
STATUTORY INSTRUMENTS

2012 No. 822

**The Income Tax (Pay As You Earn)
(Amendment) Regulations 2012**

PART 2

Real Time Information

CHAPTER 1

Amendments to the 2003 Regulations

Real time returns, payments and associated matters

27. In Chapter 1 of Part 4—

- (a) omit the cross heading “Payment and recovery of tax by employer” which appears before regulation 68, and
- (b) before regulation 68 insert—

“Real time returns

Real time returns of information about relevant payments

67B.—(1) On or before making a relevant payment to an employee, a Real Time Information employer must deliver to HMRC the information specified in Schedule A1 in accordance with this regulation unless the employer is not required by regulation 66 (deductions working sheets) to maintain a deductions working sheet for any employees.

(2) The information must be included in a return.

(3) Subject to paragraph (4), if relevant payments are made to more than one employee at the same time, the return under paragraph (2) must include the information required by Schedule A1 in respect of each employee to whom a relevant payment is made at that time.

(4) If relevant payments are made to more than one employee at the same time but the employer operates more than one payroll, the employer must make a return in respect of each payroll.

(5) The return is to be made using an approved method of electronic communications.

(6) Section 98A of TMA (special penalties in case of certain returns) applies to returns within paragraph (7).

(7) A return is within this paragraph if it is one of the following—

- (a) a return under this regulation which relates to the relevant payments made on the final normal pay day in the tax year 2012-13 for any of the employees in respect of whom information is included in the return, or

- (b) a return under this regulation which contains information about the final relevant payment made to any employee in the tax year 2012-13 where—
 - (i) the relevant payment is made after the employee's final normal pay day in the tax year, or
 - (ii) the employee is paid at irregular intervals.

Modification of the requirements of regulation 67B: notional payments

67C.—(1) This regulation applies if an employer makes a relevant payment which is a notional payment (including a notional payment arising by virtue of a retrospective tax provision) to an employee.

(2) If the employer is unable to comply with the requirement in regulation 67B(1) to deliver the information required by that regulation on or before making the relevant payment, the employer must instead deliver the information as soon as reasonably practicable after the payment is made and in any event no later than—

- (a) the time at which the employer deducts tax in respect of the relevant payment in accordance with regulation 62 (deductions in respect of notional payments), or
- (b) 14 days after the end of the tax month the payment is made in,

whichever is the earliest.

Exceptions to regulation 67B

67D.—(1) This regulation applies to—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a),
- (c) a company, if all the directors and the company secretary fall within sub-paragraph (a), and
- (d) a care and support employer.

(2) A Real Time Information employer to whom this regulation applies may proceed in accordance this regulation instead of regulation 67B.

(3) A Real Time Information employer must deliver to HMRC the information specified in Schedule A1 in respect of each employee to whom relevant payments are made in a tax month unless the employer is not required by regulation 66 (deductions working sheets) to maintain a deductions working sheet for any employees and, for the purposes of this regulation, references in Schedule A1 to a relevant payment shall be read as if they were references to all the relevant payments made to the employee in the tax month.

(4) The information must be included in a return.

(5) The return required under paragraph (4) must be delivered within 14 days after the end of the tax month the return relates to.

(6) If relevant payments have been made to more than one employee in the tax month, the return under paragraph (4) must include the information required by Schedule A1 in respect of each employee to whom a relevant payment has been made.

(7) Section 98A of TMA (special penalties in case of certain returns) applies to returns within paragraph (8).

(8) A return is within this paragraph if it is one of the following—

- (a) a return under this regulation which contains information about the relevant payments made on the final normal pay day in the tax year 2012-13 for any of the employees in respect of whom information is included in the return, or
- (b) a return under this regulation which contains information about the final relevant payment made to any employee in the tax year 2012-13 where—
 - (i) the relevant payment is made after the employee’s final normal pay day in the tax year, or
 - (ii) the employee is paid at irregular intervals.

(9) In paragraph (1)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

(10) In paragraph (1)(d), “a care and support employer” means an individual (“the employer”) who employs a person to provide domestic or personal services at or from the employer’s home where—

- (a) the services are provided to the employer or a member of the employer’s family,
- (b) the recipient of the services has a physical or mental disability, or is elderly or infirm, and
- (c) it is the employer who delivers the return (and not some other person on the employer’s behalf).

Returns under regulations 67B and 67D: amendments

67E.—(1) This regulation applies where an employer discovers an error in a return made under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) and paragraph (2), (3) or (4) applies.

(2) This paragraph applies where the error relates to the information given in the return in respect of an employee under paragraph 16 or 17 of Schedule A1 (real time returns).

(3) This paragraph applies where the error was the omission of details of a relevant payment to an employee.

(4) This paragraph applies where the error arises because, as a result of a retrospective tax provision, the total amount of the relevant payments made by an employer to an employee increases for any tax year in which the employer was a Real Time Information employer.

