
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 4

PAYMENTS, RETURNS AND INFORMATION

[^{F1}CHAPTER 3A

Certain debts of companies under Chapter 7 of Part 2 of ITEPA (agencies)

Textual Amendments

F1 Pt. 4 Ch. 3A inserted (with effect in accordance with s. 17(6) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 17\(1\)\(5\)](#)

Interpretation of Chapter 3A

97ZA In this Chapter—

“company” includes a limited liability partnership;

“HMRC” means Her Majesty's Revenue and Customs;

“director” has the meaning given by section 67 of ITEPA;

“personal liability notice” has the meaning given by regulation 97ZB(2);

“relevant PAYE debt”, in relation to a company, means—

(a) any amount that the company is to deduct, or account for, in accordance with these Regulations by virtue of—

(i) section 44(4) to (6) of ITEPA (persons providing fraudulent documents), or

(ii) section 46A of that Act (anti-avoidance), and

(b) any interest or penalty, in respect of an amount within paragraph (a), for which the company is liable;

“the relevant date”, in relation to a relevant PAYE debt, means—

(a) in a case where the relevant PAYE debt is to be deducted or accounted for, or arises, by virtue of subsections (4) to (6) of section 44 of ITEPA, the date on which the fraudulent document was provided as mentioned in subsection (4) of that section, or

(b) in a case where the relevant PAYE debt is to be deducted or accounted for, or arises, by virtue of section 46A of ITEPA, the date the arrangements mentioned in subsection (1) (b) of that section were entered into;

“the specified amount” has the meaning given by regulation 97ZB(2)(a).

Status: Point in time view as at 06/10/2014.

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

Liability of directors for relevant PAYE debts

97ZB.—(1) This regulation applies in relation to an amount of relevant PAYE debt of a company if the company does not deduct, account for or (as the case may be) pay that amount by the time by which the company is required to do so.

(2) HMRC may serve a notice (a “personal liability notice”) on any person who was, on the relevant date, a director of the company—

- (a) specifying the amount of relevant PAYE debt in relation to which this regulation applies (“the specified amount”), and
- (b) requiring the director to pay to HMRC—
 - (i) the specified amount, and
 - (ii) specified interest on that amount.

(3) The interest specified in the personal liability notice—

- (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA, and
- (b) is to run from the date the notice is served.

(4) A director who is served with a personal liability notice is liable to pay to HMRC the specified amount and the interest specified in the notice within 30 days beginning with the day the notice is served.

(5) If HMRC serve personal liability notices on more than one director of the company in respect of the same amount of relevant PAYE debt, the directors are jointly and severally liable to pay to HMRC the specified amount and the interest specified in the notices.

Appeals in relation to personal liability notices

97ZC.—(1) A person who is served with a personal liability notice in relation to an amount of relevant PAYE debt of a company may appeal against the notice.

(2) A notice of appeal must—

- (a) be given to HMRC within 30 days beginning with the day the personal liability notice is served, and
- (b) specify the grounds of the appeal.

(3) The grounds of appeal are —

- (a) that all or part of the specified amount does not represent an amount of relevant PAYE debt, of the company, to which regulation 97ZB applies, or
- (b) that the person was not a director of the company on the relevant date.

(4) But a person may not appeal on the ground mentioned in paragraph (3)(a) if it has already been determined, on an appeal by the company, that—

- (a) the specified amount is a relevant PAYE debt of the company, and
- (b) the company did not deduct, account for, or (as the case may be) pay the debt by the time by which the company was required to do so.

(5) Subject to paragraph (6), on an appeal that is notified to the tribunal, the tribunal is to uphold or quash the personal liability notice.

(6) In a case in which the ground of appeal mentioned in paragraph (3)(a) is raised, the tribunal may also reduce or increase the specified amount so that it does represent an amount of relevant PAYE debt, of the company, to which regulation 97ZB applies.

Withdrawal of personal liability notices

97ZD.—(1) A personal liability notice is withdrawn if the tribunal quashes it.

(2) An officer of Revenue and Customs may withdraw a personal liability notice if the officer considers it appropriate to do so.

(3) If a personal liability notice is withdrawn, HMRC must give notice of that fact to the person upon whom the notice was served.

Recovery of sums due under personal liability notice: application of Part 6 of TMA

97ZE.—(1) For the purposes of this Chapter, Part 6 of TMA (collection and recovery) applies as if—

- (a) the personal liability notice were an assessment, and
- (b) the specified amount, and any interest on that amount under regulation 97ZB(2)(b)(ii), were income tax charged on the director upon whom the notice is served,

and that Part of that Act applies with the modification in paragraph (2) and any other necessary modifications.

(2) Summary proceedings for the recovery of the specified amount, and any interest on that amount under regulation 97ZB(2)(b)(ii), may be brought in England and Wales or Northern Ireland at any time before the end of the period of 12 months beginning with the day after the day on which personal liability notice is served.

Repayment of surplus amounts

97ZF.—(1) This regulation applies if—

- (a) one or more personal liability notices are served in respect of an amount of relevant PAYE debt of a company, and
- (b) the amounts paid to HMRC (whether by directors upon whom notices are served or the company) exceed the aggregate of the specified amount and any interest on it under regulation 97ZB(2)(b)(ii).

(2) HMRC is to repay the difference on a just and equitable basis and without unreasonable delay.

(3) HMRC is to pay interest on any sum repaid.

(4) The interest—

- (a) is to be at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA, and
- (b) is to run from the date the amounts paid to HMRC come to exceed the aggregate mentioned in subsection (1)(b).]

Status:

Point in time view as at 06/10/2014.

Changes to legislation:

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