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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

##### [<sup>F1</sup>CHAPTER 3A

##### BENEFITS IN KIND

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#### Textual Amendments

- F1** Pt. 3 Ch. 3A inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2015 \(S.I. 2015/1927\)](#), regs. 1(1), 6

#### Interpretation

**61A.** In this Chapter—

[<sup>F2</sup>“amount foregone” has the meaning given in section 69B of ITEPA;]

“authorised employer” has the meaning given by regulation 61C;

“main relevant payment” means the relevant payment normally made to the specified employee at regular intervals of a week or more;

“making good payment” means the payment referred to in regulation 61E(2) or 61G(2)(b);

[<sup>F3</sup>“optional remuneration arrangements” has the meaning given in section 69A of ITEPA;]

“relevant amount” means the amount calculated in accordance with section 87A, 94A, 120A, 154A or 203A of ITEPA, as the case may be;]

[<sup>F4</sup>“specified benefit” means any benefit treated as earnings under any of the following provisions of Part 3 of ITEPA (employment income: earnings and benefits etc. treated as earnings)—

- (a) section 87 (non-cash vouchers) except where section 694 (non-cash vouchers: treated as payments of PAYE income) of ITEPA applies,
- (aa) [<sup>F5</sup>section 87A (benefit of non-cash voucher treated as earnings: optional remuneration arrangements),]
- (b) section 94 (credit-tokens) except where section 695 (credit-tokens: treated as payments of PAYE income) of ITEPA applies,
- (ba) [<sup>F6</sup>section 94A (benefit of credit-token treated as earnings: optional remuneration arrangements),]
- (c) section 120 (car),

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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, CHAPTER3A. (See end of Document for details)*

- (ca) [<sup>F7</sup>section 120A (benefit of car treated as earnings: optional remuneration arrangements),]
- (d) section 149 (car fuel),
- (da) [<sup>F8</sup>section 149A (benefit of car fuel treated as earnings: optional remuneration arrangements),]
- (e) section 154 (van),
- (ea) [<sup>F9</sup>section 154A (benefit of a van treated as earnings: optional remuneration arrangements),]
- (f) section 160 (van fuel),
- (fa) [<sup>F10</sup>section 160A (benefit of van fuel treated as earnings: optional remuneration arrangements),]
- (g) section 203 (employment-related benefit);]
- (ga) [<sup>F11</sup>section 203A (employment-related benefit provided under optional remuneration arrangements);]

“specified employee” means an employee to whom an authorised employer provides a specified benefit;

“Taxable Amount of the Benefit” has the meaning given in regulation 61D(1).

#### Textual Amendments

- F2** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(a\)](#)
- F3** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(b\)](#)
- F4** Words in [reg. 61A](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), [regs. 1\(1\), 3](#)
- F5** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(i\)](#)
- F6** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(ii\)](#)
- F7** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(iii\)](#)
- F8** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(iv\)](#)
- F9** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(v\)](#)
- F10** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(vi\)](#)
- F11** Words in [reg. 61A](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), [regs. 1, 3\(c\)\(vii\)](#)

#### PAYE: benefits in kind

**61B.**—(1) This Chapter applies where during a tax year an authorised employer provides a specified benefit to a specified employee.

(2) Where this Chapter applies—

- (a) the specified benefit is to be treated as a payment of PAYE income for the purposes of these Regulations; and
- (b) any reference (howsoever expressed) in these Regulations to relevant payment includes an amount in respect of the provision of a specified benefit, such amount to be determined in accordance with regulations 61D, 61H, 61I, 61J, [<sup>F12</sup>61K, 61L and 61LA], as the case may be;

but this is subject to paragraph (3).

(3) An amount determined in accordance with regulation 61D, 61H, 61I, 61J, [<sup>F13</sup>61K, 61L or 61LA], as the case may be, is not to be included as a relevant payment for the purpose of calculating whether the deduction of tax would exceed the overriding limit.

