

2009 No.

INCOME TAX

**The Income Tax (Pay As You Earn) (Amendment) (No. 2)
Regulations 2009**

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	***

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers in section 684 of the Income Tax (Earnings and Pensions) Act 2003(a), and now vested in them(b):

Citation

1. These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment) (No. 2) Regulations 2009.

Commencement

2. These Regulations come into force on [].

Collection of debts through PAYE code

3.—(1) This regulation amends the Income Tax (Pay As You Earn) Regulations 2003(c) so as to enable certain debts to be collected by means of adjusting an employee's PAYE code.

(2) After regulation 14(1) (matters relevant to determination of code) insert—

“(1A) A code may also be determined so as to effect recovery of all or part of a relevant debt within the meaning of section 684 of ITEPA (sums owed to HMRC).

(1B) A determination in reliance on paragraph (1A) does not prevent recovery by other means (whether or not under a provision of TMA) of any part of a relevant debt that is not recovered by deduction in accordance with the code (whether or not it was at any stage expected to be recovered by deduction).

(1C) Sums deducted or to be deducted as a result of a determination made in reliance on paragraph (1A) are to be treated, for the purposes of employers' obligations, enforcement

(a) 2003 c. 1. Section 684 was amended by section 145 of the Finance Act 2003 (c. 14), by paragraph 117 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11), by section 94 of the Finance Act 2006 (c. 25) and by Schedule [] to the Finance Act 2009 (c. []).

(b) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005. Section 50 of that Act provides that insofar as it is appropriate in consequence of section 5 a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(c) S.I. 2003/2682. There are no relevant amendments.

and other ancillary matters, in the same way as amounts of tax which the employer is liable to pay under provisions of these regulations (so, for example, regulation 84 applies for the purposes of recovery).

(1D) Sums deducted as a result of a determination made in reliance on paragraph (1A) are to be treated for the purposes of interest as having been paid on the first day of the tax year in respect of which the determination is made.”

(3) In regulation 14(3) (limit on recovery through coding) after “Paragraphs (1)(c) and (d)” insert “and (1A)”.

Name

Name

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

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) so as to allow Her Majesty’s Revenue and Customs to use PAYE coding to recover all or part of certain debts owed to them.

The class of debts that may be recovered in this way is determined by reference to the definition of “relevant debt” in section 684 of the Income Tax (Earnings and Pensions) Act 2003. Section 684 is the section under which the PAYE regulations are made. The definition of “relevant debt” was inserted in that section by Schedule [] to the Finance Act 2009.

The limit on how much can be recovered by coding adjustment (presently £2,000) will continue to apply to the aggregate of adjustments, including adjustments under the new power inserted by these Regulations (see reg. 3(3)).