

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT No. X)
REGULATIONS 2013

2013 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) necessary for the operation of HMRC's Real Time Information programme (RTI) for employers with 49 or fewer employees from 6 October 2013.

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

4.2 Under the 2003 Regulations, RTI employers are required to report payments to employees and the deduction of tax to HMRC each time a payment is made. This is done using a return. Each return is required to contain certain information about the employee's pay and tax. These returns will also be used to report changes in employment.

4.3 These Regulations make amendments to the 2003 Regulations that allow for changes in the operation of RTI from 6 October 2013. In particular, they insert into the 2003 Regulations provisions that relax the requirement, in relation to certain employers, that employers should deliver a return to HMRC on or before they make a relevant payment to their employee.

4.4 The collection of National Insurance contributions (NICs) rely on the PAYE system. Amendments to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) are being made by HMRC at the same time as these Regulations to reflect the introduction of this relaxation.

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 HMRC started to pilot RTI from 6 April 2012 and the 2003 Regulations were amended with effect from that date to facilitate its introduction. Further amendments were introduced to reflect changes to employers' obligations under RTI from 6th April 2013 at which date the majority of employers were required to report payments on or before making them.

7.2 There are some specific circumstances where employers may not be able to fulfil the requirement to send in a return on or before they make a payment to an employee. In March 2013 HMRC announced a relaxation of the requirement for employers with fewer than 49 employees to send in their RTI return on or before they pay their employees. This relaxation is to continue until 5 October 2013.

7.3 In June 2013 Ministers announced that the relaxation is to be extended to 5 April 2014. The 2003 Regulations are therefore being amended to bring into legislation the relaxation to allow in specific circumstances employers with 49 or fewer employees to submit a return up to the end of the tax month after the payment is made to the employee.

7.4 An example could be where an employer finds it difficult to report every payment to their employees at the time of payment but doesn't run their payroll software until the end of the month. In these circumstances they will be permitted to send in their return no later than the end of tax month in which the payments are made.

7.5 These regulations will only apply in respect of payments made in the period 6th October 2013 to 5th April 2014. As from 6th April 2014 these employers will be required to file on or before the making of the payment to an employee.

- *Consolidation*

7.6 There are currently no plans to consolidate the instrument that is being amended.

8. Consultation outcome

8.1 Following the publication of the relaxation on the HMRC website HMRC has been discussing its implications with representatives of those employers affected by it. This amendment has been drafted as a consequence of those discussions. In the meantime HMRC will continue to consult on this matter before making an announcement about what will happen beyond 6th April 2014.

9. Guidance

9.1 Extensive guidance has been published on HMRC's website for employers using RTI, this will be updated to reflect these changes.

10. Impact

10.1 All employers including charities or voluntary bodies will be required to use RTI.

10.2 The impact of RTI on the public sector is the same as for any other employer.

10.3 A Tax Information and Impact Note was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (SI 2012. No 822). This was updated as a result of changes to the impacts as a result of the year long RTI pilot and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>

11 Regulating small business

11.1 The legislation applies to small business.

11.2 RTI aims to reduce administrative burdens for all employers, including small employers and this amendment is intended to help achieve that aim.

12 Monitoring & review

12.1 RTI has been piloted from April 2012 and HMRC will continue to monitor the operation of RTI, in particular the interaction with Universal Credit and consider further amendments as necessary.

13 Contact

The following can answer any queries regarding the instrument:

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