment**

**23.**—(1) This regulation provides for deductions and repayments on the basis of total payments to date (the cumulative basis).

(2) In this regulation—

(a) TT is the total tax to date relating to an employee;

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- (b) UT is any tax not deducted because of the overriding limit when the last relevant payment was made to the employee, and is nil if the payment in question is the first relevant payment to the employee in any tax year;
  - (c) PT is the previous total tax to date relating to the employee, and is nil if the payment in question is the first relevant payment to the employee in any tax year.
- (3) The employer must, before making any relevant payment to the employee, calculate TT.
- (4) If  $TT + UT$  exceeds PT, the employer must deduct the excess from the relevant payment on making the payment.
- (5) But if the employee's code is a K code, the deduction is not to exceed the overriding limit, subject to 62(6) (notional payments).
- (6) If  $TT + UT$  is less than PT, the employer must repay the difference to the employee on making the payment, subject to regulations 25(4) (extra payment made before main payment) and 64 (trade disputes).
- (7) If  $TT + UT$  equals PT, the employer must neither deduct nor repay tax when making the payment.
- (8) "Previous total tax to date" means the total tax to date corresponding to the employee's total payments to date and the employee's code—
- (a) at the date of the last preceding relevant payment, or
  - (b) if later, at the date on which the employer complied with this regulation as if a relevant payment had been made.
- (9) But—
- (a) if the employee's code is an amended code, and
  - (b) the employee's previous code was not used on the cumulative basis,
- "previous total tax to date" means the total net tax deducted by the employer.
- (10) Paragraphs (2)(c), (8) and (9) are subject to regulations 43(9) and (10), 52(11) and (12), 53(4) and 61(4) (which modify the meaning of previous total tax to date in certain circumstances).

#### Commencement Information

**I3** [Reg. 23](#) in force at 6.4.2004, see [reg. 1](#)

#### Cumulative basis: employee not paid weekly or monthly

- 24.**—(1) This regulation applies if—
- (a) an employer normally makes main relevant payments to an employee at regular intervals which are longer than a week, other than monthly, and
  - (b) the employee's code is used on the cumulative basis.
- (2) The first main relevant payment in a tax year is treated for the purposes of calculating the deduction or repayment of tax as having been made at the end the period which—
- (a) starts on the first day of the tax year, and
  - (b) finishes at the end of the employee's normal regular payment interval.
- (3) Subsequent main relevant payments in the tax year are treated for the purposes of calculating the deduction or repayment of tax as having been made at the end of the period which—
- (a) starts the day after the date on which the previous main relevant payment is treated as having been made (by paragraph (2) or this paragraph), and

- (b) finishes at the end of the employee's normal regular payment interval or the last day of the tax year (if earlier).
- (4) If the employee's main relevant payments are normally made at regular intervals which are longer than a year, any such payment in a tax year is treated, for the purposes of calculating the deduction or repayment of tax, as made on the last day of that tax year.
- (5) But, in every case, the employer must record the actual date of every payment in the deductions working sheet.
- (6) This regulation does not apply if the payment falls within regulation 31(1) (payments in short payment periods).

**Commencement Information**

**I4** Reg. 24 in force at 6.4.2004, see **reg. 1**

**Cumulative basis: subsidiary PAYE income of employee paid weekly or at greater intervals**

- 25.**—(1) This regulation applies if—
- (a) an employee's main relevant payments are normally made at regular intervals of a week or more,
  - (b) the employee's code is used on the cumulative basis, and
  - (c) the employer makes a payment in respect of overtime or other extra earnings (the "extra payment").
- (2) For the purposes of calculating the deduction or repayment of tax, the extra payment is treated as made on the same date as that on which the main relevant payment in the payment period is due to be paid or is due to be treated as paid by regulation 24 (employee not paid weekly or monthly).
- (3) But paragraph (4) applies if the extra payment is actually made before the date on which the main relevant payment in the payment period is due to be paid (disregarding the effects of regulation 24).
- (4) A repayment which would (but for this paragraph) be due under regulation 23(6) on making the extra payment must not be paid to the employee, but must instead be added to the previous total tax (as defined by regulation 23(8)) on making the next relevant payment.
- (5) This regulation does not apply if the extra payment is made in a short payment period (but regulation 31 applies instead if that period contains an extra pay day).
- (6) "Payment period"—
- (a) in the case of an employee normally paid weekly, means a tax week,
  - (b) in the case of an employee normally paid monthly, means a tax month,
  - (c) in the case of an employee normally paid at other regular intervals, has the meaning given in paragraph (7).
- (7) In the case mentioned in paragraph (6)(c)—
- (a) the first payment period in a tax year starts on 6th April and finishes at the end of the employee's normal regular payment interval, and
  - (b) subsequent payment periods in the tax year start the day after the end of the previous payment period and finish—
    - (i) at the end of the employee's normal regular payment interval, or
    - (ii) on 5th April (if earlier).

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(8) “Short payment period” means the last payment period in a tax year if, because of paragraph (7)(b)(ii), it is shorter than the previous payment periods.

(9) “Extra pay day” has the meaning given in regulation 31(4).

**Commencement Information**

**15** [Reg. 25](#) in force at 6.4.2004, see [reg. 1](#)

*The non-cumulative basis*

**The non-cumulative basis**

**26.**—(1) An employer must deduct tax in accordance with regulation 27 (the non-cumulative basis) from any relevant payment made to an employee if—

- (a) the Inland Revenue direct, or
- (b) these Regulations provide,

that the non-cumulative basis is to apply.

(2) If this regulation applies then regulation 22 (cumulative basis) does not apply.

**Commencement Information**

**16** [Reg. 26](#) in force at 6.4.2004, see [reg. 1](#)

**Non-cumulative basis: general rule for deductions**

**27.**—(1) On making a relevant payment, the employer must deduct the amount of tax which would have been deductible in accordance with the appropriate tax tables, by reference to the employee’s code, if the payment had been made on the first day of the tax year.

(2) This is subject to—

regulation 28	modification of general rule
regulation 29	aggregation of payments.

**Commencement Information**

**17** [Reg. 27](#) in force at 6.4.2004, see [reg. 1](#)

**Non-cumulative basis: modification of general rule**

**28.**—(1) Paragraphs (2) to (5) modify the general rule in regulation 27(1) (the non-cumulative basis) in certain circumstances.

(2) If regulation 30 (employee not paid weekly or monthly) applies to the employee’s main relevant payments, the employer must deduct from a relevant payment the amount of tax which would have been deductible, by reference to the employee’s code, if the payment (whether or not it is a main relevant payment) had been made on the date given by that regulation.

(3) If the employer does not normally make relevant payments to the employee at regular intervals, the employer must deduct from a relevant payment the amount of tax which would have been deductible, by reference to the employee's code—

- (a) if the payment is the first payment in the tax year, on the date it is made, or
- (b) in any other case, on the date found by counting forward  $x$  days starting on 5th April, where  $x$  is the number of days found by starting with the date of the previous relevant payment and counting forward to the date of the payment in question.

(4) But if two or more relevant payments are made in the same tax week, the employer must deduct from the second or subsequent relevant payment the amount of tax which (subject to regulation 29(5)) would have been deductible, by reference to the employee's code, if that payment were made at the date given by paragraph (3) for the first payment.

(5) If the employee's code is a K code, the deduction is not to exceed the overriding limit, subject to regulation 62(6) (notional payments).

**Commencement Information**

**18** Reg. 28 in force at 6.4.2004, see reg. 1

**Non-cumulative basis: aggregation of payments**

**29.**—(1) Paragraph (2) applies if—

- (a) relevant payments are normally made to an employee at regular intervals of a week or more, and
- (b) the employee's code is used on the non-cumulative basis.

(2) If the relevant payment is the second or subsequent relevant payment made to the employee during the payment period (as defined by regulation 25(6)), the amount of tax to be deducted must be—

- (a) calculated by reference to the aggregate of the relevant payments made to the employee during the payment period (as defined by regulation 25(6)),
- (b) increased by any tax not deducted because of the overriding limit when the previous relevant payment in that payment period was made to the employee, and
- (c) reduced by the amount of tax calculated when the employer made the previous relevant payment in that payment period.

(3) But, for the purposes of the aggregate, any effects of regulation 30(2) (regular payments treated as made at later date) must be disregarded.

(4) Paragraph (5) applies if relevant payments to an employee—

- (a) are normally made at regular intervals of less than a week, or
- (b) are made at irregular intervals of less than a week.

(5) If the relevant payment is the second or subsequent relevant payment made to the employee during a tax week, the amount of tax to be deducted must be—

- (a) calculated by reference to the aggregate of the relevant payments made to the employee in the tax week,
- (b) increased by any tax not deducted because of the overriding limit when the previous relevant payment in that tax week was made to the employee, and
- (c) reduced by the amount of tax calculated when the employer made the previous relevant payment in that tax week.

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#### Commencement Information

**19** Reg. 29 in force at 6.4.2004, see [reg. 1](#)

#### Non-cumulative basis: employee not paid weekly or monthly

**30.**—(1) This regulation applies if—

- (a) an employer normally makes main relevant payments to an employee at regular intervals which are longer than a week, other than monthly, and
- (b) the employee's code is used on the non-cumulative basis.

(2) Each main relevant payment in a tax year is treated for the purposes of calculating the deduction of tax as having been made at the end the period which—

- (a) starts on 6th April, and
- (b) finishes at the end of the employee's regular payment interval.

(3) If the employee's main relevant payments are normally made at regular intervals which are longer than a year, any such payment in a tax year is treated, for the purposes of calculating the deduction of tax, as made on 5th April in that tax year.

(4) But, in every case, the employer must record the actual date of every payment in the deductions working sheet.

#### Commencement Information

**110** Reg. 30 in force at 6.4.2004, see [reg. 1](#)

#### Payments in short payment periods

**31.**—(1) An employer must deduct tax on the non-cumulative basis from any relevant payment made to an employee in a short payment period which includes an extra pay day, even if the employee's code is normally used on the cumulative basis.

(2) Paragraph (1) does not apply if the employee's code is the basic rate code.

(3) If—

- (a) the employee's total payments to date do not exceed the employee's total free pay to date, and
- (b) the employee's code is normally used on the cumulative basis,

the employer must not deduct any tax from relevant payments made in a short payment period which includes an extra pay day.

(4) "Extra pay day" means the last day in a tax year on which a main relevant payment is due to be made to an employee if—

- (a) the employee's main relevant payments are normally made weekly or at greater intervals which results in the number of pay days varying from tax year to tax year (solely because of the number of days in a calendar year), and
- (b) the day falls in a short payment period.

(5) "Short payment period" has the meaning given in regulation 25(8).

**Commencement Information**

**I11** Reg. 31 in force at 6.4.2004, see **reg. 1**

*Higher rate and nil tax codes*

**Higher rate code: deductions**

**32.** If an employee's code is the higher rate code the employer must deduct tax at the higher rate, and regulations 22 and 26 (cumulative and non-cumulative basis) do not apply.

**Commencement Information**

**I12** Reg. 32 in force at 6.4.2004, see **reg. 1**

**Nil tax code: no deductions or repayments**

**33.**—(1) If an employee's code is the nil tax code the employer must not deduct or repay any tax, and so regulation 22 (cumulative basis) does not apply.

(2) But—

- (a) if the nil tax code is an amended code, and
- (b) the Inland Revenue so direct,

regulation 22 applies to the next relevant payment the employer makes in the same tax year, and the employer must make any repayment of tax due.

**Commencement Information**

**I13** Reg. 33 in force at 6.4.2004, see **reg. 1**

*Simplified deduction scheme*

**Simplified deduction scheme for personal employees**

**34.**—(1) The Inland Revenue may authorise the employer of a personal employee to deduct tax from each relevant payment made to the employee by reference to the appropriate taxable payments in the simplified tax tables.

(2) The amount of tax to be deducted must be—

- (a) calculated by reference to the aggregate of the relevant payments made to the authorised personal employee during the payment period, and
- (b) reduced by the amount of tax calculated, by reference to that aggregate, when the employer made the previous relevant payment in the same payment period.

(3) In this regulation—

“payment period” means the interval for which free pay is calculated shown on the deductions working sheet issued in accordance with regulation 35(3);

“personal employee” means—

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- (a) a person employed at the employer's home to provide domestic or personal services for the employer or the employer's family, or
- (b) a person employed to assist the employer with any business, profession or course of study which, solely because of any physical or mental disability, the employer would not be able to carry on without the assistance of the personal employee;

and "authorised personal employee" means a personal employee in respect of whom an authorisation under paragraph (1) is in force;

"simplified tax tables" means the parts of the tax tables which are prepared by the Board of Inland Revenue for use under this regulation.

(4) The following regulations do not apply to cases in which this regulation and regulation 35 apply—

regulation 15	flat rate codes
regulation 16	continued application of employee's code
regulation 21	deduction and repayment of tax by reference to employee's code
regulations 22 to 25	cumulative basis
regulations 26 to 31	non-cumulative basis
regulations 32 and 33	higher rate and nil tax codes
regulation 36	cessation of employment: Form P45
regulations 42 to 45	employer to complete Form P45
regulation 55	PAYE pension income paid by former employer
regulation 66	deductions working sheets.

#### Commencement Information

**I14** Reg. 34 in force at 6.4.2004, see [reg. 1](#)

#### Simplified deduction schemes: records

**35.**—(1) The employer must maintain the following records in relation to an authorised personal employee.

(2) The records are—

- (a) the date of each relevant payment,
- (b) the amount of the relevant payment,
- (c) the amount of the free pay,
- (d) the amount of the taxable payments, and
- (e) the amount of tax, if any, deducted on making the relevant payment, or to be deducted or accounted for under regulation 62(4) or (5) (notional payments).

(3) The employer must maintain the records in a deductions working sheet which has been issued by the Inland Revenue showing the code for use by the employer in respect of the employee for the tax year.

(4) On ceasing to employ an authorised personal employee, the employer must return the completed deductions working sheet in respect of that employee to the Inland Revenue.

(5) Before 20th May following the end of a tax year, an employer who, at the end of that tax year, was employing one or more authorised personal employees must send to the Inland Revenue—

- (a) the completed deductions working sheets in respect of those employees, and
- (b) a return which complies with paragraph (6).

(6) The employer must declare and certify in the return—

- (a) how many deductions working sheets are being sent,
- (b) that those are all the deductions working sheets which have been issued to the employer and not already returned to the Inland Revenue, and
- (c) that the information contained in the deductions working sheets is fully and truly stated to the best of the employer's knowledge and belief.

(7) The return is treated for the purposes of these Regulations as the return required by regulation 73(1) (annual return of relevant payments liable to deduction of tax).

(8) "Personal employee" and "authorised personal employee" have the same meaning as in regulation 34.

**Commencement Information**

**I15** [Reg. 35](#) in force at 6.4.2004, see [reg. 1](#)

*Cessation of employment*

**Cessation of employment: Form P45**

**36.**—(1) On ceasing to employ an employee in respect of whom a code has been issued, the employer must complete Form P45.

(2) The employer must then—

- (a) send Part 1 of that form to the Inland Revenue, and
- (b) provide Parts 1A, 2 and 3 to the employee,

on the day on which the employment ceases or, if that is not practicable, without unreasonable delay.

(3) Retirement on pension is not a cessation of employment for the purposes of this regulation if the PAYE pension income is paid by the same employer after retirement.

(4) The information listed in column 1 of Table 2 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.

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**Table 2**

Information which must be provided in Form P45

1. Information to be provided	2. Conditions	3–5. Form P45 Part		
		1	1A	2, 3
1. the employer's PAYE reference		yes	yes	yes
2. the employee's national insurance number	if known	yes	yes	yes
3. the employee's name		yes	yes	yes
[ <sup>F1</sup> 3A. the employee's date of birth		yes	no	no
3B. the employee's sex		yes	no	no]
4. the date on which the employment ceased		yes	yes	yes
5. the employee's code or, if more than one, the latest code, issued by the Inland Revenue for the tax year during which the employment ceased		yes	yes	yes
6. whether the employee's code is used on the cumulative basis		yes	yes	yes
7. the tax week or month in which the last relevant payment was made to the employee or, in a case falling within regulation 24, was treated as having been made	if the employee's code is used on the cumulative basis	yes	yes	yes
8. the total payments to date and the corresponding	if the employee's code is used on the cumulative basis	yes	yes	yes

1. Information to be provided	2. Conditions	3–5. Form P45 Part		
		1	1A	2, 3
total net tax deducted				
9. the payments relating to employment question corresponding net tax deducted	total if the employee's code is used on the cumulative basis, and if different from the information supplied under item 8	yes	yes	no
10. the payments relating to employment question and the corresponding total net tax deducted	total if the employee's code is not used on the cumulative basis	yes	yes	no
11. the number used by the employer to identify the employee	if any	yes	no	no
12. the department or branch in which the employee was employed	if any	yes	no	no
13. the employee's address	if known	yes	no	no
14. the employer's name		yes	yes	no
15. the employer's address		yes	yes	no
16. the date the Form is completed		yes	yes	no

(5) This regulation is subject to regulations 38, 39 and 180 (death of employee etc).

**Textual Amendments**

**F1** Words in [reg. 36\(4\)](#) Table 2 inserted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), [3](#)

**Commencement Information**

**I16** [Reg. 36](#) in force at 6.4.2004, see [reg. 1](#)

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

## [<sup>F2</sup>Income subject to retrospective tax provision — information to employee

**36A.**—(1) This regulation applies if—

- (a) a payment is made to an employee;
- (b) the employment in connection with which it was paid ceases;
- (c) the payment becomes a qualifying payment after the cessation of the employment;
- (d) the tax year in which the payment was actually made is not closed, and
- (e) the amount of the qualifying payment was not included in Form P45.

(2) If this regulation applies the person who made the payment must provide to the employee, without unreasonable delay after the relevant time, details of—

- (a) the date on which the qualifying payment was actually made;
- (b) the amount of the qualifying payment; and
- (c) the amount of tax deducted under regulation 62(4) or (5).]

### Textual Amendments

**F2** Reg. 36A inserted (6.4.2007) by *The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077)*, regs. 1, 4

## PAYE income paid after employment ceased

**37.**—(1) This regulation applies if a relevant payment is made to an employee after the employment has ceased—

- (a) by the former employer in respect of the former employment, or
- (b) by any other person in respect of an obligation of the former employer,

and the payment has not been included in Form P45.

[<sup>F3</sup>(1A) But this regulation does not apply if regulation 37A applies.]

(2) The person making the payment must deduct tax at the basic rate in force for the tax year in which the payment is made.

(3) But—

- (a) the payment does not affect the cessation of employment, and
- (b) the provisions listed in paragraph (4) do not apply.

(4) The provisions are—

regulation 21	deduction and repayment of tax by reference to employee's code
regulations 22 and 23	cumulative basis
regulations 26 and 27	non-cumulative basis
Chapters 2 and 3 of this Part	new employees and new pensioners: Forms P45 and P46.

(5) The person making the payment must record the following information in a deductions working sheet (which the person must prepare for the purpose if one has not already been prepared for that tax year).

- (6) The information is—
- (a) the date of the payment,
  - (b) the amount of the relevant payment, and
  - (c) the amount of tax deducted on making the payment, or to be deducted or accounted for under regulation 62(4) or (5) (notional payments).
- (7) The person making the payment must also notify the employee of the information mentioned in paragraph (6) without unreasonable delay.

**Textual Amendments**

**F3** Reg. 37(1A) inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, 5

**Commencement Information**

**I17** Reg. 37 in force at 6.4.2004, see [reg. 1](#)

**[<sup>F4</sup>Income paid after cessation of employment subsequently becoming subject to PAYE**

- 37A.**—(1) This regulation applies if—
- (a) a payment has been made, after the cessation of the employment, to a former employee—
    - (i) by the former employer, or
    - (ii) by any other person in respect of an obligation of the former employer;
  - (b) that payment becomes a qualifying payment after the employment ceased; and
  - (c) the amount of the qualifying payment has not been included in Form P45.
- (2) Where a qualifying payment has been made in a closed year, the employer must deduct tax, from any other payment made to the former employee in the tax period at the relevant time—
- (a) in accordance with the last code used for the tax year in which the qualifying payment was made, or
  - (b) if the employer has not been notified of a code for that tax year, at the higher rate of tax applicable for that year.
- (3) Where a qualifying payment has been made in an open year, the employer must deduct tax from any other payment made to the former employee—
- (a) in accordance with the code in force in the final tax period in which the employee was employed, or
  - (b) if the employer has not been notified of a code, at the higher rate of tax applicable for that year.
- (4) Neither the making of the qualifying payment, nor its subsequently becoming taxable, affect the cessation of the employment, and the provisions listed in regulation 37(4) do not apply in relation that payment.
- (5) The employer must record the following information in a deductions working sheet for the tax year in which that payment was made.
- If a deductions working sheet has not already been prepared for that tax year, the employer must prepare one.
- (6) The information is—
- (a) the date on which the qualifying payment was actually made;

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- (b) the amount of that payment; and
- (c) the amount of tax to be deducted or accounted for under regulation 62(4) or(5) (notional payments).

(7) The employer must also notify the employee of the information listed in paragraph (6) without unreasonable delay after the relevant time.]

#### Textual Amendments

**F4** Reg. 37A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, 6

#### Death of employee

**38.**—(1) On the death of an employee (other than a pensioner) in respect of whom a code has been issued by the Inland Revenue, the employer must—

- (a) complete Form P45 indicating in Part 1 that the employee has died, and
- (b) send it to the Inland Revenue.

(2) The employer must comply with paragraph (1)—

- (a) on the day on which the employer learns of the employee's death, or
- (b) if that is not practicable, without unreasonable delay.

(3) The employer must, on making a relevant payment after learning of the employee's death but before completing Form P45, deduct or repay tax as if the deceased employee were still alive and employed by the employer at the date of the payment.

(4) Regulation 37(2) to (6) applies to any relevant payment which—

- (a) is made in respect of the employee's employment after the date of the employee's death, and
- (b) is not included in Form P45.

#### Commencement Information

**I18** Reg. 38 in force at 6.4.2004, see [reg. 1](#)

#### Death of pensioner

**39.**—(1) On the death of a pensioner in respect of whom a code has been issued by the Inland Revenue, the pension payer must—

- (a) complete Form P45 indicating in Part 1 that the pensioner has died, and
- (b) send it to the Inland Revenue.

(2) The pension payer must comply with paragraph (1)—

- (a) on the day on which the pension payer learns of the pensioner's death, or
- (b) if that is not practicable, without unreasonable delay.

(3) Paragraph (4) applies if the pension payer makes any relevant pension payments after the date of the pensioner's death—

- (a) before completing Form P45, or
- (b) after completing Form P45 but during the tax year in which the pensioner died.

(4) The pension payer must, on making any such payment, deduct or repay tax as if the deceased pensioner were still alive and in receipt of a pension at the date of the payment.

(5) Regulation 37(2) to (6) applies to any relevant pension payment which—

(a) is made in a tax year following the tax year in which the pensioner died, and

(b) is not included in Form P45.

**Commencement Information**

**I19** Reg. 39 in force at 6.4.2004, see **reg. 1**

*Employee's duty to provide Form P45*

**Duty of employee to give new employer Form P45**

**40.**—(1) An employee who has Parts 2 and 3 of Form P45 must give them to the new employer on commencing a new employment.

(2) If an employee receives Parts 2 and 3 of Form P45 after commencing a new employment, the employee must immediately give them to the new employer.

(3) But paragraph (4) applies if an employee objects to the disclosure of the total payments to date to the new employer.

(4) The employee may, instead of complying with paragraph (1) or (2), send Parts 2 and 3 of Form P45 to the Inland Revenue before commencing the new employment or as soon as the employee receives Form P45 (as the case may be).

(5) The Inland Revenue—

(a) must then issue a code in respect of the employee to the new employer, and

(b) may direct that the non-cumulative basis is to apply to all relevant payments which the new employer makes to the employee.

**Commencement Information**

**I20** Reg. 40 in force at 6.4.2004, see **reg. 1**

**CHAPTER 2**

**NEW EMPLOYEES (OTHER THAN PENSIONERS): FORMS P45 AND P46**

**Scope of Chapter 2**

**41.** This Chapter sets out the procedure to be followed for deductions and repayments (Form P45 and P46 procedure) in cases to which Chapter 3 (new pensioners: Forms P45 and P46) does not apply (see regulation 54).

**Commencement Information**

**I21** Reg. 41 in force at 6.4.2004, see **reg. 1**

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

## Procedure if employer receives Form P45

42.—(1) This regulation applies—

- (a) if an employee gives Parts 2 and 3 of Form P45 to the employer on commencing employment, and
- (b) in the circumstances mentioned in regulation 51(2) (late presentation of Form P45: before employer required to send Form P46).

(2) The new employer must prepare a deductions working sheet and record on it the following information shown in Parts 2 and 3 of Form P45—

- (a) the employee's name,
- (b) the employee's national insurance number.

(3) If Parts 2 and 3 of Form P45 show that the earlier employment ended in the current tax year, the new employer must comply with regulation 43.

(4) If—

- (a) Parts 2 and 3 of Form P45 show that the earlier employment ended in the previous tax year, and
- (b) the new employment commences on or before 24th May,

the new employer must comply with regulation 44.

(5) If—

- (a) Parts 2 and 3 of Form P45 show that the employment ended in the previous tax year, and
- (b) the employment commences after 24th May,

the new employer must comply with regulation 45.

(6) If Parts 2 and 3 of Form P45 show that the employment ended in any earlier tax year, the new employer must comply with regulation 45.

(7) In all cases the new employer must then insert in Part 3 of Form P45—

- (a) the employer's employer reference,
- (b) the date on which the new employment commenced,
- (c) any number used to identify the employee,
- (d) the employee's code in use by the employer if different from the code shown in Parts 2 and 3 of Form P45,
- (e) any figure recorded in accordance with paragraph (5)(c) or (6)(c) of regulation 43 (Form P45 for current tax year), if different from the total tax to date shown on Parts 2 and 3 of Form P45,
- (f) the employee's address,
- (g) the employee's date of birth,<sup>F5</sup>...

[<sup>F6</sup>(ga) the employee's sex,]

- (h) the employee's job title or description,
- (i) the employer's name, and
- (j) the employer's address.

(8) The employer must then send Part 3 of Form P45 to the employer's Inland Revenue office.

#### Textual Amendments

- F5** Words in [reg. 42\(7\)\(g\)](#) omitted (6.4.2009) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **4(a)**
- F6** [Reg. 42\(7\)\(ga\)](#) inserted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **4(b)**

#### Commencement Information

- I22** [Reg. 42](#) in force at 6.4.2004, see [reg. 1](#)

### Form P45 for current tax year

**43.**—(1) The new employer must record in the deductions working sheet the code shown in Parts 2 and 3 of Form P45 as the employee's code.

(2) Paragraphs (3) to (10) apply if Parts 2 and 3 of Form P45 show that the cumulative basis was used.

(3) The employer must record in the deductions working sheet the total payments to date (if any) shown in Parts 2 and 3 of Form P45.