#### Textual Amendments

- F12** Words in [reg. 61B\(2\)\(b\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), [regs. 1\(1\), 4\(a\)](#)
- F13** Words in [reg. 61B\(3\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), [regs. 1\(1\), 4\(b\)](#)

#### Authorised employer

**61C.**—(1) An employer is an authorised employer in respect of a specified employee for a tax year for the purposes of this Chapter if—

- (a) HMRC has authorised that employer to make—
    - (i) deductions of income tax in respect of the provision of a specified benefit from payments which that employer actually makes of, or on account of, PAYE income of that employee; or
    - (ii) repayments of such income tax; and
  - (b) such authorisation has not been withdrawn.
- (2) An employer will be authorised by HMRC if the conditions set out in paragraph (3) are met.
- (3) The conditions are that—
- (a) before the start of the tax year the employer has made an application for authorisation in respect of one or more specified employees to HMRC; and
  - (b) such an application identifies the specified benefit or benefits that will be provided to the specified employees.
- (4) But in cases falling within paragraph (5), an employer may make an application for authorisation in respect of one or more specified employees during a tax year.
- (5) The cases are that—
- (a) a specified benefit or benefits is to be provided to the specified employees referred to in the application for the first time during the tax year;
  - (b) a specified benefit or benefits is to be provided to an employee upon commencement of employment and the employer is already an authorised employer for the purposes of this Chapter; or
  - (c) the application made before the start of the tax year contained an error.

*Status: Point in time view as at 11/05/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, CHAPTER3A. (See end of Document for details)*

(6) If during the tax year an authorised employer notifies HMRC that the application for authorisation is withdrawn in respect of the specified employees identified in the notification, then the employer will cease to be an authorised employer in respect of those specified employees from the end of the tax year in which that notice is given.

(7) But in cases falling within paragraph (8), where an authorised employer notifies HMRC the application for authorisation is withdrawn in respect of the specified employees identified in the notification, then the employer will cease to be an authorised employer in respect of those employees from the date that the notification is received by HMRC.

(8) The cases are—

- (a) the relevant payment actually made to the specified employee named in the withdrawal notification will be insufficient to enable the authorised employer to deduct the full amount of tax due in respect of the relevant payment;
- (b) that during the tax year the authorised employer stops providing a specified benefit or benefits to the specified employees identified in the withdrawal notification and the Revised Taxable Amount of the Benefit provided is nil; or
- (c) the application made before the start of the year contained an error.

(9) Any application or notice must be made to HMRC using an approved method of electronic communication unless the employer is one to whom regulation 67D applies.

(10) For the purposes of this regulation, “Revised Taxable Amount of the Benefit” means the result of the calculation at step 3 of regulation 61I(2), as applied by regulation 61J(2).

#### **Deduction and repayments of tax: general rule**

**61D.**—(1) Where this Chapter applies an authorised employer must take the following steps—

##### *Step 1*

Before making the first main relevant payment to a specified employee in a tax year, the cash equivalent [<sup>F14</sup>, the relevant amount or amount foregone in respect] of the specified benefit or benefits to be provided in that tax year must be determined in accordance with regulation 61E, 61F or 61G (methods of calculating the cash equivalent [<sup>F15</sup>, the relevant amount or amount foregone in respect] of specified benefits), as the case may be.

##### *Step 2*

Determine the number of main relevant payments to be made to the specified employee in that tax year.

##### *Step 3*

Divide the amount obtained from step 1 by the number obtained from step 2.

The resulting amount is the Taxable Amount of the Benefit.

##### *Step 4*

Add the Taxable Amount of the Benefit to the first main relevant payment.

##### *Step 5*

Deduct or repay tax on the amount obtained at step 4 in accordance with these Regulations by reference to the employee’s code if the employer has one for the employee, even if the code is the subject of an objection or appeal.

(2) On making any subsequent main relevant payment in the tax year the authorised employer must add the Taxable Amount of the Benefit to that payment and apply step 5 of paragraph (1) to that amount.

(3) This regulation is subject to regulations 61H, 61I, 61J, [<sup>F16</sup>61K, 61L and 61LA](modifications to the general rule).

