

**EXPLANATORY MEMORANDUM TO
THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT NO X)
REGULATIONS 2014**

2014 No.

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 These Regulations make amendments to the Income Tax (Pay As You Earn) Regulations (S.I. 2003/2682) (the 2003 Regulations) concerning the requirements for issuing notices of coding to employees.

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

None.

4. Legislative Context

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 employee's pay. Certain other deductions are also made under the PAYE system.

4.2 These Regulations make amendments to the 2003 Regulations that allow for changes in the requirements concerning the issue of notices of Tax Coding to employees.

4.3 In particular, they amend the definition of notice to allow for notices to be issued electronically, and amend provisions in the 2003 Regulations that relax the requirement, in specific circumstances, that a notice of coding must be issued to an employee where a change in Tax Code is notified to an employer.

4.4 Regulation 2(1) of the 2003 Regulations is amended to provide for a notice to be given by way of an approved method of electronic communications as defined in regulation 189 of the 2003 Regulations.

4.5 Amendments to Regulations 17 and 19 of the 2003 Regulations remove the obligation to give the employee notice of a new code notified to an employer where the employee's PAYE income is not chargeable to tax or he is not liable to pay tax on his PAYE income.

- 4.6 Additional amendments to Regulations 17 and 19 substitute references to sections within the now-repealed Income and Corporation Taxes Act 1988 (ICTA) with relevant chapters of the Income Tax Act 2007 (ITA).
- 4.7 A further amendment to Regulation 19 provides for notice of an amended code to be given to the employee no later than 30 days after the date on which notice of the amended code was issued to the employer. This relaxes the previous requirement that such notice must be issued to the employee by the date that the amended code is issued to the employer (see regulation 20(1)).

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*

- 7.1 When HMRC amends a Tax Code, it sends the amended code to employers, who then use it to make the required deductions through Pay As You Earn (PAYE).
- 7.2 Currently employees are notified of the Tax Code that will be operated by their employer by HMRC issuing a paper notice of coding (currently form P2) for each of their employments. Any changes to Tax Codes, whether at annual coding 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. These changes do not affect an individual's right of appeal against their notice of coding. They also do not affect the issue of notices to employers.
- 7.4 HMRC receives high volumes of calls from customers seeking reassurance on their Tax Code, particularly those where a change has no effect on their tax position. To address any necessary uncertainty this causes for customers, HMRC would like to be able to restrict issue of the notice of coding where the employee or annuitant has no tax to pay.

- 7.5 In addition, providing flexibility for the timing of the form P2 will ensure that HMRC can send the notices at times when it is best able to respond to enquiries from employees. However, to ensure that employees can check their tax position in a timely way, HMRC has limited this flexibility to a period not exceeding 30 days after the issue of the notice to the employer. This will not affect the employee's right of appeal against the determination of their code.
- 7.6 Notices of coding will still be issued to employers as currently, thus these amendments will have no impact on individual tax liabilities, nor will they delay the issue of tax refunds where appropriate.
- 7.7 These amendments also remove the requirement that all notices of coding must be made in writing. Future ambitions include increasing the provision of customer notifications by electronic means through a digital tax account for those individuals able to access such accounts, whilst retaining the paper-based version of the account where appropriate.
- 7.8 The proposed amendment providing for the notice of coding to be given by electronic means thus supports our future digital ambitions.

- ***Consolidation***

- 7.9 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, draft Regulations are published on the HMRC website for comment.
- 8.2 This draft Explanatory Memorandum will be updated following consideration of comments received in the course of consultation.

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.

10. Impact

- 10.1 The changes affect only the issue of notices of coding to employees. It is envisaged that these amendments will have negligible to nil impact on employers.
- 10.2 There is no impact expected on charities, voluntary bodies or the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm> .

11 Monitoring & review

11.1 HMRC will monitor the operation and administration of this change through continued communication with external stakeholder groups, and also through levels of customer contact following the change.

12 Contact

Ady Garrett at HMRC tel. 03000 586936 or email: paye.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument: