

2011 No. 1054

INCOME TAX

**The Income Tax (Pay As You Earn) (Amendment) (No.2)
Regulations 2011**

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| <i>Made</i> | - - - - | <i>4th April 2011</i> |
| <i>Laid before the House of Commons</i> | | <i>4th April 2011</i> |
| <i>Coming into force</i> | - - | <i>6th April 2011</i> |

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations, in exercise of the powers conferred by section 684 of the Income Tax (Earnings and Pensions) Act 2003(a) and sections 59A(10) and 59B(8) of the Taxes Management Act 1970(b).

Citation and commencement

1. These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment) (No.2) Regulations 2011.
2. These Regulations shall come into force on 6th April 2011, immediately after the Income Tax (Pay As You Earn) (Amendment) Regulations 2011(c) come into force.

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

3. Regulation 37 (PAYE income paid after employment ceased) of the Income Tax (Pay As You Earn) Regulations 2003(d) is amended by the substitution for paragraph (2) of the following—

“(2) Subject to paragraph (2A), the person making the payment must deduct tax on the non-cumulative basis using the 0T Code.

(2A) If the payment is in the form of securities, an interest in securities or securities options which gives rise to earnings within Chapter 1 of Part 3 of ITEPA or which counts as employment income by virtue of Part 7 of ITEPA, the person making the payment must deduct tax at the basic rate in force for the tax year in which the payment is made.

(2B) In paragraph (2A)—

“interest”,

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- (a) 2003 c.1. Paragraph 102 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c.11) amended section 684 so that the Commissioners for Her Majesty's Revenue and Customs have the power to make the Regulations. Further relevant amendments were made to subsections (1) and (2) by paragraphs 2 and 3(2) of Schedule 58 to the Finance Act 2009 (c.10).
 - (b) 1970 c.9. Section 59A was inserted by section 192 of the Finance Act 1994 (c.9); subsection (10) was inserted by section 126(1) of the Finance Act 1996 (c.8). Section 59B was inserted by section 193 of the Finance Act 1994; subsection (8) was inserted by section 126(2) of the Finance Act 1996. Sections 59A(10) and 59B(8) were amended by paragraphs 130(b) and 131(4) respectively of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 and section 145(7)(b) of the Finance Act 2003 (c.14).
 - (c) S.I. 2011/729.
 - (d) S.I. 2003/2682, amended by S.I. 2007/1077, 2011/729.

“securities”, and
“securities options”
have the meaning indicated in section 420 of ITEPA(a)”.

Steve Lamey
Dave Hartnett

4th April 2011

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Income Tax (Pay As You Earn) (Amendment) Regulations 2011 (“the Amendment Regulations”) amend the Income Tax (Pay As You Earn) Regulations 2003 (“the 2003 Regulations”) and come into force on 6th April 2011. These Regulations amend regulation 37 of the 2003 Regulations and come into force on 6th April 2011 immediately after the Amendment Regulations come into force. The amendment to regulation 37 of the 2003 Regulations made by these Regulations supersedes the amendment made to that regulation by the Amendment Regulations.

Regulation 3 amends regulation 37(2) of 2003 Regulations by substituting the 0T code on a non-cumulative basis for the basic rate code at which deductions are to be made from PAYE income paid after employment has ceased. New regulation 37(2) is subject to new regulation 37(2A) which provides that in relation to payments made in connection with securities, an interest in securities and securities options tax must be deducted at the basic rate. New regulation 37(2B) defines those terms by reference to section 420 of the Income Tax (Earnings and Pensions) Act 2003.

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

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(a) 2003 c.1. Section 420 was inserted by way of substitution, along with the rest of Chapter 1 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003, by Schedule 22 to the Finance Act 2003 (c.14). It was subsequently amended by Schedule 2 to the Finance Act (No.2) 2005 (c.22); section 92 of the Finance Act 2006 (c.25); Part 2 of Schedule 1 to the Corporation Tax Act 2009 (c.4); section 126(5) of the Finance Act 2009; paragraphs 203 and 204 of Part 7 of Schedule 8 to the Taxation (International and Other Provisions) Act 2010 (c.8); and article 2 of S.I. 2007/2130.

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