**Textual Amendments**

- F14** Words in reg. 61D(1) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **4(a)**
- F15** Words in reg. 61D(1) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **4(b)**
- F16** Words in reg. 61D(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), regs. 1(1), **5**

**Method of calculating the cash equivalent [<sup>F17</sup>or relevant amount in respect] of the benefit of a car or van**

**61E.**—(1) Where the specified benefit is the provision of a car or a van the cash equivalent [<sup>F18</sup>or relevant amount is calculated in accordance with section 121, 121A, 154A or 155 of ITEPA], as the case may be.

(2) For the purposes of paragraph (1), the authorised employer may take into account payments that the specified employee is required to make in the tax year as a condition of the car or van being available for that employee's private use.

**Textual Amendments**

- F17** Words in reg. 61E heading inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **5(a)**
- F18** Words in reg. 61E(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **5(b)**

**Method of calculating the cash equivalent [<sup>F19</sup>or amount foregone in respect] of the benefit of fuel**

**61F.**—(1) Where the specified benefit is the provisions of car fuel or van fuel the cash equivalent [<sup>F20</sup>or amount foregone in respect of that benefit is calculated in accordance with section 149A, 150, 160A or 161 of ITEPA], as the case may be.

(2) For the purposes of paragraph (1), the authorised employer may take into account payments that the specified employee is required to make during the tax year in connection with the provision of fuel for that employee's private use.

**Textual Amendments**

- F19** Words in reg. 61F heading inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **6(a)**
- F20** Words in reg. 61F(1) substituted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **6(b)**

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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, CHAPTER3A. (See end of Document for details)*

### **Method of calculating the cash equivalent [<sup>F21</sup>or relevant amount] of [<sup>F22</sup>non-cash vouchers, credit-tokens and] employment-related benefits**

**61G.**—(1) Where the specified benefit is [<sup>F23</sup>a non-cash voucher, credit-token or] any employment-related benefit the [<sup>F24</sup>cash equivalent or relevant amount of the specified benefit is to be calculated in accordance with section 87, 87A, 94, 94A, 203 or 203A of ITEPA, as the case may be.]

(2) For the purposes of paragraph (1), the authorised employer may make reasonable assumptions about—

- (a) the cost of a specified benefit to be incurred in a tax year where the cost is not known at the start of the tax year; and
- (b) payments that a specified employee is expected to make in the tax year to make good any part of the cost incurred in providing the benefit to that employee.

#### **Textual Amendments**

- F21** Words in *reg. 61G* heading inserted (6.4.2018) by *The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263)*, *regs. 1, 7(a)*
- F22** Words in *reg. 61G* heading inserted (with effect in accordance with *reg. 1(2)* of the amending S.I.) by *The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137)*, *regs. 1(1), 6*
- F23** Words in *reg. 61G(1)* inserted (with effect in accordance with *reg. 1(2)* of the amending S.I.) by *The Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2016 (S.I. 2016/1137)*, *regs. 1(1), 7(a)*
- F24** Words in *reg. 61G(1)* substituted (6.4.2018) by *The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263)*, *regs. 1, 7(b)*

### **Modification of the general rule: cessation of employment but continuing benefit**

**61H.**—(1) This regulation applies instead of regulation 61D(2) if during a tax year the employment of a specified employee ceases but the authorised employer continues to provide the specified benefit to that employee.

(2) Before the employment ceases the authorised employer must take the following steps—

#### *Step 1*

Determine at that time the number of remaining main relevant payments to be made in the employment.

#### *Step 2*

If the cost to the authorised employer of the specified benefit has changed, redetermine the cash equivalent [<sup>F25</sup>, relevant amount or amount foregone] in accordance with regulations 61E, 61F or 61G, as the case may be, otherwise the cash equivalent [<sup>F26</sup>, relevant amount or amount foregone in respect] of the specified benefit is that previously determined for the tax year under step 1 of regulation 61D(1).

