
STATUTORY INSTRUMENTS

2018 No. 1327

INCOME TAX

**The Income Tax (Pay As You Earn)
(Amendment No. 2) Regulations 2018**

Made - - - - *7th December 2018*
Laid before the House of
Commons - - - - *11th December 2018*
Coming into force - - *1st January 2019*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 684(1) and (2) of the Income Tax (Earnings and Pensions) Act 2003(1) and now exercisable by them(2):

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2018 and come into force on 1st January 2019.

(2) The amendments made by these Regulations have effect for the tax year 2019-20(3) and subsequent tax years.

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

2. The Income Tax (Pay As You Earn) Regulations 2003(4) are amended as follows.

3. In regulation 2(1) (interpretation)—

- (a) in the definition of “additional rate”(5) after “ITA”(6) insert “, except where the employee is a Welsh taxpayer where it means the Welsh additional rate of income tax calculated under section 6B of that Act”(7),

(1) 2003 c. 1. Section 684(1) was amended, so far as relevant, by section 145 of the Finance Act 2003 (c. 14), paragraphs 102 and 117 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11), section 94 of the Finance Act 2006 (c. 25) and paragraphs 2 to 7 of Schedule 58 to the Finance Act 2009 (c. 10).

(2) Paragraph 102 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11) amended section 684 of the Income Tax (Earnings and Pensions) Act 2003 so that the Commissioners for Her Majesty's Revenue and Customs have the power to make the Regulations.

(3) The tax year 2019-20 was appointed by article 6 of S.I. 2018/892 as the first tax year in relation to which a Welsh rate resolution may be made by the National Assembly for Wales under section 116D of the Government of Wales Act 2006 (c. 32).

(4) S.I. 2003/2682 (the “principal Regulations”); relevant amending instruments are S.I. 2006/243, 2007/1077, 2008/7822011/729 and 2018/267.

(5) The definition of additional rate was inserted into the principal Regulations by regulation 3 of S.I. 2011/729.

- (b) in the definition of “basic rate”, after “except where” insert “—”, and for the remainder of the definition commencing with “the employee”, substitute—
 - “(a) the employee is a Scottish taxpayer where it means the Scottish basic rate of income tax set by a Scottish rate resolution of the Scottish Parliament under section 80C of the Scotland Act 1998, or
 - (b) the employee is a Welsh taxpayer where it means the Welsh basic rate of income tax calculated under section 6B of ITA”,
 - (c) in the definition of “higher rate” after “ITA” insert “, except where the employee is a Welsh taxpayer where it means the Welsh higher rate of income tax determined under section 6B of that Act”; and
 - (d) after the definition of “United Kingdom continental shelf” insert—
 - ““Welsh rate” means a rate set by the National Assembly for Wales for the tax year under section 116D of the Government of Wales Act 2006 (income tax)(8);
 - “Welsh taxpayer” has the same meaning as in section 116E of the Government of Wales Act 2006 (Welsh taxpayers).”.
4. In regulation 7 (meaning of “code” etc)(9) after paragraph (2A) insert—
 - “(2B) “C code” means a code which effects deductions of tax at the rates calculated under section 6B of ITA.”.
5. In regulation 108 (calculation of tax payable under PSA)(10) in paragraph 2(d)—
 - (a) at the end of paragraph (iv) insert “and”, and
 - (b) after paragraph (iv) insert—
 - “(v) at any Welsh rate applicable for the tax year to which the computation relates;”.

Justin Holliday

Melissa Tatton

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

7th December 2018

(6) The term “ITA” and the definition of that term as the Income Tax Act 2007 (c. 3) was inserted into regulation 2 of the principal Regulations by regulation 3 of S.I. 2008/782.

(7) Section 6B was inserted into the Income Tax Act 2007 by section 9(3) of the Wales Act 2014 (c. 29) with effect in relation to the tax year 2019-20 and subsequent tax years by virtue of S.I. 2018/892 made under section 14(2) of that Act.

(8) 2006 c. 32. Sections 116D and E were inserted into the Government of Wales Act 2006 by section 8(3) of the Wales Act 2014.

(9) Paragraph 2A was inserted into regulation 7 of the principal Regulations by regulation 2(3) of S.I. 2017/414.

(10) Paragraph 2(d)(iv) was inserted into regulation 108 of the principal Regulations by regulation 9(c)(iii) of S.I. 2018/267.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the principal Regulations”) which make provision for the assessment, charge, collection and recovery of income tax in respect of all pay as you earn (“PAYE”) income.

Regulations 3 to 5 make consequential amendments to the principal Regulations as a consequence of the power of the National Assembly for Wales to set a Welsh rate of income tax on non-savings income provided for in Part 4A of the Government of Wales Act 2006 (c. 32). The power is exercisable for the tax year 2019-20 and subsequent tax years.

Regulation 3 amends the definitions of “additional rate”, “basic rate”, and “higher rate” in regulation 2 of the principal Regulations to reflect the Welsh rate of income tax. Regulation 3 also inserts definitions of “Welsh rate” and “Welsh taxpayer” into regulation 2 of the principal Regulations.

Regulation 4 inserts a new paragraph (2B) into regulation 7 of the principal Regulations to reflect the “C code” which will be used where an employee is a Welsh taxpayer.

Regulation 5 inserts a new paragraph (v) into regulation 108(2)(d) of the principal Regulations to include the Welsh rate of income tax in any calculation of tax payable under PAYE settlement agreements (“PSAs”).

An Impact Assessment covering this instrument was published on 10 June 2014 alongside the draft clauses and explanatory notes for the Wales Bill and is available on the website at <https://services.parliament.uk/Bills/2014-15/wales/documents.html>. It remains an accurate summary of the impacts that apply to this instrument.