

2017 No. 0000

INCOME TAX

**The Income Tax (Pay As You Earn) (Amendment No. 3)
Regulations 2017**

<i>Made</i> - - - -	***
<i>Laid before the House of Commons</i>	***
<i>Coming into force</i> - -	<i>6th April 2018</i>

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 (Employment and Pensions) Act 2003(a), and now exercisable by them.

Citation and commencement

1. These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2017 and come into force on 6th April 2018.

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

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

3. In regulation 61A(c) (interpretation) —

- (a) before the definition of “authorised employer” insert—
““amount foregone” has the meaning given in section 69B(d) of ITEPA”,
- (b) after the definition of “making good payment” insert—
““optional remuneration arrangements” has the meaning given in section 69A ITEPA”
“relevant amount” for the purposes of Chapter 3A of these regulations means the amount calculated in accordance with sections 87A, 94A, 120A, 154A and 203A of ITEPA as the case may be”, and
- (c) in the definition of “specified benefit” —
 - (i) after paragraph (a) insert—

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- (a) 2003 c. 1. Section 684 of the Income Tax (Earnings and Pensions) Act 2003 (“ITEPA”) has been relevantly amended by section 145 of the Finance Act 2003 (c. 14), paragraphs 102(1), (2) and 117 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11) (“CRCA”), section 94(3) of the Finance Act 2006 (c. 25), paragraphs 2 to 7 of Schedule 58 to the Finance Act 2009 (c. 10), section 85(2) of the Finance Act 2011 (c. 11), section 225 of, and paragraph 5(4) of Schedule 1 to, the Finance Act (c. 14), section 17(2) of the Finance Act 2015 (c. 11), section 15 of the Finance Act 2016 (c. 24) and S.I. 2014/992.
 - (b) S.I. 2003/2682.
 - (c) Regulations 61A to 61M were inserted by the Income Tax (Pay As You Earn) (Amendment No 4) Regulations, S.I. 2015/1927.
 - (d) Section 69B was inserted into ITEPA by Schedule 2 to the Finance Act 2017 (c. 10).

- “(aa) section 87A (benefit of non-cash voucher treated as earnings: optional remuneration arrangements)”,
 - (ii) after paragraph (b) insert—
 - “(ba) section 94A (benefit of credit-token treated as earnings: optional remuneration arrangements)”,
 - (iii) after paragraph (c) insert—
 - “(ca) section 120A (benefit of car treated as earnings: optional remuneration arrangements)”,
 - (iv) after paragraph (d) insert—
 - “(da) section 149A (benefit of car fuel treated as earnings: optional remuneration arrangements)”,
 - (v) after paragraph (e) insert—
 - “(ea) section 154A (benefit of a van treated as earnings: optional remuneration arrangements)”,
 - (vi) after paragraph (f) insert—
 - “(fa) section 160A (benefit of van fuel treated as earnings: optional remuneration arrangements)”, and
 - (vii) in paragraph (g) substitute “;” with “,”
 - (viii) after paragraph (g) insert—
 - “(ga) section 203A (employment related benefit provided under optional remuneration arrangements);”.
- 4.** In regulation 61D (deduction and repayments of tax: general rule) in subparagraph (1)—
- (a) after the first occurrence of “cash equivalent” insert “or the relevant amount or the amount foregone in respect”, and
 - (b) after the second occurrence of “cash equivalent” insert “or the relevant amount or amount foregone in respect of”.
- 5.** In regulation 61E (method of calculating the cash equivalent of the benefit of a car or van)—
- (a) in the heading, after “van” insert “or relevant amount in respect”, and
 - (b) in paragraph (1) for the words “of that benefit” to “(cash equivalent of the benefit)” substitute “or relevant amount is calculated in accordance with sections 121, 121A, 154A and 155 of ITEPA”.
- 6.** In regulation 61F (method of calculating the cash equivalent of the benefit of fuel) —
- (a) in the heading after “cash equivalent” insert “or amount foregone in respect”, and
 - (b) in paragraph (1) for the words “of that benefit” to “cash equivalent)” substitute “or amount foregone in respect of that benefit is calculated in accordance with sections 149A, 150, 160A and 161 of ITEPA”.
- 7.** In regulation 61G(a) (method of calculating the cash equivalent of employment-related benefits)—
- (a) in the heading after “cash equivalent” insert “or relevant amount”, and
 - (b) in paragraph (1) for the words “cash equivalent” to “as earnings).” substitute “cash equivalent or relevant amount of the specified benefit is to be calculated in accordance with [sections 87, 87A, 94, 94A, 203 (cash equivalent of benefit treated as earnings), or 203A (employment-related benefit provided under optional remuneration arrangements) of ITEPA.”.