(4) The employer must record in the deductions working sheet the following additional information, or keep such records as enable its production.

(5) If the code shown in Parts 2 and 3 of Form P45 is a K code, the additional information is—

- (a) the total additional pay to date,
- (b) the total taxable payments to date, and
- (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 and the total net tax deducted shown in it.

(6) In any other case, the additional information is—

- (a) the total free pay to date,
- (b) the total taxable payments to date, and
- (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.

(7) The amounts required by paragraphs (5)(a) and (b) and (6)(a) and (b) must be arrived at by the employer by reference to the information shown in Parts 2 and 3 of Form P45.

(8) On making any relevant payment to the employee, the employer must deduct or repay tax by reference to the employee's code on the cumulative basis.

(9) For the purposes of—

- (a) paragraph (8), and
- (b) item 8 of Table 2 in regulation 36(4) (Form P45), and
- (c) regulation 55(4)(f) [<sup>F7</sup>(Form P46(Pen))],

the total payments to date recorded in the deductions working sheet in accordance with paragraph (3), and the figure recorded in accordance with paragraph (5)(c) or (6)(c) must be treated as if they were relevant payments made to the employee by, and tax deducted by, the new employer.

(10) For the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date) the figure recorded in accordance with paragraph (5)(c) or (6)(c) must be treated as the previous total tax to date when the employer next makes a relevant payment to the employee.

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

(11) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used, on making any relevant payment to the employee the employer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax by reference to the employee's code on the non-cumulative basis.

(12) The receipt by the employer of Parts 2 and 3 of Form P45 is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the employee.

#### Textual Amendments

**F7** Word in [reg. 43\(9\)\(c\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), [5](#)

#### Commencement Information

**I23** [Reg. 43](#) in force at 6.4.2004, see [reg. 1](#)

### Form P45 for previous tax year: employment starting on or before 24th May

**44.**—(1) The new employer must—

- (a) record in the deductions working sheet the code shown in Parts 2 and 3 of Form P45 as the employee's code, and
- (b) deduct or repay tax by reference to that code on the cumulative basis, subject to regulation 32 (higher rate code: deductions).

(2) The receipt by the employer of Parts 2 and 3 of Form P45 is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the employee.

#### Commencement Information

**I24** [Reg. 44](#) in force at 6.4.2004, see [reg. 1](#)

### Other Forms P45

**45.**—(1) The new employer must—

- (a) record in the deductions working sheet the emergency code as the employee's code, and
- (b) deduct tax from each relevant payment using the emergency code on the non-cumulative basis.

(2) The emergency code is treated as having been issued to the employer by the Inland Revenue as the code for use in respect of the employee.

#### Commencement Information

**I25** [Reg. 45](#) in force at 6.4.2004, see [reg. 1](#)

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

**46.**—(1) This regulation applies if—

- (a) an employee commences employment without giving the employer Parts 2 and 3 of Form P45, and

(b) a code in respect of the employee has not otherwise been issued to the employer.

[<sup>F8</sup>(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.]

[<sup>F9</sup>A seconded expatriate who is a national of an EEA state (see section 56(3)(za) of ITA), or is a Commonwealth citizen (see section 278(2)(a) of ICTA), must provide confirmation of this as additional information.]

[<sup>F10</sup>(1C) In this regulation and in regulations 47 to 49, a "seconded expatriate" is an employee meeting one of the following descriptions.

Description 1: An employee in section 689 ITEPA (employee of non-UK employer) whose "work" in section 689(6) starts on 6 April 2009 or later.

Description 2: An employee in a branch of an employer. These Regulations would not apply to that employer but for that branch. The employer seconded the employee to that branch. The employee was not employed in the United Kingdom immediately before the secondment. The secondment starts on 6 April 2009 or later.]

(2) The employee must indicate in Form P46 which <sup>F11</sup>... of the following statements [<sup>F12</sup>applies]—

[<sup>F13</sup>Statement A: that the employment referred to in paragraph (1)(a) is the employee's first employment since the preceding 6<sup>th</sup> 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 6<sup>th</sup> 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.]

<sup>F14</sup> ...

[<sup>F15</sup>A seconded expatriate must indicate instead which of the following statements applies—

Statement A: the employee intends to live in the United Kingdom for more than 6 months;

Statement B: the employee intends to live in the United Kingdom for less than 6 months;

Statement C: the employee will work both inside and outside the United Kingdom, but will live outside.]

[<sup>F16</sup>(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).

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

(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.]

[<sup>F17</sup>(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.]

(4) The employer must keep the Form P46 until required to send it to the Inland Revenue in accordance with regulations 47 to 49.

(5) Before sending the Form P46, the employer must indicate in the Form which code is being used in respect of the employee and whether it is being used on the non-cumulative basis.

(6) For the purposes of paragraph (1)(b), the employer must ignore any code issued to the employer in respect of an employee's earlier employment which has ceased.

(7) This regulation ceases to apply in the circumstances mentioned in regulation 51(2) (late presentation of Form P45: before employer required to send Form P46).

#### Textual Amendments

- F8** Reg. 46(1A)(1B) inserted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(2)**
- F9** Words in reg. 46(1B) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(1)**
- F10** Reg. 46(1C) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(2)**
- F11** Words in reg. 46(2) omitted (6.4.2006) by virtue of [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(a)(i)**
- F12** Word in reg. 46(2) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(a)(ii)**
- F13** Reg. 46(2): Statements A, B, C substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(b)**
- F14** Words in reg. 46(2) omitted (6.4.2006) by virtue of [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(3)(c)**
- F15** Words in reg. 46(2) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(3)**
- F16** Reg. 46(2A)-(2C) inserted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(4)**
- F17** Reg. 46(3) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **3(5)**

### Commencement Information

**I26** Reg. 46 in force at 6.4.2004, see [reg. 1](#)

### <sup>F18</sup>Procedure in Form P46 cases: (a) seconded expatriate is national of EEA state or Commonwealth citizen, or (b) employee is not seconded expatriate and Statement A applies]

**47.**—<sup>F19</sup>(1) This regulation applies in the case of an employee <sup>F20</sup>(not a seconded expatriate) who indicates that Statement A applies.]

<sup>F20</sup>It also applies to a seconded expatriate who confirms being a national of an EEA state or being a Commonwealth citizen (see regulation 46(1B)).]

(2) On making the first relevant payment which <sup>F21</sup>equals or exceeds the lower earnings limit] to the employee, the employer must—

- <sup>F22</sup>(a) send the Form P46 to Her Majesty’s Revenue and Customs,]
- (b) prepare a deductions working sheet and enter the total payments to date, and
- (c) deduct tax on the cumulative basis using the emergency code.

<sup>F23</sup>(2A) To comply with paragraph (2)(a)—

- (a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the Inland Revenue issue a code for use in respect of the employee, the employer must continue to deduct or repay tax on the cumulative basis using the emergency code.

<sup>F24</sup>(4) In this regulation, “lower earnings limit” means the lower earnings limit for Class 1 contributions for the purposes of section 5(1) of the Social Security Contributions and Benefits Act 1992.]

### Textual Amendments

- F18** Reg. 47 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **3(4)**
- F19** Reg. 47(1) substituted (6.4.2006) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2005 (S.I. 2005/2691), regs. 1, **4(3)**
- F20** Words in reg. 47(1) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Income Tax (Pay As You Earn) (Amendment) Regulations 2009 (S.I. 2009/588), regs. 1(1), **3(5)**
- F21** Words in reg. 47(2) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **6(a)**
- F22** Reg. 47(2)(a) substituted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **6(b)**
- F23** Reg. 47(2A) inserted (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **6(c)**
- F24** Reg. 47(4) added (6.4.2008) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(2), **6(d)**

### Commencement Information

**I27** Reg. 47 in force at 6.4.2004, see [reg. 1](#)

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

**[<sup>F25</sup>Procedure in Form P46 cases: (a) Statement B applies (not seconded expatriate), or (b) Statement B or C applies (seconded expatriate)]**

**48.**—(1) This regulation applies in the case of an employee [<sup>F26</sup>(not a seconded expatriate)] who indicates in the Form P46 that <sup>F27</sup>... Statement B applies.

[<sup>F26</sup>It also applies in the case of a seconded expatriate who indicates in the Form P46 that Statement B or C applies.]

(2) On making the first relevant payment which [<sup>F28</sup>equals or exceeds the lower earnings limit] to the employee, the employer must—

- [<sup>F29</sup>(a) send the P46 to Her Majesty’s Revenue and Customs,]
- (b) prepare a deductions working sheet and enter the total payments to date, and
- (c) deduct tax on the non-cumulative basis using the emergency code.

[<sup>F30</sup>(2A) To comply with paragraph (2)(a)—

- (a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and
- (b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the employee’s code is issued, the employer must continue to deduct or repay tax on the non-cumulative basis using the emergency code.

[<sup>F31</sup>(4) In this regulation, “lower earnings limit” means the lower earnings limit for Class 1 contributions for the purposes of section 5(1) of the Social Security Contributions and Benefits Act 1992.]

