

**EXPLANATORY MEMORANDUM TO
THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT) REGULATIONS
2015**

2015 No. 2

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (the 2003 Regulations) concerning the requirements for issuing notices of coding to employees and removal of the End of Year checklist for RTI employers.

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Context

Issuing Notices of Coding to Employees

4.1 The 2003 Regulations govern the operation of the Pay As You Earn (PAYE) system under which Income Tax is deducted at source from an employee's pay. Certain other deductions are also made under the PAYE system.

4.2 This instrument amends regulations 17 and 19 of the 2003 Regulations which make provision for the issue of notices of Tax Codes to employees.

4.3 The definition of "notice" in regulation 2(1) of the 2003 Regulations is amended to provide that for the purposes of regulations 17 and 19 notice may be given by way of an approved method of electronic communications.

4.4 This instrument makes two amendments to regulations 17 and 19 of the 2003 Regulations. The first amendment removes the obligation to give an employee notice of a code or an amended code which has been notified to an employer where the employee's PAYE income is not chargeable to tax or the employee is not liable to pay tax on PAYE income.

- 4.5 The second amendment is a consequential amendment to reflect the relevant chapters of the Income Tax Act 2007 following the rewrite of sections 257 and 257A of the Income and Corporation Taxes Act 1988 in 2007.

Removal of the End of Year checklist

- 4.6 This instrument also amends regulation 67F of, and Schedule A1 to, the 2003 Regulations to remove the requirement for employers to complete the End of Year checklist and declarations when making the final Full Payment Submission of the tax year.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

Issuing Notices of Coding to Employees

- 7.1 When HMRC issues or amends a tax code, it sends notice of the code or amended code to the employer who uses it to make the required deductions through the PAYE system.
- 7.2 Currently HMRC notifies employees of the tax code that will be operated by their employer by issuing a paper notice of coding (currently form P2) for each of their employments. Any changes to a tax code prior to the beginning of the new tax year, or in response to in-year changes in the employee's circumstances are similarly notified.
- 7.3 These amendments are intended to provide some flexibility in the coding rules as to how and when coding notices may be issued.
- 7.4 Where HMRC issues amended notices of coding to employees it can cause needless uncertainty and concern, particularly when employees have no tax to pay on their PAYE income; this anxiety and concern often leads to them contacting HMRC for reassurance, which in turn places pressure on HMRC resources, particularly at its busiest times.
- 7.5 Not issuing a notice of coding where the employee has no tax to pay on their taxable income, for example where the employee's anticipated allowances exceed the amount of any known PAYE income or the nil tax code applies, will avoid unnecessary uncertainty, and reduce the

number of employees contacting HMRC for this reassurance. This measure also therefore helps HMRC to manage service levels and resources, especially during peak activity periods.

- 7.6 These changes do not affect an individual's right of appeal against the tax code. They also do not affect the issue of notices of codes to employers.
- 7.7 These amendments also remove the requirement that all notices of coding must be notified to employees in writing. Future ambitions include increasing the provision of customer notifications by electronic means through digital tax accounts, whilst retaining the paper-based version of the account for employees who are not able to access such accounts.
- 7.8 Providing for notices of code to be given by electronic means thus supports our future digital ambitions, although to date the approved method of electronic communication has not been determined.

Removal of the End of Year checklist

- 7.9 This instrument also removes the requirement for employers to complete a prescribed End of Year checklist as part of their end of year obligations for returns made on and after 6 March 2015.
- 7.10 The requirement to report payments and tax deducted at the time of making a payment to an employee has meant the removal of the majority of the previous end of year process as real time PAYE reporting is integrated with normal payroll activity. The End of Year checklist formed part of the now defunct form P35.
- 7.11 Following representation from, and in consultation with, the Admin Burden Advisory Board, HMRC accepted that completion of the End of Year checklist was a burden on employers.
- 7.12 HMRC considers that the information provided within the End of Year checklist is already provided through alternative means and therefore is amending the Regulations to remove the checklist requirements and consequently ease the employer burden.

- ***Consolidation***

- 7.13 There are currently no plans to consolidate the instrument that is being amended.

8. Consultation outcome

- 8.1 In accordance with the Government's Tax Consultation Framework, a draft of this instrument which amended the requirements to issue

notices of coding to employees was published on the Gov.UK website for comment.

- 8.2 Following consideration of comments received in the course of consultation this Explanatory Memorandum updates information previously published to improve understanding of the measures. It also reflects the potential for an additional, though negligible, burden on employers through potentially receiving queries from employees asking why the code shown on their payslip differs from that shown previously.
- 8.3 The removal of the End of Year checklist has not been widely consulted upon other than the discussions with the Admin Burden Advisory Board.
- 8.4 However, this is a wholly beneficial change that removes an employer burden.

9. Guidance

- 9.1 Extensive guidance concerning tax codes has been published on HMRC's website, viewable by both employers and individuals. This will be updated to reflect these changes.
- 9.2 Guidance for employers on reporting PAYE in real time has been published on HMRC's website and will in future appear on the Gov.uk website. This guidance will be updated to reflect the removal of the requirement to complete the End of Year checklist.

10. Impact

Issuing Notices of Coding to Employees

- 10.1 The changes affect only the issue of notices of coding to employees. It is envisaged that these amendments will have negligible impact on employers.
- 10.2 HMRC is aware that an employee who has not been issued a notice of coding because they were determined to have no tax to pay on their taxable income may subsequently receive additional income that gives rise to a liability. Employers may receive queries from such employees where this occurs.
- 10.3 Tax Charities and voluntary bodies may similarly receive additional queries from employees about newly arising tax liabilities. Again, it is envisaged that the overall impact will be negligible.
- 10.4 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at

<http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

Removal of the End of Year checklist

- 10.5 This change impacts on all employers and will reduce administrative burdens connected to the current end of year obligations. This change allows the employer's final return to be made in real time without the burden of completing a one-off end of year checklist.
- 10.6 The removal of the End of Year checklist is unlikely to have any impact on Tax charities and voluntary bodies in their role of assisting the public.
- 10.7 A Tax Information and Impact Note covering the operation of PAYE in real-time was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S. I. 2012/822). This was updated in 2013 and has been further updated in December 2014 as a result of changes to the impacts as a result of both the mandatory migration of all employers to reporting information in real time and of this instrument and is available at <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

11. Regulating small business

Issuing Notices of Coding to Employees

- 11.1 The legislation does not apply to small businesses, only individual employees.
- 11.2 It is accepted this legislation may impact on small businesses where an employee queries an un-notified change in tax code with the employer even though the employee's liability will remain unchanged.

Removal of the End of Year checklist

- 11.3 This legislation does apply to small business
- 11.4 HMRC aims to reduce administrative burdens for all employers, including small employers and this amendment is intended to help achieve that aim.

12. Monitoring & review

- 12.1 HMRC will monitor the operation and administration of these changes through continued communication with external stakeholder groups, and also through levels of customer contact following the change.

13. Contact

Ady Garrett at HMRC tel. 03000 586936 or email:

ady.garrett@hmrc.gsi.gov.uk can answer any queries regarding the instrument: