



## HOW TO ELIMINATE TAX UNDERPAYMENTS FOR EMPLOYEES PAID WEEKLY, FORTNIGHTLY OR FOUR WEEKLY

Issued 20 November 2019

Text of a paper *How to eliminate tax underpayments for employees paid weekly, fortnightly or four weekly: a suggestion by ICAEW Tax Faculty* submitted on 20 November 2019 by ICAEW Tax Faculty to HM Revenue and Customs and the Office of Tax Simplification.

Payroll should be allowed to divide annual personal allowances by the actual number of pay periods in a tax year to enable payroll to account for the right amount of PAYE tax.

This paper of 20 November 2019 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's *Ten Tenets for a Better Tax System* are summarised in Appendix 1.

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## HOW TO ELIMINATE TAX UNDERPAYMENTS FOR EMPLOYEES PAID WEEKLY, FORTNIGHTLY OR FOUR WEEKLY

### A suggestion by ICAEW Tax Faculty

Where an employer pays their employees weekly, fortnightly or four weekly there will be some tax years when there more than the standard number of pay days during the year. For example, in the tax year 2018/19 there were 53 Fridays, so employees paid weekly on a Friday will have received 53 payments during 2018/19, rather than the usual 52.

Employees who are paid fortnightly and four weekly are also affected; thus such employees paid on a Friday in 2018/19 may have received 27 fortnightly or 14 four-weekly payments instead of the standard 26 or 13 payments respectively.

The extra pay day is called:

- week 53 for weekly paid employees,
- week 54 for fortnightly paid employees, and
- week 56 for four-weekly paid employees.

HMRC rules require that weekly-paid employees are allocated 1/52nd of their annual allowance in each weekly pay period. This includes week 53, even though by the end of week 52 the entire year's allowance has been used up. A similar rule is applied to fortnightly and four-weekly paid employees, ie the personal allowance is divided by 26 or 13 respectively in each pay period regardless of how many pay periods there are during the tax year.

This over allocation of tax-free pay gives rise to underpayments of tax.

For employees who are not in self assessment, such underpayments manifest themselves in the annual reconciliations of individuals' PAYE records for 2018/19 (forms P800) which HMRC has been sending to employees since June 2019. Such underpayments are coded out by HMRC and collected via PAYE in the following year where the employee has a continuing source of income against which a code can be operated. Failing that, HMRC will issue a simple assessment or, if the employee is in self assessment, the underpayment will be included in the tax calculation.

Many employees believe that PAYE collects the right amount of tax. They do not expect to be told after the end of the tax year that they have underpaid tax. However, as noted above, the way in which payroll allocates personal allowances to pay periods is stipulated by HMRC.

### Suggested solution

If in tax years in which weeks 53, 54 or 56 arise employers were allowed in payroll to divide annual personal allowances for employees who are paid weekly, fortnightly or four weekly by the actual number of pay periods in the year, eg 53 or 27 or 14 as applicable, rather than divide by 52, 26 or 13 respectively, then payroll would be able to account for the right amount of tax first time.

This change would enhance exchequer cash flow and remove the need for HMRC to send out tens of thousands of paper forms P800 after the year end to notify underpayments to employees, who, upon being told that they have an unexpected tax liability, might wrongly blame their employers for having made mistakes or contact HMRC, and obviate HMRC from having to issue revised code numbers/ issue simple assessments/ amend SA calculations to collect underpayments.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).