The result is the revised cash equivalent [<sup>F26</sup>, relevant amount or amount foregone in respect] of the specified benefit provided during the employment.

#### *Step 3*

Calculate the taxable amount of the benefit provided to date by—

- (a) determining the number of main relevant payments that have been made to date, then

- (b) multiplying that number by the Taxable Amount of the Benefit obtained under step 3 of regulation 61D(1).

*Step 4*

Subtract the taxable amount of the benefit provided to date (the amount obtained from step 3) from the revised cash equivalent [<sup>F26</sup>, relevant amount or amount foregone in respect] of the benefit provided during the employment (the amount obtained from step 2).

*Step 5*

Divide the amount obtained from step 4 by the number obtained at step 1.

The result is the Adjusted Taxable Amount of the Benefit.

*Step 6*

Add the Adjusted Taxable Amount of the Benefit to either—

- (a) the next main relevant payment, where that is the only main relevant payment remaining in the employment; or
- (b) each of the remaining main relevant payments, where the number of remaining main relevant payment determined under step 1 of paragraph (2) is more than one,

and apply step 5 of regulation 61D(1) to that amount or amounts, as the case may be.

**Textual Amendments**

**F25** Words in reg. 61H(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **8(a)**

**F26** Words in reg. 61H(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **8(b)**

**Modification of the general rule: in-year adjustments: change to the benefit during the year with effect from the date of the change**

**61I.**—(1) This regulation applies instead of regulation 61D(2) if during a tax year there is a change to the specified benefit provided to a specified employee and, for the purposes of calculating the cash equivalent [<sup>F27</sup>, relevant amount or amount foregone in respect] of that benefit under ITEPA, that change has effect from the date the revised benefit is provided to the employee.

(2) Subject to paragraph (4), the authorised employer must take the following steps—

*Step 1*

Before making the next main relevant payment after the change to the specified benefit has taken effect, calculate the revised cash equivalent [<sup>F28</sup>, relevant amount or amount foregone in respect] of the specified benefit by—

- (a) determining the [<sup>F29</sup>cash equivalent, relevant amount or amount foregone in respect of the specified benefit that has been provided in the tax year, in accordance with section 87, 87A, 94, 94A, 121, 121A, 149A, 150, 154A, 155, 160A, 161, 203 or 203A of ITEPA], as the case may be, then
- (b) determining the cash equivalent [<sup>F30</sup>, relevant amount or amount foregone in respect] of the specified benefit, that will be provided for the remainder of the tax year, in accordance with regulation 61E, 61F or 61G, as the case may be, and
- (c) adding these numbers together.

*Step 2*

*Status: Point in time view as at 11/05/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, CHAPTER3A. (See end of Document for details)*

Calculate the taxable amount of the benefit provided to date by—

- (a) determining the number of main relevant payments that have been made to date, then
- (b) multiplying that number by the Taxable Amount of the Benefit determined under step 3 of regulation 61D(1).

*Step 3*

Subtract the taxable amount of the benefit provided to date (the amount obtained from step 2) from the revised cash equivalent [<sup>F31</sup>, relevant amount or amount foregone in respect] of the specified benefit (the amount obtained from step 1).

*Step 4*

Determine the number of remaining main relevant payments to be made in the tax year.

*Step 5*

Divide the amount obtained from step 3 by the number obtained at step 4.

The result, where the amount is a positive value, is the Increased Taxable Amount of the Benefit.

The result, where the amount is a negative value, is the Reduced Taxable Amount of the Benefit.

*Step 6*

Add the Increased Taxable Amount of the Benefit to, or subtract the Reduced Taxable Amount of the Benefit from, the next main relevant payment and apply step 5 of regulation 61D(1) to that amount.

(3) On making any subsequent main relevant payment in that year, the employer must add the Increased Taxable Amount of the Benefit to, or subtract the Reduced Taxable Amount of the Benefit from, that payment and apply step 5 of regulation 61D(1) to that amount.

