



Securities in respect of Pay As You Earn and National Insurance contributions

We have given you this factsheet either because we've told you that you may have to give security, or because you must now give security. If you have a tax adviser, you may want to talk to them and show them any correspondence that we've given you. Tax law allows us to require an employer to give an amount of security if there's a risk that they will not pay Pay As You Earn (PAYE) or National Insurance contributions which become due. The relevant tax law is set out in Part 4A of the Income Tax (Pay As You Earn) Regulations 2003 and Part 3B of Schedule 4 to the Social Security (Contributions) Regulations 2001.

If you need help

If you have any health or personal circumstances that may make it difficult for you to deal with this matter, please tell the officer that's contacted you. We'll help you in whatever way we can.

You can also ask someone else to deal with us on your behalf, for example, a professional adviser, friend or relative. We may however still need to talk or write to you directly about some things. If we need to write to you, we'll send a copy to the person you've asked us to deal with. If we need to talk to you, they can be with you when we do, if you prefer.

Who we can ask to give security

It is the employer who must give security. Where the employer is a limited company or a limited liability partnership (LLP) security may also be required from one or more of the company directors or partners, or from any person who controls the company or partnership and has the ability to influence whether the PAYE and National Insurance contributions are paid. Where we believe that more than one person is in a position to influence the payment of PAYE and National Insurance contributions to us, each of those people will be legally responsible for giving the whole of the security. This is called being jointly and severally liable. In practice the security can be given by any or all of those people, as long as the security is given in full. In partnerships (except LLPs) all partners are jointly and severally liable for any PAYE and National Insurance contributions of the partnership. Where we give a notice of requirement to a partnership, all partners will therefore be jointly and severally liable to give security.

The notice of requirement to give security

If we require an employer to give security, we'll issue them with a notice of requirement. This will show the amount of security required, the date by which it's required and how long we'll hold the security for. It will also show the way in which the security must be given. Where there is joint and several liability, we'll also issue a notice of requirement to each person, which will show the total amount of security required. This will also show the names of all those in the business who have been asked to give security.

When we may issue a notice of requirement

We may send or give an employer a notice of requirement if:

- in their previous or current business, they have failed to comply with their PAYE and National Insurance contributions obligations
- we've reason to believe that they might fail to comply with their PAYE and National Insurance contributions obligations

Sending a warning letter before the notice of requirement

Normally we'll send a letter warning the employer that we may require security. However, if we believe that sending a warning letter will increase the risk that PAYE or National Insurance contributions will not be paid, we may send or hand deliver a notice of requirement without warning.

What happens if security is not given in full

It's a criminal offence to not give the PAYE and National Insurance contributions security shown on a notice of requirement. If we've sent you a notice of requirement and you do not give the security in full, we may prosecute you and not just the employer. In the event of a successful prosecution, you may have to pay a fine. The value of the fine will be set by the court and has no limit.

How we calculate the amount of security

We calculate the amount of security using a formula based on:

- the amount of PAYE and National Insurance contributions paid or due to be paid by the employer for a 4-month period

plus:

- an amount equal to any current arrears of PAYE and National Insurance contributions due from the employer

Although we use the amount of any arrears of PAYE and National Insurance contributions as a way of calculating the amount of security, this does not affect the arrears. We'll continue to pursue payment of any arrears in the normal way.

Forms of security that we will accept

We'll only accept:

- an electronic payment to a specified HM Revenue and Customs (HMRC) bank account
- a cheque
- a banker's draft
- a guarantee in the form of a performance bond authorised and approved by a financial institution

We cannot accept property or items such as high value motor vehicles or boats as security. If you need further information about the accepted forms of security, please contact the office that has sent this factsheet to you.

Time limits for giving security

The notice of requirement will show the date by which security must be given. This date will not be earlier than 30 days after the day on which the person receives the notice.

How long we will hold the security for

We normally hold security for PAYE and National Insurance contributions for 24 months. During this time we'll monitor the employer's tax affairs. We may return the security earlier than 24 months if we believe that the employer is no longer at risk of not paying the PAYE and National Insurance contributions due. If there is a change in circumstances after providing the security and the employer has information that may alter our decision to hold security, the employer can ask us to review the position.