(a) Regulation 61G words in heading and sub-paragraph (1) were inserted and substituted, by the Income Tax (Pay As You Earn) (Amendment No 3) Regulations, S.I. 2016/1137 with effect for the tax year 2017-18 and subsequent years.

8. In regulation 61H (modification of the general rule: cessation of employment but continuing benefit) —

(a) in paragraph (2)—

- (i) after the first occurrence of “cash equivalent” insert “relevant amount or amount foregone”, and
- (ii) after each subsequent occurrence of “cash equivalent” insert “relevant amount or amount foregone in respect”.

9. In regulation 61I (modification of the general rule: in-year adjustments: change to the benefit during the year with effect from the date of the change)—

(a) in paragraph (1) after “cash equivalent” insert “relevant amount or amount foregone in respect”, and

(b) in paragraph (2)—

- (i) after the first occurrence of “cash equivalent” insert “or relevant amount or amount foregone in respect”,
- (ii) in (a) for the words “cash equivalent to “of ITEPA” substitute “cash equivalent or relevant amount or amount foregone in respect of the specified benefit that has been provided in the tax year , in accordance with [sections 87, 87A, 94, 94A], 121, 121A,149A, 150, 154A, 155, 160A, 161, 203 or 203A of ITEPA”,
- (iii) in (b) after “cash equivalent” insert “or relevant amount or amount foregone in respect”, and
- (iv) in (c) after “cash equivalent” insert “or relevant amount or amount foregone in respect”.

10. In regulation 61J (modification of the general rule: in-year adjustments: change to the benefit during the year with effect from the start of tax year and other changes)—

(a) in paragraph (1) after each occurrence of “cash equivalent” insert “or relevant amount or amount foregone in respect”,

(b) in paragraph (3) after each occurrence of “cash equivalent” insert “or relevant amount or amount foregone”, and

(c) in paragraph (4) after “cash equivalent” insert “or relevant amount or amount foregone in respect”.

11. In regulation 61K (modification of the general rule: making good)—

(a) in paragraph (2) after “cash equivalent insert “or relevant amount or amount foregone in respect”, and

(b) in paragraph (3) after “cash equivalent” insert “or relevant amount or amount foregone in respect”.

12. In regulation 61LA(a) (modification of the general rule: failure to make good benefit of credit-token) in paragraph (2)—

(a) after each occurrence of “cash equivalent” insert “or relevant amount”, and

(b) for the words “in accordance” to “ITEPA” substitute “in accordance with sections 94 and 94A of ITEPA”.

13. In regulation 61M (information to specified employees) in subparagraph (1) after “cash equivalent” insert “or relevant amount or amount foregone in respect”.

14. In regulation 86 (information employer must provide for each employee) —

(a) in paragraph (1)—

(a) Regulation 61LA was inserted by the Income Tax (Pay As You Earn) (Amendment No 3) Regulations, S.I. 2016/1137 with effect for the tax year 2017-18 and subsequent years.

- (i) in paragraph (c) for the words “section” to “as earnings)” substitute “sections 87(1) (benefit of non-cash voucher treated as earnings) and 87A(1) (benefit of non-cash voucher treated as earnings: optional remuneration arrangements) of ITEPA”,
 - (ii) in paragraph (d) for the words “section” to “as earnings)” substitute “sections 94(1) (benefit of credit-token treated as earnings) and 94A(1) (benefit of credit-token treated as earnings: optional remuneration arrangements) of ITEPA”, and
 - (iii) in paragraph (f) for the words “section to “as earnings)” substitute “sections 102 (benefit of living accommodation treated as earnings) and 103A (accommodation provided pursuant to optional remuneration arrangements: relevant amount) of ITEPA;”.
- (b) in paragraph (3)—
- (i) substitute the words “577(1) of ICTA” with “356(1) of ITEPA”, and
 - (ii) after “inclusion” omit the words “as mentioned in section 577(1)(a) of that Act”.

15. In regulation 89 (annual return of other earnings: exclusion for notional payments) for the words “required under regulation” to “73” substitute “required under regulations 67B (real time returns of information about relevant payments)”.

16. In regulation 90 (quarterly return if a car becomes available or unavailable (form P46 (Car))—

- (a) in paragraph (1) for the words “section” to “treats” substitute “sections 120 (benefit of car treated as earnings) and 120A (benefit of a car treated as earnings: optional remuneration arrangements) of ITEPA treats”, and
- (b) in paragraph (3)(d) for the words “the interim sum” to “of a car),” substitute “any provisional sum as calculated pursuant to section 121A(1) of ITEPA,”.

Name
Name

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003(a) (S.I. 2003/2682) (“the PAYE regulations”).

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

(a) S.I. 2003/2686.