(5) The employer must provide the correct information in the first return made after the discovery of the error under regulation 67B or 67D for the tax year in question.

(6) But if the information has not been corrected before 20th April following the end of the tax year in question, the employer must make a return under this paragraph.

- (7) A return under paragraph (6)—
 - (a) must include the following—
 - (i) the information specified in paragraphs 2 to 4, 8 to 13 and 15 of Schedule A1,
 - (ii) the tax year to which the return relates,
 - (iii) the value of the adjustment to the information given under paragraphs 16 or 17 of Schedule A1 in the final return under regulation 67B or 67D containing information in respect of the employee in the tax year in question,

- (iv) in any case where information given under paragraph 17 of Schedule A1 is corrected, the tax code operated in arriving at the value of the correction, and
- (v) if paragraph (8) applies, the information specified in paragraphs 36 to 44 of Schedule A1,
- (b) must be made as soon as reasonably practicable after the discovery of the error, and
- (c) must be made by an approved method of electronic communications.
- (8) This paragraph applies if—
 - (a) the error is within paragraph (3),
 - (b) the relevant payment was the first relevant payment to the employee in the employment, and
 - (c) the information specified in paragraphs 36 to 44 of Schedule A1 has not otherwise been provided.
- (9) In the application of paragraphs (6) and (7) to cases within paragraph (3), if no information was given in any returns under regulation 67B or 67D in respect of the employee in the tax year, the value of the adjustments required must be calculated as if there was a final return containing information for the employee in the year and the figure requiring adjustment was zero.
- (10) Paragraph (7)(c) does not apply if the employer is one to whom regulation 67D applies.

Additional information about payments

- 67F.**—(1) A Real Time Information employer may send to HMRC a notification if—
- (a) for a tax period, the employer was not required to make any returns in accordance with regulation 67B or 67D because no relevant payments were made during the tax period, or
 - (b) the employer has sent the final return under regulation 67B or 67D that the employer expects to make—
 - (i) in the circumstances described in paragraph 5 of Schedule A1 (real time returns), or
 - (ii) for the tax year.
 - (2) A notification under paragraph (1)(b) must—
 - (a) include the information specified in paragraph 7 of Schedule A1,
 - (b) be sent within 14 days of the end of final tax period of the tax year.
 - (3) A notification under this regulation must—
 - (a) state—
 - (i) the tax year to which it relates,
 - (ii) the employer’s HMRC office number,
 - (iii) the employer’s PAYE reference, and
 - (iv) the employer’s accounts office reference, and
 - (b) be sent using an approved method of electronic communications unless the employer is one to whom regulation 67D applies.

Payment and recovery of tax by employer

Payments to and recoveries from HMRC for each tax period by Real Time Information employers

67G.—(1) For each tax period, a Real Time Information employer must pay to, or may recover from, HMRC the amount arrived at under the formula in paragraph (4).

(2) If the amount arrived at under the formula in paragraph (4) is a positive amount, the employer must pay the excess to HMRC.

(3) If the amount arrived at under the formula in paragraph (4) is a negative amount, the employer may recover that amount either—

(a) by deducting it from the amount which the employer is liable to pay under paragraph (2) for a later period in the tax year, or

(b) from the Commissioners for Her Majesty’s Revenue and Customs.

(4) The formula in this paragraph is $A - B$, where—

A is the sum total of the relevant amounts for each of the employer’s employees, and

B is amount A for the previous tax period in the tax year, if any.

(5) For the purposes of paragraph (4), a “relevant amount” is the amount shown under paragraph 17 of Schedule A1 (real time returns) for an employee in the most recent return made in the tax year by the employer under regulation 67B (real time returns of information about relevant payments) or 67D (exceptions to regulation 67B) which contains information about that employee.

(6) In paragraph (5) “the most recent return” means the return which, as at the end of the tax period, contains the most up to date information under paragraph 17 of Schedule A1 about the employee.

(7) This regulation is subject to regulations 67H (payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under regulation 67E(6)), 71 (modification of regulations 67G and 68 in case of trade dispute) and 75B (certificates under regulation 75A: excess payments).

Payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under regulation 67E(6)

67H.—(1) This regulation applies if, during any tax period, an employer makes a return under regulation 67E(6) (returns under regulations 67B and 67D: amendments) other than by virtue of regulation 67E(4).

(2) The amount arrived at by the employer under regulation 67G for the final tax period of the tax year covered by the return is to be adjusted to take account of the information in the return.

(3) If the value of the adjustment required by paragraph (2) is a negative amount, the employer may recover that amount—

(a) by setting it off against the amount the employer is liable to pay under regulation 67G for the tax period the return was made in, or

(b) from the Commissioners for Her Majesty’s Revenue and Customs.”.