

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT No. 2) REGULATIONS
2016

2016 No. 747

1. Introduction

- 1.1 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.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (SI 2003/2682) (“the PAYE Regulations”) to reinstate the requirement for employers to report taxable mileage allowance payments and taxable passenger payments made to employees to HMRC on form P11D.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 This instrument corrects an error from earlier Regulations. In accordance with SIP paragraph 3.4.12, the Department has discussed whether to use the free issue procedure with the SI Registrar. The Registrar has advised that the free issue procedure should be applied. The Department has decided to follow this advice.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Amendments were made to PAYE Regulations by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 (SI 2015/1927) to remove the requirement for expense payments (whether deductible or not) to be reported to HMRC on form P11D after 6 April 2016.
- 4.2 Those Regulations also inadvertently removed the requirement for taxable mileage allowance payments and taxable passenger payments to be reported.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 Prior to 6 April 2016 employers were required to make a return to HMRC on form P11D of any expenses paid or reimbursed to their employees. This requirement was removed by The Income Tax (Pay As You Earn) (Amendment No. 4) Regulations 2015 as part of a wider package of reforms in response to suggestions made by the Office of Tax Simplification in its second report on employee benefits and expenses.
- 7.2 However, those Regulations also removed the requirement for taxable mileage allowance payments (payments made by employers to their employees for business travel undertaken in the employees' own vehicles) to be reported on form P11D.
- 7.3 Those Regulations also removed the requirement for passenger payments (payments in addition to mileage allowance payments for carrying a passenger who is also an employee on a business journey) to be reported on form P11D.
- 7.4 It was not the Government's intention to remove these reporting requirements, and so they will now be reinstated.

8. Consultation outcome

- 8.1 In accordance with the Government's Tax Consultation Framework, the Government will not generally consult on minor measures. As this is a minor correction to a change that was previously consulted on, the Government does not intend to consult on these Regulations in draft.

9. Guidance

- 9.1 No new guidance is required. Guidance is already available on employers' reporting responsibilities. The minor correction in these Regulations ensures that the PAYE Regulations remain in alignment with that guidance.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 The basis for the final decision on what action to take to assist small businesses was that the Regulations simply correct a defect in a previous set of Regulations in order to ensure that they operate as originally intended. They do not have any adverse impact on small businesses.

12. Monitoring & review

- 12.1 The Regulations will be monitored and reviewed as appropriate within the context of the wider tax framework.

13. Contact

- 13.1 Travis Woodward at HM Revenue and Customs Tel: 03000 586435 or email: employmentincome.policy@hmrc.gsi.gov.uk can answer any queries regarding this Instrument.