



## Legislative change to tax code

Payments of share-based earnings made after an employment has ceased that have not been included in Form P45

Questions and answers

## Introduction

From 6 April 2012 the 0T (zero T) tax code must be used on a non-cumulative basis against share-based payments (those in the form of securities, interests in securities and securities options) made to an employee after cessation of employment, where these payments have not been included in the Form P45. Currently, code BR (basic rate) is operated on such payments. This change will align all post-employment earnings under the same tax code.

Below are answers to some commonly asked questions which you may find helpful.

### **1. If both the employer and another party (e.g. a share scheme administrator or the trustee of an employee trust) separately make payments to an individual in the same payment period, is it necessary for them to check how much the other has paid to the individual in that same period?**

Where - after an employment has ceased - an individual receives two separate payments of PAYE income from different sources (for example, one from the employer and one from another party, such as a share scheme administrator), and these payments were not included on Form P45, then code 0T will apply to both payments. This code should be operated independently on each payment, so each party will not need to know the details of a payment made by the other. As the code is operated on a non-cumulative basis, neither of the parties is required to consider payments received from other sources when calculating the tax deduction.

For these purposes 'another party' will include any entity which does not directly employ the individual to whom a share-based payment, which is liable for PAYE, is made. This might include share scheme administrators, an employee trust or the employer's parent company. Also for these purposes, the 'payment period' for the individual (for example, weekly or monthly) will be the same as when they were employed.

### **2. When calculating the income tax due, is a person required to take into account a number of share-based payments to the same individual during the same payment period, or should each payment be viewed in isolation? For example, an individual who participates in two or more share scheme plans may receive two or more transactions in the same payment period.**

The operation of a tax code on a non-cumulative basis means that deductions are made as if the payment has been made on the first day of the tax year, whilst ensuring that the individual still receives the tax allowances they are entitled to.

Employers (or any other party) making more than one relevant payment to a former employee in the same payment period should, when making the second and any subsequent payment, aggregate the payments and apply code 0T to the aggregate amount.

For these purposes, the payment period (for example, weekly or monthly) will be the same as when the individual was employed.

**3. Where two separate entities make share-based payments in the same payment period, and these entities are subsidiaries of the same Group, should each entity take account of other payments made by subsidiaries within the Group or should each payment be viewed in isolation? For example, where "XYZ Ltd" and "ABC Ltd" make separate payments of PAYE income, and both are subsidiaries of the "ABYZ Group".**

Where - after employment has ceased - an individual receives two or more separate payments of PAYE income from different members of the same group, code 0T will apply to both payments, if they were not included on Form P45.

Code 0T will be operated independently for each payment, so each group member will not need to know the details of a payment made by another member of the group.

**4. Which tax code should be reported as the "final tax code" on the P14 for the tax year 2011-12, where the final payment is a combination of a standard payment (taxed using code 0T) and a share-based payment (currently taxed using code BR)?**

We recognise that in 2011-12 there may be uncertainty over which tax code to report on the P14, where a final mixed payment is made or two separate payments are made within the same tax period. If this should happen you should record tax code 0T as the final tax code on the P14.

**5. Code 0T is operated on a non-cumulative basis. Is this the same as the "week 1/month 1" basis?**

When a code is operated on a non-cumulative basis you use week 1/month 1 of the Tax Tables on each weekly or monthly pay day. This means you don't add the current pay period's pay and tax to the previous weekly or monthly figures for pay and tax. For this purpose, "week 1/month 1" and "non-cumulative" are considered to be the same.

**6. Which tax code should be used on payments made after employment has ceased when Form P45 has not yet been issued?**

You must use the last tax code that was issued during the individual's employment with you and include the payment on Form P45. If Form P45 has been issued, Regulation 37 of the Income Tax (Pay As You Earn) Regulations 2003 applies and the correct tax code to operate on any subsequent cash and share-based payments from 6 April 2012 will be code 0T.

**7. If someone has been issued with a NT code in employment because they are non-resident or not ordinarily resident, does the 0T code designation override that or does the NT code persist?**

The employer should not deduct tax using code 0T in circumstances where the code immediately prior to leaving employment was code NT.

**8. Are the rules changing regarding National Insurance Contributions (NICs) in relation to post-employment share-based payments which have not been included in Form P45?**

There are no changes to the NICs rules in relation to this tax code change. Further information on NICs can be found on the HMRC website at:  
<http://www.hmrc.gov.uk/ni/index.htm>.