Using the security to pay what is owed

If an employer gives security and then fails to pay PAYE and National Insurance contributions due, we may use some or all of the security to pay what they owe. We may then require them to give further security. When we no longer require the security for PAYE and National Insurance contributions, we'll check to see whether the person who gave the security has any other debts with us. If they do, we may then use the security to pay those debts. Where there are no outstanding debts, we'll return the security to the person who gave it.

Making a time to pay arrangement for arrears of PAYE and National Insurance contributions

Agreeing a time to pay arrangement with us allows a person to pay their arrears of PAYE and National Insurance contributions over an agreed period of time. If you would like to make a time to pay arrangement with us, or would like more information about this, you should contact the office that sent you this factsheet. If we've sent you a notice of requirement, you must contact us before the date that security is required. If you request a time to pay arrangement, we'll extend the time allowed for providing the security while we consider your request. If we agree to a time to pay arrangement, we'll withdraw the notice of requirement to give security.

Asking for a reduction in the value of security already given

A person who has given security for PAYE and National Insurance contributions can apply for the value of the security to be reduced. We'll consider an application where the person's circumstances have changed since the security was given. Where we agree, we may return some or all of the security. We'll consider an application for a security to be reduced where a change in the person's circumstances means that:

- they are suffering hardship
- they are no longer the employer in the business
- there has been a significant reduction in the workforce
- they are no longer an employer at all

Only a person who has given the security, or contributed to giving the security, can ask for a reduction in its value.

If we require security from you and you disagree with our decision

If we send you a notice of requirement and you disagree with anything in the notice, you can appeal. You need to write to us no later than 30 days after the day on which you receive the notice of requirement, telling us what you disagree with and why. We'll then contact you to try to settle the matter. If we cannot come to an agreement, we'll write to you and tell you why. We'll then offer to have the matter reviewed by a HMRC officer who has not previously been involved in the case. We'll also tell you about your right to go to an independent tribunal. You can find more information about appeals and reviews in factsheet HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree'.

You can get this factsheet from our website. Go to www.gov.uk and search 'HMRC1' or phone our orderline on 0300 200 3610. You can find out more about tribunals on the HM Courts & Tribunals Service website. Go to www.tribunals.gov.uk or you can phone them on 0845 223 8080.

How to give us security

You can give us security by either:

- making a payment
- providing a guarantee in the form of a performance bond

If you want to give us security by a performance bond, please contact the office that gave you this factsheet. Before making a payment you should contact your bank or building society to confirm the services available to you, any daily value limits, how long they'll take to transfer the money and the latest cut-off times for making a payment. Details of how you can make a payment are shown below. You can also find this information online. Go to www.gov.uk and search 'Pay other HMRC taxes, penalties or enquiry settlements'.

Direct Debit:

If you're registered to use HMRC Online Services you can set up a Direct Debit online to collect your payment. You should set up the Direct Debit at least 5 working days before the date you want your payment to be collected.

There is no online service just for these payments so you can only use this service if you're registered for one (or more) of:

- Self Assessment Online
- PAYE for employers
- Corporation Tax Online
- CIS Online
- Machine Games Duty Online

Debit card

You can make a debit card payment online. Go to www.gov.uk and search 'Pay other HMRC taxes, penalties or enquiry settlements' and follow the on screen link.

Through your own bank or building society by:

- Bacs (Bankers Automated Clearing System) Direct Credit
- internet/telephone banking
- Faster Payments
- CHAPS (Clearing House Automated Payment System)

If you're paying by internet or telephone banking you can select 'HM Revenue and Customs' from your bank or building society's beneficiary list (sometimes called a payee list). Or you can set up a manual instruction using the bank details below:

Sort code: 08-32-10

Account number: 12001020

Account name: HMRC Shipley

Your security reference: as shown on the payslip enclosed with the notice of requirement.

If you need to provide your bank with HMRC's banking address it is:

Barclays Bank Plc
1 Churchill Place
London
United Kingdom
E14 5HP

At your bank or building society

Take your payment and HMRC payslip enclosed with the notice of requirement to your own bank or building society branch.

Make cheques payable to 'HM Revenue and Customs only' followed by your security reference number.

By post

If you're unable to pay by any of the above methods, you can pay by post. Make cheques payable to 'HM Revenue and Customs only' followed by your security reference number. Post it, with your HMRC payslip enclosed with the notice of requirement to:

HMRC
Direct
BX5 5BD