
STATUTORY INSTRUMENTS

2017 No. 414

**The Income Tax (Pay As You Earn)
(Amendment) Regulations 2017**

Amendment of the Income Tax (Pay As You Earn) Regulations 2003

3. After regulation 147A(1) insert—

“Part 7A

Apprenticeship Levy

Interpretation of Part 7A

147B. In this Part—

“monthly pay bill” means the total amount of earnings paid by a person in a tax month on which Class 1 secondary contributions are payable but for the condition in section 6(1)(b) of the Contributions and Benefits Act (liability for Class 1 contributions)(2).

Due date for payment of apprenticeship levy

147C.—(1) A person must pay the amount of apprenticeship levy due under this Part within—

- (a) 17 days after the end of the tax month, where the payment is made by an approved method of electronic communications, or
- (b) 14 days after the end of the tax month, in any other case.

(2) The person must pay the apprenticeship levy mentioned in paragraph (1) at the same time as the amount of tax and any earnings-related contributions due and in accordance with Part 4 and Chapter 1 of these Regulations (payment, returns and information).

(3) In this regulation, “earnings-related contributions” means any contributions other than Class 1A and 1B contributions payable under the Contributions and Benefits Act in respect of earnings paid to or for the benefit of an earner in respect of employed earners employment.

Duty to report amount of apprenticeship levy to be paid

147D.—(1) Subject to paragraph (2) this regulation applies where—

(1) Regulation 147A was inserted by [S.I. 2014/472](#).

(2) “The Contributions and Benefits Act” is defined in section 120 of the Finance Act 2016 to which there are amendments not relevant to these Regulations.

- (a) a person's pay bill⁽³⁾ in the tax year preceding the year in which the apprenticeship levy liability falls to be reported was over £3 million, or
 - (b) a person considers that their pay bill will be over £3 million in the current tax year.
- (2) In the case of a member of a company unit or charities unit⁽⁴⁾ this regulation applies where—
- (a) the total amount of the pay bill for the company unit or the charities unit in the tax year preceding the year in which the apprenticeship levy liability falls to be reported was over £3 million, or
 - (b)
 - (i) the annual entitlement to levy allowance has been determined for each member of the company unit or charities unit in the current tax year in accordance with sections 101 or 102 of the Finance Act 2016, and
 - (ii) a member considers that their annual pay bill will be over £T where T is an amount equal to the levy allowance determined for that member divided by 0.005.
- (3) A Real Time Information employer must inform HMRC of their apprenticeship levy liability after deducting any amount of levy allowance to which they are entitled for the tax month from it.
- (4) The information must be given in a return.
- (5) The return mentioned under paragraph (4) must be sent within 14 days after the end of the tax month.
- (6) A return 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 to which the return of the apprenticeship levy relates,
 - (iv) the employer's accounts office reference,
 - (v) the amount of annual levy allowance the employer is allocating to the employer's PAYE reference,
 - (vi) the amount of apprenticeship levy due to date which the employer has calculated, and
 - (vii) the tax month to which it relates, and
 - (b) be sent using an approved method of electronic communications unless the employer is one to whom regulation 67D applies.
- (7) This regulation applies in addition to the provisions set out in regulation 67F (additional information about payments).

Calculation of monthly levy allowance

- 147E.**—(1) This regulation applies where the monthly levy allowance falls to be calculated by a person.
- (2) Subject to regulations 147F and 147G, the monthly levy allowance is an amount equal to—

(3) "Pay bill" is defined in section 100 of the Finance Act 2016.

(4) "Company unit" and "charities unit" is defined in sections 101 and 102 of the Finance Act 2016.

$$\frac{N}{P}$$

where—

N is the levy allowance for the tax year, and

P is twelve.

(3) Subject to regulations 147F and 147G, the monthly cumulative levy allowance is an amount equal to the monthly levy allowance aggregated in accordance with the tax month within the tax year as shown in the table below.

Table 1

<i>Relevant month in the tax year</i>	<i>Monthly cumulative levy allowance</i>
Month 1	£1,250
Month 2	£2,500
Month 3	£3,750
Month 4	£5,000
Month 5	£6,250
Month 6	£7,500
Month 7	£8,750
Month 8	£10,000
Month 9	£11,250
Month 10	£12,500
Month 11	£13,750
Month 12	£15,000

Apportionment of levy allowance between employer’s PAYE references

147F.—(1) This regulation applies where a person has more than one employer’s PAYE reference in respect of its employees.

(2) The person may elect to apportion their annual entitlement of levy allowance amongst the employer’s PAYE references mentioned in paragraph (1) in accordance with the proportions they choose.

(3) The monthly levy allowance for each employer’s PAYE reference is an amount equal to one twelfth of the annual apportioned entitlement for that reference.

(4) The person must notify HM Revenue and Customs of the election mentioned in paragraph (2) with their first return of the apprenticeship levy.

Apportionment of levy allowance between employer’s PAYE references: members of a company unit or charities unit

147G.—(1) This regulation applies where—

(a) members of a company unit or charities unit (“the relevant members”) have determined what amount of levy allowance each of them is entitled to for the tax year, and

- (b) at least one of the relevant members mentioned in sub-paragraph (1)(a) has more than one employer's PAYE reference.
- (2) The relevant members may elect to apportion their share of levy allowance amongst their respective employer's PAYE references in accordance with the proportions they choose.
- (3) The relevant members must—
 - (a) make the election mentioned in sub-paragraph (2) at the beginning of the tax year, and
 - (b) notify HMRC of the election made with their first return of the apprenticeship levy.