**Textual Amendments**

- F25** Reg. 48 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(6)**
- F26** Words in reg. 48(1) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(7)**
- F27** Word in reg. 48(1) omitted (6.4.2006) by virtue of [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **5(3)**
- F28** Words in reg. 48(2) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(a)**
- F29** Reg. 48(2)(a) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(b)**
- F30** Reg. 48(2A) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(c)**
- F31** Reg. 48(4) added (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **7(d)**

**Commencement Information**

- I28** Reg. 48 in force at 6.4.2004, see [reg. 1](#)

**[<sup>F32</sup>Procedure in Form P46 cases: (a) Statement C applies (not seconded expatriate), or (b) Statement A applies (seconded expatriate), or (c) Form P46 not signed when required]**

**49.**—(1) This regulation applies in any case which is not dealt with by regulation 47 or 48 which concerns an employee to whom regulation 46(1) applies.

(2) On making the first relevant payment to the employee, the employer must—

[<sup>F33</sup>(a) send the Form P46 to Her Majesty’s Revenue and Customs,]

(b) prepare a deductions working sheet and enter both the total payments to date and the total tax to date before the first payment as nil,

(c) deduct tax on the cumulative basis using the basic rate code.

[<sup>F34</sup>(2A) To comply with paragraph (2)(a)—

(a) the employer must send the Form P46 to Her Majesty’s Revenue and Customs even if the employee has not provided all of the information required by regulation 46, and

(b) the employer must provide any of the information required by regulation 46(1B) that the employee has not provided.]

(3) On making any subsequent relevant payment before the employee’s code is issued, the employer must continue to deduct tax on the cumulative basis using the basic rate code.

[<sup>F35</sup>(4) In the case of a seconded expatriate, the emergency code must be used instead of the basic rate code mentioned in paragraphs (2)(c) and (3) (see also regulation 7(3) about the codes).]

**Textual Amendments**

**F32** Reg. 49 heading substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(8)**

**F33** Reg. 49(2)(a) substituted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **8(a)**

**F34** Reg. 49(2A) inserted (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(2), **8(b)**

**F35** Reg. 49(4) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2009 \(S.I. 2009/588\)](#), regs. 1(1), **3(9)**

**Commencement Information**

**I29** Reg. 49 in force at 6.4.2004, see [reg. 1](#)

**Procedure in Form P46 cases: code treated as issued by Inland Revenue**

**50.**—(1) The emergency code or the basic rate code used by the employer in accordance with regulations 47 to 49 is treated, for the purposes of Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information) as having been issued by the Inland Revenue as the code for use in respect of the employee.

(2) This does not apply for the purposes of regulation 18 (objections and appeals) and regulations 46 to 49 and 51 to 53 (Form P46 procedure and late presentation of Form P45).

**Commencement Information**

**I30** Reg. 50 in force at 6.4.2004, see [reg. 1](#)

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

### [<sup>F36</sup> Procedure in cases of retrospective earnings: code treated as issued by HMRC

#### 50A.—(1) If—

- (a) as a result of a retrospective tax provision, a qualifying payment was made in a year (whether open or closed) to a person, and
- (b) a code has never been issued to the employer in respect of employment with whom that qualifying payment was made,

paragraph (2) applies.

(2) Where this paragraph applies the higher rate code applicable to the year in which the qualifying payment was made is treated, for the purposes of Parts 2 to 4 (codes, deduction and repayment of tax, payments, information and returns) as having been issued by HMRC as the code for use in respect of the employee in relation to that year.

(3) Paragraph (2) does not apply for the purposes of regulation 18 (objections and appeals) and regulations 46 to 49 and 51 to 53 (Form P46 procedure and late presentation of Form P45).]

#### Textual Amendments

**F36** Reg. 50A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, 7

### Late presentation of Form P45

51.—(1) This regulation applies if an employee gives Parts 2 and 3 of Form P45 to the employer after commencing employment.

(2) If the employee gives Parts 2 and 3 of Form P45 to the employer before the employer is required to send the Form P46 to the Inland Revenue under regulation 47 to 49, regulation 42 (procedure if employer receives Form P45) applies.

(3) If the employee gives Parts 2 and 3 of Form P45 to the employer—

- (a) after the Form P46 is required to have been sent to the Inland Revenue, but
- (b) before the employee's code has been issued to the employer,

this regulation and regulation 52 (late presentation of Form P45: employer's duties) apply.

(4) If the employee gives Parts 2 and 3 of Form P45 to the employer after the employee's code has been issued to the employer, they must be destroyed.

(5) If Parts 2 and 3 of Form P45 show that the employment ended in the current tax year then, unless the employer has already ceased to employ the employee—

- (a) the code shown in Parts 2 and 3 of Form P45 is treated as having been issued by the Inland Revenue to the employer on the day the employee gives them to the employer, and
- (b) the employer must comply with regulation 52.

(6) If Parts 2 and 3 of Form P45 show that the employment ended in the previous tax year and the employee gives them to the employer on or before 24th May then, unless the employer has already ceased to employ the employee—

- (a) the code shown in Parts 2 and 3 of Form P45 is treated as having been issued by the Inland Revenue to the employer on the day the employee gives them to the employer,
- (b) the employer must deduct or repay tax by reference to that code using the cumulative basis, subject to regulation 32 (higher rate code: deductions), and
- (c) the employer must comply with paragraphs (2) and (3) of regulation 52.

- (7) Parts 2 and 3 of Form P45 must be destroyed—
- (a) if they show that the employment ended in the previous tax year and the employee gives them to the employer after 24th May, or
  - (b) if they show that the employment ended in an earlier tax year.

**Commencement Information**

**I31** Reg. 51 in force at 6.4.2004, see **reg. 1**

**Late presentation of Form P45: employer's duties**

**52.**—(1) This regulation applies in the circumstances mentioned in regulation 51(5); and paragraphs (2) and (3) of this regulation also apply in the circumstances mentioned in regulation 51(6).

- (2) The employer must insert in Part 3 of Form P45—
- (a) the employer's employer reference,
  - (b) the date on which the new employment commenced,
  - (c) any number used to identify the employee,
  - (d) the employee's code in use by the employer if different from the code shown in Parts 2 and 3 of Form P45,
  - (e) if Parts 2 and 3 of the Form P45 show that the cumulative basis has been used, the figure (if any) recorded in accordance with paragraph (7)(c) or (8)(c) if different from the total tax to date shown on Parts 2 and 3 of Form P45,
  - (f) the employee's address,
  - (g) the employee's date of birth,<sup>F37</sup> ...
- [<sup>F38</sup>(ga) the employee's sex,]
- (h) the employee's job title or description,
  - (i) the employer's name, and
  - (j) the employer's address.
- (3) The employer must then send Part 3 of Form P45 to the employer's Inland Revenue office.
- (4) The employer must prepare a deductions working sheet (unless the employer has already prepared one) in accordance with the following information shown in Parts 2 and 3 of Form P45—
- (a) the employee's name,
  - (b) the employee's national insurance number, and
  - (c) the employee's code.
- (5) The employer must record in the deductions working sheet the sum of—
- (a) the total payments to date (if any) shown in Parts 2 and 3 of Form P45, and
  - (b) the relevant payments which have been made by the employer since the employment commenced which have not already been recorded in the deductions working sheet.
- (6) If Parts 2 and 3 of Form P45 show that the cumulative basis has been used, the employer must also record the following additional information in the deductions working sheet, or keep such records as enable its production.
- (7) If the code shown in Parts 2 and 3 of Form P45 is a K code, the additional information is—
- (a) the total additional pay to date,

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- (b) the total taxable payments to date, and
  - (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 or the total net tax deducted shown in it.
- (8) In any other case, the additional information is—
- (a) the total free pay to date,
  - (b) the total taxable payments to date, and
  - (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.
- (9) The employer must ascertain the amounts required by paragraphs (7)(a) and (b) and (8)(a) and (b) by reference solely to the information shown in Parts 2 and 3 of Form P45.
- (10) If Parts 2 and 3 of Form P45 show that the cumulative basis has been used, the employer, on making any subsequent relevant payment to the employee, must deduct or repay tax by reference to the code shown in Parts 2 and 3 of Form P45 on the cumulative basis.
- (11) For the purposes of—
- (a) paragraph (10), and
  - (b) item 8 of Table 2 in regulation 36(4) (Form P45), and
  - (c) regulation 55(4)(f) [<sup>F39</sup>(Form P46(Pen))],
- the total payments to date recorded in the deductions working sheet in accordance with paragraph (5) and the figure recorded in accordance with paragraph (7)(c) or (8)(c) must be treated as if they were relevant payments made to the employee by, and tax deducted by, the new employer.
- (12) For the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date), the figure recorded in accordance with paragraph (7)(c) or (8)(c) must be added to any actual previous total tax to date, and the total treated as the previous total tax to date when the employer next makes a relevant payment to the employee.
- (13) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used, on making any relevant payment to the employee, the employer must, subject to regulation 32 (higher rate code: deductions), deduct tax by reference to the code shown in Parts 2 and 3 of Form P45 on the non-cumulative basis.

