

**2017 No.**

**INCOME TAX**

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

<i>Made</i>	- - - -	2017
<i>Laid before Parliament</i>		2017
<i>Coming into force</i>	- -	2017

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of powers conferred by section 94(1) to (4) of the Finance Act 2016(a).

**Citation and commencement**

1. These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment) Regulations 2017 and come into force on xxx 2017.

**Amendment of the Income Tax (PAYE) Regulations 2003**

2.—(1) The Income Tax (PAYE) Regulations 2003(b) (“the PAYE Regulations”) are amended as follows.

(2) In regulation 2(1) (interpretation)(c) in the interpretation of “combined amount” after paragraph (c) add—

“(d) apprenticeship levy due under these Regulations;”.

(3) After regulation 67F(3) (additional information about payments)(d) add—

“(4) This regulation applies in addition to the provisions set out in regulation 147D (duty to report amount of apprenticeship levy to be paid).”.

3. After regulation 147A (circumstances in which payment of a lesser amount is to be treated as payment in full for the purposes of paragraph 6(2) of Schedule 56 to the Finance Act 2009)(e) insert—

“Part 7A

Apprenticeship Levy

**Interpretation of Part 7A**

**147B.** In Part 7A—

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(a) 2016 c. x.  
(b) 2003/2682.  
(c) Regulation 2(1) was amended by S.I. 2008/782. There are other amending instruments but none are relevant.  
(d) Regulation 67F was inserted by S.I. 2012/822 and amended by 2013/521 and 2015/2.  
(e) Regulation 147A was inserted by S.I. 2014/472.

“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 Social Security Contributions and Benefits Act 1992(a).

### **Due date for payment of apprenticeship levy**

**147C.**—(1) A person must pay the amounts 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 the PAYE 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 Social Security Contributions and Benefits Act 1992 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 regulations 147F and 147G, this regulation applies where—

- (a) a person’s pay bill(b) in the tax year preceding the year in which the apprenticeship levy liability falls to be reported was over £2.8 million, or
- (b) a person considers that their pay bill will be over £3 million during the current tax year.

(2) 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 to for the month from it.

(3) The information must be given in a return.

(4) The return mentioned under paragraph (3) must be sent within 14 days after the end of the tax month.

(5) 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 account office reference,
  - (v) the amount of annual levy allowance the employer is allocating to the employer’s PAYE reference,
  - (vi) the amount of levy liability due to date which the employer has calculated,
  - (vii) the tax month to which the return relates, and
- (b) be sent using an approved method of electronic communications unless the employer is one to whom regulation 67D applies.

(6) This regulation applies in addition to the provisions set out in regulation 67F (additional information about payments).

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(a) 1992 c. 4.

(b) “Pay Bill” has the meaning given in section 89 of the Finance Act 2016.

### 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

$$\frac{n}{p}$$

Where—

*n* is the levy allowance for the tax year, and

*p* is twelve.

(3) Subject to regulation 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	£1250 x 1
Month 2	£1250 x 2
Month 3	£1250 x 3
Month 4	£1250 x 4
Month 5	£1250 x 5
Month 6	£1250 x 6
Month 7	£1250 x 7
Month 8	£1250 x 8
Month 9	£1250 x 9
Month 10	£1250 x 10
Month 11	£1250 x 11
Month 12	£1250 x 12

### 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 PAYE references mentioned in paragraph (1).

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

(4) The person must notify HMRC 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<sup>(a)</sup> (“the relevant members”) have determined what amount of levy allowance each of them is entitled 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 apprenticeship levy for the first month of the tax year in accordance with the following steps.

#### *Step 1*

Multiply the amount of the monthly pay bill by the amount of the relevant percentage of the monthly pay bill which is 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 the relevant percentage of the monthly pay bill which is 0.5%.

#### *Step 3*

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

#### *Step 4*

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(a) “Company unit” and “charities unit” has the meaning given in sections 90 and 91 of the Finance Act 2016.

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

If the resulting amount is a negative amount, that amount is to be treated as nil for the purpose of the calculation 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 month in which the monthly apprenticeship levy falls to be calculated in the tax year 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 in the tax year.

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

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

**Recovery of overpaid apprenticeship levy**

**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.”.

*Names*

Two of the Commissioners for Her Majesty’s Revenue and Customs

Date

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations insert a new Part 7A into the Income Tax (PAYE) Regulations 2003, (“the PAYE Regulations”). These Regulations make provision for payment, collection and recovery of apprenticeship levy.

Regulation 2 amends the definition of “combined amount” in regulation 2(2) of the PAYE Regulations so as to make that definition apply to apprenticeship levy. The effect of the amendment is that HMRC can pursue a single amount from an employer rather than having to separate out apprenticeship levy from other debt.

Regulation 3 inserts new regulation 147B to 147J into the PAYE Regulations. In particular –

- new regulation 147B defines “monthly pay bill” for the purposes of calculation of the apprenticeship levy;
- new regulation 147C makes provision for the due date of the apprenticeship levy;
- new regulation 147D places a requirement on employers to notify HMRC of the apprenticeship levy which is to be paid and makes provision for the information which the return to HMRC should include;
- new regulation 147E makes provision for the calculation of the monthly levy allowance which is to be used by the employer in calculating the monthly apprenticeship levy due to be paid;
- new regulation 147F enables the employer to elect to apportion their annual entitlement to the levy allowance between more than one PAYE reference;
- new regulation 147G enables members of a company unit or charities unit to elect to apportion their annual entitlement to the levy allowance between more than one PAYE references held by that company or charity;
- new regulation 147H makes provision for the calculation of the apprenticeship levy due for the first month in the tax year;
- new regulation 147I makes provision for the calculation of the apprenticeship levy due for subsequent months in the tax year; and
- new regulation 147J makes provision for recovery of overpaid levy by the employer.