

PAY AS YOU EARN REGULATIONS: SECOND PROGRESS REPORT

SUMMARY

1. This paper reports work in progress on rewriting the PAYE regulations. It presents first drafts of rewritten versions of regulations 3 to 39 of the PAYE regulations, together with a detailed commentary on them.
2. There are many detailed questions in the commentary on the draft regulations. Comments on those would be welcome (by 8 July 2002 if possible please). And interested parties are invited to discuss them in detail with the project team at an open meeting on 10 July 2002.
3. But there are just 2 main questions for the Committee:
 - do the draft regulations make the legislation clearer while making only appropriate minor changes?
 - do you have any general views on whether we should clarify the meaning of “employer” and like terms or – more radically – restructure the regulations into separate, largely self-contained provisions for employers, pension payers etc?

BACKGROUND

4. We are reporting separately (in paper CC/SC(02)02) progress on work to rewrite the primary legislation for PAYE; and making draft clauses available.
5. This paper is about the PAYE regulations.
6. We reported in October 2001 (SC/CC(01)06) progress on work to rewrite the PAYE regulations. The Committee endorsed, and Ministers later agreed and announced, the proposal that we should rewrite the PAYE regulations to be made in autumn 2003, to come into effect from 6 April 2004.
7. The purpose of this paper is:
 - to invite the Committee’s views on the way we are rewriting the regulations and the options for their further development; and
 - to make available to anyone with an interest the current working drafts of regulations rewriting regulations 3 to 39.

8. We shall be bringing forward later in 2002 other papers to seek views on:
- other chunks of draft regulations; and
 - cross-cutting issues such as the use and meaning of the terms
 - “employer”, “employee” and “employment”;
 - “code”; and
 - “benefit”.
9. This responds to comments from some users that it is easier to deal with specific issues rather than with long papers and drafts.
10. But we shall publish at least one complete draft of the regulations for formal consultation in 2003.

REGULATIONS 3 TO 39

11. We have given priority to regulations 3 to 39 of the PAYE regulations (SI 1993/744). These are the regulations which deal with the core in-year PAYE system. That is:
- who must deduct tax from what payments;
 - how PAYE codes are set and used;
 - what to do when someone starts or leaves employment; and
 - what records must be kept.
12. Annex A to this paper is a detailed commentary on how we have rewritten these regulations.
13. Annex B contains the current drafts of the regulations.
14. We have, as discussed at previous meetings, paid particular attention to bringing regulations and guidance into line. Some minor rewrite changes are proposed for this purpose. Some other minor changes are proposed to make the regulations clearer and easier to understand. All are highlighted in the commentary. Otherwise our approach has, as usual, been to reproduce the current law in a better structure and in better language.
15. In keeping with our approach to communication generally we are making the draft regulations available on the internet and inviting anyone with an interest to discuss the details of the regulations with us. There will be an open meeting in the morning of 10 July 2002. Anyone interested in attending should contact David Mutton – e-mail to David.Mutton@ir.gsi.gov.uk or telephone 020 7438 7606.

16. We would also welcome any written comments. If these could be sent to David Mutton by 8 July we shall be able to take them on board for when revisiting these regulations later in 2002. But there will, as noted above, be later drafts with more time for comments.

17. It would however be helpful to know at this stage if the Committee are generally content with the approach taken in the rewritten regulations and with the nature of the proposed rewrite changes.

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April 2002

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