

# Draft legislation: The Income Tax (Pay As You Earn) (Amendment No **\*\*\***) Regulations 2017

## 1. Introduction

Pay As You Earn (PAYE) Settlement Agreements (PSAs) were introduced in the 1990s, as an administrative easement for employers and HMRC. They allow employers to settle, in a single payment, the income tax liability on certain, typically minor, benefits in kind (BiKs) and expenses payments. Employers with a PSA are liable for the income tax and NICs payable under them, their employees are relieved of liability on the benefits and expenses included in the agreement. A PSA also allows employers to reduce record keeping and paper work for themselves and their employees and use a practical and flexible way of dealing with many of the minor and 'one-off' benefits found in today's employment packages. However, there is scope to improve and simplify PSAs.

### 1.1 Why we are consulting

The Government wants to make it as easy as possible for employers to use PSAs, so in 2016 the Government consulted on proposals to simplify them. A summary of the consultation and responses received can be found here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/574569/Simplifying\\_the\\_PAYE\\_Settlement\\_Agreement\\_PSA\\_process\\_-\\_summary\\_of\\_responses.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574569/Simplifying_the_PAYE_Settlement_Agreement_PSA_process_-_summary_of_responses.pdf)

The Government is committed to simplifying the PSA process for employers but has decided that the proposed digitisation of PSAs will not go ahead at the moment. There are other opportunities to streamline the current process which similarly reduce the administrative burden for employers while offering better value for money for the taxpayer at the present time.

This consultation focuses on changes to legislation so that the PSA process is made easier and simpler to administer.

### 1.2 Proposed changes from April 2018

The Government aims to reduce the administrative burden on employers specifically by:

- Lifting the current requirement on employers to renew their PSA annually by providing for an 'enduring agreement'
- Ensuring the regulations allow for digitisation of the PSA process at a future stage, if it is felt that this would be supportive of business
- The Government is not proposing to amend the BiKs or expenses which can be covered by a PSA

**Question 1: Do you think adopting an ‘enduring agreement’ will create any issues for employers?**

## **2. Technical consultation on the draft regulations**

This package of regulations to the Income Tax (PAYE) Regulations 2003 are drawn up under the powers contained within [Chapter 5 of Part 11 of ITEPA](#). Changes to primary legislation, enabling the automation of processes will be introduced under [clause 6 of the Finance Bill 2017](#).

In order to deliver changes to PSA processes, amendments are required to regulations contained within [Part 6 of The Income Tax \(Pay As You Earn\) Regulations 2003](#) .

The purpose of the draft regulations is to set out:

- The form of the revised PSA
- How employers or other payroll operators should keep records, calculate and pay any tax due under the revised PSA process
- Consequential changes to procedures relating to the management of PSA submissions and compliance

**Question 2: Do the regulations as drafted achieve their objectives as set out above?**

**Question 3: Do these draft regulations produce any unintended consequences?**

## **3. The consultation process**

This consultation is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development.

Stage 1 - Setting out objectives and identifying options.

Stage 2 - Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 - Drafting legislation to effect the proposed change.

Stage 4 - Implementing and monitoring the change.

Stage 5 - Reviewing and evaluating the change.

This consultation is taking place during stage 3 of the process. The purpose of the consultation is to seek views on draft regulations in order to confirm that it will achieve the intended policy effect while guarding against any unintended consequences.

### **3.1 How to respond**

Responses should be sent by **21 February 2018**. Any comments should be sent to [PAYE.policy@hmrc.gsi.gov.uk](mailto:PAYE.policy@hmrc.gsi.gov.uk) or by post to:

Terence Brown, PSA Consultation, Tax Administration Policy and Strategy, 19<sup>th</sup> floor North, Euston Tower, 286 Euston Road, London NW1 3UQ

All responses will be acknowledged, but it won't be possible to give substantive replies to individual representations.

When responding please say if you're a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### **3.2 Next steps**

Responses to this technical consultation will be reviewed and the draft regulations will be revised as appropriate before they are laid before Parliament. Guidance on how employers will report and pay tax liability, through the revised PSA process, will be available on GOV.UK later in the year.

### **3.3 Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we can't give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HMRC.

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

### **3.4 Consultation principles**

This consultation is being run in accordance with the Government's consultation principles. The consultation principles are available on the [Cabinet Office website](#).

If you have any comments or complaints about the consultation process please contact:

John Pay  
Consultation Coordinator  
Budget Team  
HM Revenue and Customs  
100 Parliament Street  
London  
SW1A 2BQ

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

Please don't send responses to the consultation to this address.