Calculation of monthly apprenticeship levy for the first month of the tax year

147H. A person must calculate the amount of their apprenticeship levy for the first month of the tax year in accordance with the following steps.

Step 1

Multiply pay bill by 0.5%.

Step 2

Deduct the monthly levy allowance for the first month as mentioned in Table 1 from the amount obtained from step 1.

If the resulting amount is positive, that amount is the apprenticeship levy payable for the first month of the tax year.

If the resulting amount is negative or zero, there will be no apprenticeship levy payable for the first month of the tax year.

Calculation of monthly apprenticeship levy for subsequent months of the tax year

147I.—(1) A person must calculate the amount of apprenticeship levy for any month following the first month of the tax year (the relevant month) in accordance with the following steps.

Step 1

Determine the cumulative amount of the monthly pay bill for the relevant months of the tax year.

Step 2

Multiply the amount obtained from step 1 by 0.5%.

Step 3

Determine the amount of the monthly cumulative levy allowance for the relevant month in accordance with Table 1.

Step 4

Deduct the amount obtained from step 3 from the amount obtained from step 2.

If the resulting amount is negative, that amount is to be treated as zero for the purpose of the calculation mentioned in step 6.

If the resulting amount is a positive amount, that amount is to be used in the calculation mentioned in step 6.

Step 5

Determine the amount of the cumulative apprenticeship levy paid up to the month preceding the relevant month and reduce that amount by any credit gained in the preceding month.

Step 6

Deduct the amount obtained from step 5 from the amount obtained from step 4.

If the resulting amount is a positive amount, that amount is the apprenticeship levy due to be paid for the relevant month.

If the resulting amount is negative, that amount is the credit gained in the relevant month.

(2) In this regulation, “credit” means any amount which is negative which can be used by a person to reduce the combined amount in the relevant month.

Recovery of overpaid apprenticeship levy by an employer

147J.—(1) This regulation applies where a person has overpaid apprenticeship levy in a tax year.

(2) The person must set off any overpaid apprenticeship levy against any amount which that person is liable to pay under these Regulations before making a claim to HMRC for a refund of the overpaid levy.

Liability to pay and duty to make a return of apprenticeship levy: Continental shelf workers certificate holders

147K.—(1) This regulation applies to persons specified in certificates in force under section 120(4) of the Social Security Contributions and Benefits Act 1992 (employment at sea: continental shelf operations)⁽⁵⁾.

(2) The person specified in paragraph (3) must—

- (a) pay apprenticeship levy under regulation 147C, and
- (b) make a return of apprenticeship levy under regulation 147D.

(3) The person referred to paragraph (2) is a UKCS continental shelf workers certificate holder who has obligations under regulation 114B of the SSC Regulations (UKCS continental shelf workers certificate holder: obligations and responsibilities)⁽⁶⁾ to make deductions, returns and repayments as are required by a secondary contributor.

(4) In this regulation a UKCS continental shelf workers certificate holder means a holder of a certificate issued under regulation 114A of the SSC Regulations (application for certificate).

Assessment of unpaid apprenticeship levy

147L.—(1) This regulation applies if it appears to HMRC that there may be apprenticeship levy payable for a tax year under regulations 147E, 147H or 147I (calculation of apprenticeship levy) by an employer which has not been—

- (a) paid to HMRC under regulation 147C, and
- (b) reported on a return under regulation 147D.

(2) HMRC may assess the amount of apprenticeship levy which to the best of their judgement is due, and serve notice of their assessment on the employer.

⁽⁵⁾ 1992 c. 4 to which there are amendments not relevant to these Regulations. “Continental shelf operations” is defined in section 120(2) of the Social Security Contributions and Benefits Act 1992 (c. 4).

⁽⁶⁾ Regulations 114A and 114B were inserted by S.I. 2014/572.

- (3) An assessment under this regulation may—
- (a) cover the apprenticeship levy payable by the employer under regulation 147E, 147H or 147I for any one or more tax periods in a tax year, and
 - (b) extend to the whole of the apprenticeship levy, or such part of it as is payable in respect of—
 - (i) a class or classes of employees specified in the notice of assessment (without naming the individual employees), or
 - (ii) one or more named employees specified in the notice.
- (4) Section 30A of the TMA (assessing procedure)(7) applies in relation to an assessment under this regulation as it applies in relation to an assessment to income tax.
- (5) Any amount of apprenticeship levy which is payable by virtue of an assessment made under this regulation shall be payable on the day following the end of the period of 30 days beginning with the day on which the notice of assessment is served.

Recovery of overpayment of apprenticeship levy by HMRC

- 147M.**—(1) Where an amount of apprenticeship levy has been repaid to any person which ought not to have been repaid to that person, that amount may be assessed and recovered as if it were unpaid apprenticeship levy.
- (2) An assessment under this regulation shall not be out of time under section 108 of the Finance Act 2016 (time limits for assessment) if it is made before the end of the year of assessment following that in which the amount assessed was repaid.
- (3) In this regulation any reference to an amount repaid includes a reference to an amount allowed by way of a set-off.

Retention by employer of apprenticeship levy records

- 147N.**—(1) An employer must keep and preserve for not less than three years after the end of the tax year to which they relate all apprenticeship levy records which are not required to be sent to HMRC under regulation 147D.
- (2) The duty under paragraph (1) to preserve apprenticeship levy records may be discharged by preserving them in any form or by any means.
- (3) In this regulation, “apprenticeship levy records” means documents relating to the calculation of the amount of apprenticeship levy payable by the employer.”.

(7) 1970 c. 9. Section 30A was inserted by Schedule 19 to the Finance Act 1994 (c. 9) and paragraphs 357 and 370 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).