#### Textual Amendments

- F37** Words in [reg. 52\(2\)\(g\)](#) omitted (6.4.2009) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(3\), 9\(a\)\(i\)](#)
- F38** [Reg. 52\(2\)\(ga\)](#) inserted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(3\), 9\(a\)\(ii\)](#)
- F39** Word in [reg. 52\(11\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(3\), 9\(b\)](#)

#### Commencement Information

- I32** [Reg. 52](#) in force at 6.4.2004, see [reg. 1](#)

### Form P46 cases: subsequent procedure on issue of employee's code

**53.**—(1) On making any relevant payment to an employee falling within regulation 47 to 49 (procedure in Form P46 cases) after the Inland Revenue have issued a code to the employer for use in respect of the employee, the employer must deduct or repay tax by reference to that code.

- (2) For the purposes of paragraph (1) and regulation 66 (deductions working sheets)—

- (a) any total payments to date notified to the employer by the Inland Revenue are treated as if they represented relevant payments made by the employer; and
  - (b) the total net tax deducted before the first payment made in accordance with this regulation is taken to be the sum of—
    - (i) the total net tax deducted, if any, notified to the employer by the Inland Revenue, and
    - (ii) any tax which the employer was liable to deduct from the employee's relevant payments under regulation 47, 48 or 49.
- (3) For the purposes of—
- (a) item 8 of Table 2 in regulation 36(4) (Form P45), and
  - (b) regulation 55(4)(f) [<sup>F40</sup>(Form P46(Pen))],

any total payments to date and total net tax deducted which are notified to the employer by the Inland Revenue must be treated as if they were relevant payments made to the employee by, and tax deducted by, the employer.

(4) If the employee's previous code was used on the cumulative basis, any amount notified to the employer under paragraph (2)(b)(i) must be added to the previous total tax to date for the purposes of regulation 23(8) (cumulative basis: meaning of previous total tax to date).

**Textual Amendments**

**F40** Word in [reg. 53\(3\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **10**

**Commencement Information**

**I33** [Reg. 53](#) in force at 6.4.2004, see [reg. 1](#)

CHAPTER 3

[<sup>F41</sup>NEW PENSIONERS: FORMS P45 AND P46(PEN)]

**Textual Amendments**

**F41** [Pt. 3 Ch. 3 heading](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **11**

**Scope of Chapter 3**

**54.** This Chapter applies (instead of Chapter 2) when a pension starts, if the pension payer will not be making relevant payments other than relevant pension payments to the pensioner.

**Commencement Information**

**I34** [Reg. 54](#) in force at 6.4.2004, see [reg. 1](#)

**PAYE pension income paid by former employer**

**55.**—(1) This regulation applies if the pension payer was, immediately before the pensioner's retirement, the pensioner's employer and so, in accordance with regulation 36(3), no Form P45 was completed.

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*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

(2) On making relevant pension payments to the pensioner, the pension payer must deduct tax on the non-cumulative basis, subject to regulation 32 (higher rate code: deductions), for the remainder of the tax year in which the pension starts or until directed otherwise by the Inland Revenue.

(3) Within 14 days after the pensioner's retirement, the pension payer must prepare a [<sup>F42</sup>Form P46(Pen)] and—

- (a) send it to the Inland Revenue, and
- (b) give [<sup>F43</sup>a copy of the information] to the pensioner.

(4) The [<sup>F42</sup>Form P46(Pen)] must contain the following information—

- (a) the pensioner's name,
- (b) the pensioner's address, <sup>F44</sup> ...
- [<sup>F45</sup>(ba) the pensioner's date of birth,
- (bb) the pensioner's sex,]
- (c) the pensioner's national insurance number, if known,
- (d) the pension payer's PAYE reference,
- (e) the date of retirement,
- (f) the total payments to date at the date of retirement,
- (g) the total payments to date relating to the employment in question at the date of retirement,
- (h) the total net tax deducted corresponding to the total payments to date relating to the employment in question,
- (i) the amount of pension payable [<sup>F46</sup>annually],
- (j) any number used to identify the pensioner,
- (k) whether the pensioner's code is use on the cumulative basis,
- (l) the pension payer's name, and
- (m) the pension payer's address.

(5) Paragraph (4) is subject to regulation 212 (modifications for electronic version of [<sup>F42</sup>Form P46(Pen)]<sup>F47</sup>...).

#### Textual Amendments

- F42** Words in reg. 55(3)(4)(5) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(a)**
- F43** Words in reg. 55(3)(b) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(b)**
- F44** Words in reg. 55(4)(b) omitted (6.4.2009) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(c)(i)**
- F45** Reg. 55(4)(ba)(bb) inserted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(c)(ii)**
- F46** Word in reg. 55(4)(i) substituted (6.4.2009) by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(c)(iii)**
- F47** Words in reg. 55(5) omitted (6.4.2009) by virtue of The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2007 (S.I. 2007/2969), regs. 1(3), **12(d)**

#### Commencement Information

- I35** Reg. 55 in force at 6.4.2004, see **reg. 1**

**PAYE pension income paid by other pension payer**

**56.**—(1) This regulation applies if the pensioner gives Parts 2 and 3 of Form P45 to the pension payer when a pension starts.

(2) The pension payer must insert in Part 3 of Form P45—

- (a) the pensioner's address,
- (b) any number used to identify the pensioner, <sup>F48</sup>...
- (c) the date on which the pension started.
- <sup>F49</sup>(d) the pensioner's date of birth, and
- (e) the pensioner's sex.]

(3) The pension payer must then send Part 3 of Form P45 to the pension payer's Inland Revenue office.

(4) The receipt by the pension payer of Parts 2 and 3 of Form P45 under paragraph (1) is treated as the issue by the Inland Revenue of the code shown in Parts 2 and 3 of Form P45 as the code for use in respect of the pensioner.

(5) On making relevant pension payments to the pensioner, the pension payer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax—

- (a) on the non-cumulative basis, for the remainder of the tax year to which Parts 2 and 3 of Form P45 relate;
- (b) on the cumulative basis, for subsequent tax years.
- (6) Paragraph (5) applies until the pension payer is directed otherwise by the Inland Revenue.

**Textual Amendments**

**F48** Word in [reg. 56\(2\)](#) omitted (6.4.2009) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(3\)](#), **13(a)**

**F49** [Reg. 56\(2\)\(d\)\(e\)](#) added (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(3\)](#), **13(b)**

**Commencement Information**

**I36** [Reg. 56](#) in force at 6.4.2004, see [reg. 1](#)

**<sup>F50</sup>Information to be provided in Form P46(Pen) if code not known: non UK residents]**

**57.**—(1) This regulation applies if a pension payer pays a pension, which does not arise wholly from an employment carried on abroad, to a pensioner—

- (a) who is not resident in the United Kingdom,
- (b) who has not given Parts 2 and 3 of Form P45 to the pension payer, and
- (c) in respect of whom a code has not otherwise been issued by the Inland Revenue.

(2) On making the first payment which exceeds the PAYE threshold, the pension payer must send to the Inland Revenue the following information in <sup>F51</sup>Form P46(Pen)].

<sup>F52</sup>(3) The information is—

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

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*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

- (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.]

(4) For the purposes of paragraph (1)(c), the pension payer must ignore any code issued to the pension payer in respect of a previous pension of the pensioner which has ended.

#### Textual Amendments

- F50** Reg. 57 heading substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **14(a)**
- F51** Words in reg. 57(2) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **14(b)**
- F52** Reg. 57(3) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **7(2)**

#### Commencement Information

- I37** Reg. 57 in force at 6.4.2004, see [reg. 1](#)

### <sup>F53</sup>Information (Form P46(Pen)) and procedure if code not known: UK residents]

**58.**—(1) This regulation applies if—

- (a) a pension payer starts to make relevant pension payments to a pensioner,
- (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.

(2) On making any relevant pension payments to the pensioner before the Inland Revenue issue a code for use in respect of the pensioner, the pension payer must deduct tax on the non-cumulative basis applying the emergency code.

(3) The pension payer must send the Inland Revenue the following information in [<sup>F54</sup>Form P46(Pen)].

[<sup>F55</sup>(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.]

(5) The pension payer must also indicate in the Form that the emergency code is being used on the non-cumulative basis.

(6) For the purposes of paragraph (1)(d), the pension payer must ignore any code issued to the pension payer in respect of a previous pension of the pensioner which has ended.

#### Textual Amendments

- F53** Reg. 58 heading substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **15(a)**
- F54** Words in reg. 58(3) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **15(b)**
- F55** Reg. 58(4) substituted (6.4.2006) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2005 \(S.I. 2005/2691\)](#), regs. 1, **8(2)**

#### Commencement Information

- I38** [Reg. 58](#) in force at 6.4.2004, see [reg. 1](#)

### UK resident pensioner's code treated as issued by Inland Revenue

**59.**—(1) The emergency code used by the pension payer in accordance with regulation 58 is treated, for the purposes of Parts 2 to 4 (codes; deduction and repayment of tax; payments, returns and information) as having been issued by the Inland Revenue as the code for use in respect of the pensioner.

(2) This does not apply for the purposes of regulation 18 (objections and appeals) and regulations 58, 60 and 61 ([<sup>F56</sup>Form P46(Pen)] procedure, late presentation of Form P45 etc).

#### Textual Amendments

- F56** Words in [reg. 59\(2\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), regs. 1(3), **16**

#### Commencement Information

- I39** [Reg. 59](#) in force at 6.4.2004, see [reg. 1](#)

### Late presentation of Form P45

**60.**—(1) Paragraphs (2) to (6) apply if the pensioner gives Parts 2 and 3 of Form P45 to the pension payer after the pension has started but before a code has been issued.

- (2) The pension payer must insert in Part 3 of Form P45—
  - (a) the pensioner's address,
  - (b) any number used to identify the pensioner, and
  - (c) the date on which the pension started.

(3) The pension payer must then send Part 3 of Form P45 to the pension payer's Inland Revenue office.

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

(4) The receipt by the pension payer of Parts 2 and 3 of Form P45 under paragraph (1) is treated, except for the purposes of paragraph (1), as the issue by the Inland Revenue of the code shown in that Form as the pensioner's code.

(5) On making relevant pension payments to the pensioner, the pension payer must, subject to regulation 32 (higher rate code: deductions), deduct or repay tax—

- (a) on the non-cumulative basis, for the remainder of the tax year to which Parts 2 and 3 of Form P45 relate;
- (b) on the cumulative basis, for subsequent tax years.

(6) Paragraph (5) applies until the pension payer is directed otherwise by the Inland Revenue.

(7) If Parts 2 and 3 of Form P45 are given to the pension payer after the pension has started and after a code has been issued by the Inland Revenue, they must be destroyed.

#### Commencement Information

**I40** Reg. 60 in force at 6.4.2004, see [reg. 1](#)

#### Subsequent procedure on issue of UK resident pensioner's code

**61.**—(1) On making any relevant pension payment to a pensioner falling within regulation 58 after the Inland Revenue have issued a code to the pension payer for use in respect of the pensioner, the pension payer must deduct or repay tax by reference to that code.

- (2) For the purposes of paragraph (1) and regulation 66 (deductions working sheets)—
  - (a) any total payments to date notified to the pension payer by the Inland Revenue are treated as if they represented relevant pension payments made by pension payer; and
  - (b) the total net tax deducted before the first payment made in accordance with this regulation is taken to be the sum of—
    - (i) the total net tax deducted, if any, notified to the pension payer by the Inland Revenue, and
    - (ii) any tax which the pension payer was liable to deduct from the pensioner's relevant pension payments under regulation 58.

(3) For the purposes of—

- (a) item 8 of Table 2 in regulation 36(4) (Form P45), and
- (b) regulation 55(4)(f) [<sup>F57</sup>(P46(Pen))],

any total payments to date and total net tax deducted which are which are notified to the employer by the Inland Revenue must be treated as if they were relevant pension payments made to the pensioner by, and tax deducted by, the pension payer.

(4) If the pensioner's previous code was used on the cumulative basis, any amount notified to the pension payer under paragraph (2)(b)(i) must be added to the previous total tax to date for the purposes of regulation 23(8) (meaning of previous total tax to date).

#### Textual Amendments

**F57** Word in [reg. 61\(3\)\(b\)](#) substituted (6.4.2009) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(3\), 17](#)

**Commencement Information**

I41 Reg. 61 in force at 6.4.2004, see reg. 1

## CHAPTER 4

## MISCELLANEOUS

**Deductions in respect of notional payments**

**62.**—(1) This regulation applies if an employer makes a relevant payment which is a notional payment [<sup>F58</sup>(including a notional payment arising by virtue of a retrospective tax provision)] to an employee.

(2) The employer must, so far as possible, deduct tax required to be deducted in respect of a notional payment in accordance with any of [<sup>F59</sup>the provisions listed in paragraph (3)] from any relevant payment or payments which the employer actually makes to the employee at the same time as the notional payment.

(3) [<sup>F60</sup>The provisions are—]

regulations 22 to 25	cumulative basis
regulations 26 to 31	non-cumulative basis
regulation 32	higher rate code: deductions
regulation 34	simplified deduction scheme for personal employees
regulation 37	PAYE income paid after employment ceased.
[ <sup>F61</sup> paragraphs (2) and (3) of regulation 37A	Income paid after cessation of employment becoming subject to PAYE]

(4) If the employer cannot deduct the full amount of tax as required by paragraph (2) from another relevant payment made at the same time as the notional payment, the employer must, so far as possible, deduct the tax from any payment or payments which the employer makes later in the same tax period.

(5) If the relevant payments actually made are insufficient to enable the employer to deduct the full amount of tax due in respect of notional payments, the employer must account to the Board of Inland Revenue for any amount which the employer is unable to deduct.

(6) Regulations 23(5) and 28(5) (deductions on cumulative or non-cumulative basis not to exceed the overriding limit) do not apply to the extent that the tax to be deducted is in respect of a notional payment.

**Textual Amendments**

**F58** Words in reg. 62(1) inserted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **8(2)**

**F59** Words in reg. 62(2) substituted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **8(3)**

**F60** Words in reg. 62(3) substituted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **8(4)(a)**

**F61** Words in reg. 62(3) Table inserted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **8(4)(b)**

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### Commencement Information

**I42** Reg. 62 in force at 6.4.2004, see [reg. 1](#)

### Repayment during unpaid leave

**63.**—(1) This regulation applies if—

- (a) an employee is not entitled to receive any relevant payments on a normal pay day because of absence from work,
- (b) the cumulative basis would have been used in relation to a payment made on that day,
- (c) the employee does not fall within regulation 64(1) (absence from work due to participation in trade dispute), and
- (d) the employee, or the employee's authorised representative, makes an application in person to the employer.

(2) The employer must—

- (a) comply with regulation 23 (cumulative basis: deduction and repayment) and accordingly repay any tax due to the employee, and
- (b) comply with regulation 66(4) to (6) (completion of deductions working sheet),

as if the pay day were one on which relevant payments of nil had been made.

### Commencement Information

**I43** Reg. 63 in force at 6.4.2004, see [reg. 1](#)

### Trade disputes

**64.**—(1) This regulation applies if an employee—

- (a) is absent from work because of a trade dispute at the employee's place of work, and
- (b) is participating or directly interested in the trade dispute.

(2) The employer must—

- (a) on making any relevant payment, calculate the amount of tax to be deducted or repaid, and
- (b) comply with paragraphs (5) to (8).

(3) If no relevant payments are to be made on the normal pay day but the employee's code would be used on the cumulative basis if a relevant payment were made on that day, the employer must—

- (a) calculate, in accordance with regulation 23 (cumulative basis: deduction and repayment) whether any tax is due to be repaid on that day as if it were a day on which relevant payments of nil had been paid, and
- (b) comply with paragraphs (5) to (8).

(4) Paragraphs (2) and (3) are subject to paragraphs (9) and (10).

(5) The employer—

- (a) must not repay any tax due to be repaid until the end of the employee's strike action, but
- (b) must deduct any tax due to be deducted, less any repayment for the tax year which has not been made.

(6) The amount of any repayment—

- (a) made at the end of the employee's strike action under paragraph (5)(a), or

- (b) set against tax due to be deducted under paragraph (5)(b),  
must be reduced by any amount previously set off in accordance with paragraph (5)(b).
- (7) If the absence of an employee extends beyond the end of the tax year, the employer must—
- (a) before 1st June following the end of the tax year, give notice to the employee of the amount of any repayment of tax for the tax year in question calculated in accordance with paragraph (2) which has not been set off against any tax due to be deducted under paragraph (5)(b); and
  - (b) complete the certificate which must be given under regulation 67 (Form P60) and the return which must be sent under regulation 73 (Form P35 and P14) as if that tax had been repaid to the employee.
- (8) If the employer has not made any repayment of tax withheld under paragraph (5) within 42 days after the end of the employee's strike action, the employer must instead immediately pay the tax not repaid to the Inland Revenue, and regulation 69(2) (receipt where requested) applies to that payment.
- (9) An employee from whom a repayment of tax has been withheld in accordance with paragraph (5) may request a benefit officer to certify that—
- (a) section 14 of the Jobseekers Act 1995(1), or
  - (b) in Northern Ireland, article 16 of the Jobseekers (Northern Ireland) Order 1995(2),
- (no allowance to those involved in trade dispute) does not disqualify the employee from receiving jobseeker's allowance, whether or not the employee is in fact entitled to receive jobseeker's allowance.
- (10) If a benefit officer certifies in accordance with paragraph (9), the employer must make such repayment to the employee as may be due.
- (11) In this regulation—
- “benefit officer” means the appropriate officer—
- (a) of the Department for Work and Pensions or,
  - (b) in Northern Ireland, of the Department for Social Development;
- “end of the employee's strike action” means any of the following—
- (a) the employee is no longer absent from work because of the trade dispute,
  - (b) the employer ceases to employ the employee,
  - (c) the employee has become genuinely employed elsewhere in the occupation which the employee usually follows,
  - (d) the employee has become regularly engaged in some other occupation, or
  - (e) the employee dies;
- “jobseeker's allowance” has the same meaning as in regulation 148;
- “place of work” has the meaning given in section 14(4) of the Jobseekers Act 1995 or, in Northern Ireland, in article 16(4) of the Jobseekers (Northern Ireland) Order 1995.

**Commencement Information**

**I44** Reg. 64 in force at 6.4.2004, see [reg. 1](#)

(1) 1995 c. 18.  
(2) S.I.1995/2705 (N.I. 15).

