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Paul Harris  
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via e-mail: [paye.policy@hmrc.gsi.gov.uk](mailto:paye.policy@hmrc.gsi.gov.uk)

Dear Paul

**PAYE & NICs: The Income Tax (Pay As You Earn) (Amendment) Regulations 2013 and The Social Security (Contributions) Regulations 2001**

We write with reference to the draft Statutory Instruments making amendments to the Pay As You Earn Regulations 2003 and The Social Security (Contributions) Regulations 2001, and extending the relaxation for small employers of the 'on or before' reporting requirement from 5 October 2013 to 5 April 2014.

We observe that the two Explanatory Memorandums accompanying the draft legislation appear to contain mixed messages. They state (at paragraph 7.5) that '*As from 6<sup>th</sup> April 2014 these employers will be required to file on or before the making of the payment to an employee*', which could be read as implying that the relaxation will not be further extended. Yet elsewhere they say (at paragraph 8.1) that HMRC '*will continue to consult on this matter before making an announcement about what will happen beyond 6<sup>th</sup> April 2014*'.

We believe that a long term solution is required to the 'on or before' reporting requirement, otherwise this requirement will be a substantial, and possibly insurmountable, burden for some employers. The extension to 5 April 2014 should provide the time needed to undertake the necessary research into what permanent changes need to be made to the RTI process to take account of the needs of the smallest employers and we will continue to work with HMRC towards this end. At the same time we think it is important that the result of such discussions should not be prejudged such that the relaxation is bound to come to an end on 5 April 2014.

Although the extension of the relaxation is welcome, it is not clear why extending the relaxation to 5 April 2014 requires legislation when the original relaxation announced on 19 March 2013 did not? Since it is not intended to charge penalties for late RTI returns in 2013/14 cannot HMRC use its care and management powers to extend the relaxation without the need for legislation?

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Finally, please can HMRC confirm that the requirement to deliver a return '*by the last day of the tax month in which the payment is made*' will not override the relaxations in Regulations 67BA, 67BB and 67C of the PAYE Regulations and paragraphs 21AA, 21AB and 21B of Schedule 4 of the SSC Regulations where the payments that fall within those sections are within 7/14 days of the end of the tax month?

Yours sincerely

Matthew Brown  
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