(4) Where the change to the specified benefit occurs in the final tax month of a tax year and the authorised employer is not able to take the steps set out in paragraph (2) before the final main relevant payment for that year is made that employer must—

- (a) comply with steps 1 to 5 of paragraph (2) before the first main relevant payment of the next tax year (“tax year 2”) is made;
- (b) add the Increased Taxable Amount of the Benefit to, or subtract the Reduced Taxable Amount of the Benefit from, the first main relevant payment to be made in tax year 2; and
- (c) apply step 5 of regulation 61D(1) to that amount.

**Textual Amendments**

- F27** Words in reg. 61I(1) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **9(a)**
- F28** Words in reg. 61I(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **9(b)(i)**
- F29** Words in reg. 61I(2) substituted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **9(b)(ii)**
- F30** Words in reg. 61I(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **9(b)(iii)**
- F31** Words in reg. 61I(2) inserted (6.4.2018) by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2017 (S.I. 2017/1263), regs. 1, **9(b)(iv)**

**Modification of the general rule: in-year adjustments: change to the benefit during the year with effect from the start of tax year and other changes**

**61J.**—(1) This regulation applies if during a tax year:



- (a) there is a change to the specified benefit provided to a specified employee and, for the purposes of calculating the cash equivalent [<sup>F32</sup>, relevant amount or amount foregone in respect] of that benefit under ITEPA, that change has effect from the start of the tax year;
  - (b) the employer becomes aware that the cash equivalent [<sup>F32</sup>, relevant amount or amount foregone in respect] of the specified benefit determined at the start of the year in accordance with regulation 61E, 61F or 61G (method of calculating the cash equivalent) is no longer accurate;
  - (c) the employer will stop providing a specified benefit during the tax year; or
  - (d) there is a change to the number of main relevant payments used to determine the Taxable Amount of the Benefit where the specified employee is paid at irregular intervals.
- (2) Where this regulation applies, regulation 61D(2) no longer applies and regulation 61I applies but with the modification in paragraph (3).

(3) For the purposes of calculating the revised cash equivalent [<sup>F33</sup>, relevant amount or amount foregone] of the specified benefit, step 1 of regulation 61I(2) is modified as follows—

*Step 1*

In cases where regulation 61J(1)(a), (b) or (c) applies, redetermine the cash equivalent [<sup>F33</sup>, relevant amount or amount foregone] of the specified benefit in accordance with regulations 61E, 61F or 61G, as the case may be. In cases where regulation 61J(1)(d) applies, use the cash equivalent [<sup>F33</sup>, relevant amount or amount foregone] of the benefit determined at the start of the year under step 1 of regulation 61D(1).

(4) Any references in regulation 61I(2) to the revised cash equivalent [<sup>F34</sup>, relevant amount or amount foregone in respect] of the benefit or to the amount obtained under step 1 of 61I(2) are to be read in accordance with paragraph (3).

**Textual Amendments**

- F32** Words in [reg. 61J\(1\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **10(a)**
- F33** Words in [reg. 61J\(3\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **10(b)**
- F34** Words in [reg. 61J\(4\)](#) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **10(c)**

**Modification of the general rule: making good**

**61K.**—(1) This regulation applies instead of regulation 61D(2) where immediately before the authorised employer makes the final main relevant payment of the tax year the specified employee has not made any or all of the making good payment.

- (2) The authorised employer must—
- (a) ascertain the difference between:
    - (i) the amount of the making good payment that has been taken into account when determining the cash equivalent [<sup>F35</sup>, relevant amount or amount foregone in respect] of the specified benefit at the start of the tax year; and
    - (ii) the amount the specified employee has actually paid at that time;
  - (b) add the amount obtained under sub-paragraph (a) to the final main relevant payment, and
  - (c) apply step 5 of regulation 61D(1) to that amount.

*Status: Point in time view as at 11/05/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, CHAPTER3A. (See end of Document for details)*

(3) Where this regulation applies the authorised employer may not take into account making good payments for the purposes of calculating the cash equivalent [<sup>F36</sup>, relevant amount or amount foregone in respect] of the same specified benefit provided to the same specified employee in the following tax year.

#### Textual Amendments

- F35** Words in reg. 61K(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **11(a)**
- F36** Words in reg. 61K(3) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **11(b)**

#### Modification of the general rule: failure to make good fuel benefit

**61L.**—(1) This regulation applies if the specified employee has not made the payment referred to in regulation 61F(2) before 1st June following the end of the tax year (“tax year 1”) in which the specified benefit of car fuel or van fuel was provided.

(2) Before making the first main relevant payment after 1st June following the end of tax year 1 (“the first main relevant payment in tax year 2”) the authorised employer must take the following steps—

##### *Step 1*

Redetermine the cash equivalent of the specified benefit of car fuel or van fuel received in tax year 1 in accordance with section 150 or 161 of ITEPA on the basis that Condition A in section 151 or 162 of ITEPA (car fuel and van fuel: nil cash equivalent), as the case may be, has not been met.

The result is the Outstanding Taxable Amount of the Fuel Benefit for Tax Year 1.

##### *Step 2*

Add the Outstanding Taxable Amount of the Fuel Benefit for Tax Year 1 to the first main relevant payment in tax year 2 and apply step 5 of regulation 61D(1) to that amount.

(3) Where this regulation applies and the authorised employer is continuing to provide the specified benefit of car fuel or van fuel in tax year 2, the employer must make an in-year adjustment for that year, in accordance with regulation 61J(1)(b), and redetermine the cash equivalent of the specified benefit without taking into account payments the employee is required to make, in connection with the private use of fuel, as referred to in regulation 61F(2).

#### [<sup>F37</sup> Modification of the general rule: failure to make good benefit of credit-token

**61LA.**—(1) This regulation applies where the specified benefit is a credit-token and the specified employee has not made all of the making good payments referred to in regulation 61G(2)(b) before 1st June following the end of the tax year (“tax year 1”) in which the credit-token was used.

(2) Before making the first main relevant payment after 1st June in the following tax year (“the first main relevant payment in tax year 2”) the authorised employer must take the following steps—

##### *Step 1*

Calculate the outstanding taxable amount of the benefit of the credit-token used in tax year 1 by-

- (a) determining the cash equivalent [<sup>F38</sup>or relevant amount] of the benefit of the credit-token used in that tax year in accordance with section 94 [<sup>F39</sup>or 94A]ITEPA;
- (b) subtracting from that amount the cash equivalent [<sup>F38</sup>or relevant amount] of the benefit of the credit-token used as determined under step 1 of regulation 61I(2) as modified by regulation 61J(3) during that tax year.

*Step 2*

Add the amount obtained from step 1 to the first main relevant payment in tax year 2 and apply step 5 of regulation 61D(1) to that amount.

(3) Where this regulation applies regulation 61G(2)(b) does not apply in respect of credit-tokens used in tax year 2.]

**Textual Amendments**

- F37** Reg. 61LA inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 3\) Regulations 2016 \(S.I. 2016/1137\)](#), regs. 1(1), **9**
- F38** Words in reg. 61LA(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **12(a)**
- F39** Words in reg. 61LA(2) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **12(b)**

**Information to specified employees**

**61M.—**(1) Before 1st June following the end of the tax year in which the specified benefits have been provided, an authorised employer must provide a statement to every specified employee identifying—

- (a) every specified benefit provided to that employee during that tax year; and
  - (b) the cash equivalent [<sup>F40</sup>, relevant amount or amount foregone in respect] of the specified benefit provided during that tax year treated as a payment of PAYE income under this Chapter.
- (2) In this regulation—
- (a) “authorised employer” includes an employer who ceased to be an authorised employer during or after the tax year; and
  - (b) “specified employee” includes an employee who was a specified employee for only part of the tax year.]

**Textual Amendments**

- F40** Words in reg. 61M(1)(b) inserted (6.4.2018) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 2\) Regulations 2017 \(S.I. 2017/1263\)](#), regs. 1, **13**

**Status:**

Point in time view as at 11/05/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, CHAPTER3A.