*Status: Point in time view as at 13/08/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)*

### Repayment if no longer employed

- 65.**—(1) This regulation applies if, in a tax year, a person (“P”)—
- (a) was employed,
  - (b) is no longer employed, and
  - (c) applies for a repayment of tax.
- (2) P must give the Inland Revenue—
- (a) Parts 2 and 3 of Form P45,
  - (b) either certificate A or B, depending on P’s circumstances, and
  - (c) such evidence of P’s unemployment as the Inland Revenue may require.
- (3) Certificate A is one which certifies that P is unemployed and, to the best of P’s knowledge and belief, P—
- (a) will not be a claimant during the period starting with the date on which the application is made and ending at the end of the tax year, and
  - (b) will not be employed during that period.
- (4) Certificate B is one which certifies that P is unemployed and is not a claimant when the application is made.
- (5) On receiving P’s application, the Inland Revenue must make any repayment of tax which is appropriate, having regard to P’s employee’s code and the following information.
- (6) If P gives certificate A the information is—
- (a) the total payments to date and the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 (or, if lower, the total net tax deducted shown in it),
  - (b) any other relevant payments received by P in the tax year to date, and
  - (c) any other payments P will receive in the tax year.
- (7) If P does not give certificate A the information is—
- (a) the total payments to date and the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 (or, if lower, the total net tax deducted shown in it), and
  - (b) any other relevant payments received by P in the tax year to date.
- (8) For the purposes of this regulation, “claimant” means a person who is—
- (a) a claimant as defined by regulation 148 (jobseeker’s allowance), or
  - (b) a claimant in receipt of taxable benefit as defined by regulation 173 (incapacity benefit).

#### Commencement Information

**I45** [Reg. 65](#) in force at 6.4.2004, see [reg. 1](#)

### Deductions working sheets

- 66.**—(1) Paragraph (2) applies if a code has been issued to an employer in respect of an employee.
- (2) The employer must, on making a relevant payment to the employee, prepare a deductions working sheet (unless the employer has already done so).
- (3) The employer must record in the deductions working sheet—
- (a) the employee’s name,
  - (b) the employee’s national insurance number, if known,

- (c) the employee's code, and
  - (d) the tax year to which the deductions working sheet relates.
- (4) The employer must record in the deductions working sheet in respect of every relevant payment which the employer makes to the employee—
- (a) the date of the payment,
  - (b) the amount of the payment, and
  - (c) the amount of tax, if any, deducted or repaid on making the payment, or to be deducted or accounted for under regulation 62(4) or (5) (notional payments).
- [<sup>F62</sup>(4A) For the purposes of paragraphs (4)(a) and (6)(a), (b), (c), and (e)(i), a relevant payment—
- (a) which comprises an amount of retrospective employment income, and
  - (b) which was actually paid during a tax year which is not closed,
- shall be treated, for the purpose of computing the amount of tax to be deducted, as paid at the earlier of the relevant time and the end of the last tax period in which the former employee was employed.]
- (5) If the employee's code is used on the cumulative basis, the employer must, in respect of every relevant payment which the employer makes to the employee, either—
- (a) record the following information in the deductions working sheet, or
  - (b) keep such records as enable its production.
- (6) The information is—
- (a) the total payments to date in relation to the date of payment,
  - (b) the total free pay to date or, as the case may be, the total additional pay to date, in relation to that date,
  - (c) the total taxable payments to date in relation to that date,
  - (d) the corresponding total tax to date,
  - (e) if the employee's code is a K code—
    - (i) the tax due to be deducted at that date (subject to the overriding limit),
    - (ii) the overriding limit, if any, in relation to the payment,
    - (iii) the amount of any tax not deducted at that date because of the overriding limit, and
  - (f) any amount of tax which is not to be repaid because of regulation 64 (trade disputes).
- (7) If the employee's code is not used on the cumulative basis, the employer must, in respect of every relevant payment which the employer makes to the employee, either—
- (a) record the following information in the deductions working sheet, or
  - (b) keep such records as enable its production.
- (8) The information is—
- (a) the free pay, or, as the case may be, the additional pay for the employee's code,
  - (b) the taxable payments, and
  - (c) if the employee's code is a K code, the tax due to be deducted and the overriding limit.
- [<sup>F63</sup>(9) Nothing in this regulation applies to a closed tax year (see regulation 66A).]

#### Textual Amendments

**F62** Reg. 66(4A) inserted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **9(2)**

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**F63** Reg. 66(9) added (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **9(3)**

#### Commencement Information

**I46** Reg. 66 in force at 6.4.2004, see [reg. 1](#)

### [<sup>F64</sup>**Deduction working sheets: retrospective employment income in closed tax year**

**66A.**—(1) Paragraph (2) applies if—

- (a) a code has been issued to an employer in respect of an employee for a tax year which has subsequently become a closed tax year (“the relevant tax year”); and
- (b) after the end of that tax year a payment made during it to that employee becomes a qualifying payment.

(2) The employer must at the relevant time —

- (a) in a case where there was a deductions working sheet for the employee for the relevant tax year, revise it to reflect the effect of the retrospective tax provision on the total PAYE income including the retrospective employment income for that year; and
- (b) in a case where there was no deductions working sheet for the employee for the relevant year, produce one showing that effect on that income for that year.

(3) In a case falling within paragraph (2)(b) the employer must record in the deductions working sheet—

- (a) the employee’s name,
- (b) the employee’s national insurance number, if known,
- (c) the employee’s final code for the relevant tax year, and
- (d) details of the relevant tax year.

(4) The employer must record in the deductions working sheet in respect of every qualifying payment—

- (a) the date on which the payment is made,
- (b) the amount of the payment, and
- (c) the amount of tax, if any, to be deducted or accounted for under regulation 62(4) or (5) (notional payments).

(5) Despite paragraph (4)(a), in completing the deductions working sheet, the amount of any retrospective employment income shall be treated, for the purpose of computing the amount of tax to be deducted, as if it were paid in the final tax period, in which the employee was employed, in the relevant tax year.]

#### Textual Amendments

**F64** Reg. 66A inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **10**

### **Information to employees about payments and tax deducted (Form P60)**

**67.**—(1) Before 1st June following the end of the tax year, an employer must give a certificate (Form P60) to every employee—

- (a) who was in the employer’s employment on the last day of the tax year, and

- (b) from whose relevant payments the employer was required to deduct tax at any time during that tax year.
- (2) The certificate must show—
  - (a) the tax year to which it relates,
  - (b) the employer’s PAYE reference,
  - (c) the employee’s name,
  - (d) the employee’s national insurance number, if known,
  - (e) any number used by the employer to identify the employee,
  - (f) the total amount of the relevant payments made by the employer to the employee during the tax year in respect of the employment in question,
  - (g) the total net tax deducted in relation to those payments, subject to regulation 64(7)(b) (trade disputes),
  - (h) the employee’s code,
  - (i) the employer’s name, and
  - (j) the employer’s address.
- (3) In the case of an employee taken into employment after the beginning of the tax year, the certificate must also show—
  - (a) any amounts required by regulation 43(9), 52(11), 53(3) or 61(3) to be treated as relevant payments made by the employer to the employee during the tax year,
  - (b) any amounts treated as tax deducted by the employer at the end of the tax year by any of those regulations,
  - (c) the sum of the figures given under sub-paragraph (a) of this paragraph and paragraph (2)(f),
  - (d) the sum of the figures given under sub-paragraph (b) of this paragraph and paragraph (2)(g).

**Commencement Information**

**I47** Reg. 67 in force at 6.4.2004, see **reg. 1**

**[<sup>F65</sup>Revised information to employees about payments and tax deducted (Form P 60)**

- 67A.**—(1) This regulation applies where—
- (a) an enactment containing a retrospective tax provision applicable to a closed tax year is passed; and
  - (b) in consequence of the passing of that enactment an employee’s employment income in that closed tax year is increased.
- (2) Before 1<sup>st</sup> January next following the passing of the enactment—
- (a) if the employer has previously given the employee a certificate (Form P60), the employer must give the employee a revised certificate (Form P60); and
  - (b) if the employer has not previously given the employee such a certificate, the employer must give the employee a copy of the revised form P14 completed in accordance with regulation 73A (amended return of relevant payments (Forms P14 and P35(RL))) .
- (3) Paragraphs (2) and (3) of regulation 67 apply, in a case falling within paragraph (2)(a), for the purposes of this regulation as they apply for the purposes of that regulation, save that—

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**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3. (See end of Document for details)

- (a) sub-paragraph (f) of paragraph (2) shall have effect as if for “the total amount” there were substituted “the revised total amount”; and
- (b) sub-paragraph (g) of that paragraph shall have effect as if for “total net tax” there were substituted “the revised total amount of net tax”;

with references to revised amounts being construed as references to the amounts of relevant payments and net tax deducted computed after the application of the retrospective tax provision.

- (4) Where a revised certificate is given under this regulation—
  - (a) the employer must endorse it to show that it supersedes an earlier certificate; and
  - (b) the employee must not use the certificate which it supersedes.]

**Textual Amendments**

**F65** Reg. 67A inserted (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **11**

**Status:**

Point in time view as at 13/08/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 3.