



Legislative Change to PAYE Regulation 72F

Who is likely to be affected?

Employers where following an investigation by HM Revenue & Customs (HMRC), large numbers of workers' status is reclassified from self-employment to employment, and those workers re-categorised.

General description of the measure

The measure enables HMRC to calculate the amount of tax due where workers whose employment status has been re-categorised have made self-assessed payments. It also provides HMRC with an option when it issues a notice to the employee of whether to include details of the amounts offset and the tax years they refer to, or merely state the employment to which the notice applies.

Policy objective

The measure will reduce burdens on both employers and HMRC, particularly where a large number of individuals working for the same employer are re-categorised from self-employed to employed.

Background to the measure

There has been an increase in the number of cases involving large employers where large numbers of workers' employment status have been re-categorised by HMRC from self-employed to employed. Where the number of individuals concerned is substantial, the approach required by the current PAYE Regulations to issue a detailed direction notice to all employees imposes substantial administrative burdens on employers and HMRC.

Detailed proposal

Operative date

The amendments to the legislation come into effect from 6 April 2014.

Current law

HMRC can, if certain requirements are met, apply Regulation 72F of the Pay As You Earn (PAYE) Regulations to "Direct" that payment of the PAYE tax liability in respect of an employee is transferred from the employer to the employee. The practical effect of this is that the employer no longer becomes liable to pay an amount of PAYE tax due equivalent to the amount of tax declared (or paid on account) by the individual. The PAYE Regulations require that where HMRC makes such a Direction, HMRC must, amongst other things, serve a notice on each individual concerned setting out each affected year and the tax paid in each year. This creates, where large numbers of employees are involved, a substantial administrative burden on HMRC and often the employer, with no material advantage to the individuals. There is a right of appeal against such Directions and these proposals do not change that appeal right.

Proposed revisions

Where large numbers of employees are involved, the process required by Regulation 72 E&F is burdensome both for employers (who may have to deal with enquiries from their current and ex employees) and for HMRC. To ease this burden HMRC will, in those cases where large numbers of workers are involved, confirm that Self Assessments have been made and then sample a statistically valid selection of employees to extrapolate an amount of tax that may be offset against the employer's liability. Regulation 72E is being amended to allow HMRC to undertake a sampling exercise to extrapolate an amount due by the employer. Regulation 72F is being amended to provide HMRC with an option when it issues a notice to the employee of whether to include details of the amounts offset and the tax years they refer to or merely to state the employment to which the notice applies.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18
	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact.				
Economic impact	This change has no significant economic impacts.				
Impact on individuals and households	Those individuals who have Self Assessed may be affected by this change however there will be no financial impact. An individual who was Self Assessed will not be required to pay more tax in respect of the period concerned and will still have a right of appeal against any notice.				
Equalities impacts	This change in regulations will not have a particular impact on individuals and will be neutral in respect of equalities impacts.				
Impact on business including civil society organisations	This change will have a negligible impact (that is below £100,000/£3 million) on employers and if anything will reduce their burdens by reducing the amount of contact their employees will have with them.				
Operational impact (£m) (HMRC or other)	The additional costs / savings for HMRC in implementing this change are anticipated to be negligible.				
Other impacts	Other impacts have been considered and none have been identified.				

Monitoring and evaluation

HMRC will monitor this change against further recategorisation cases that are anticipated in the future. If having evaluated the information received it is found that this change does not achieve its intended outcome HMRC will consider making further changes to the legislation.

Further advice

If you have any questions about this change, please contact Paul Harris on 03000 586519 (email: paye.policy@hmrc.gsi.gov.uk).

Declaration

David Gauke MP, Exchequer Secretary has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.