



Faculty of Taxation

TAXREP 20/03

MANDATORY E-FILING OF EMPLOYERS' END-OF-YEAR RETURNS

Text of a letter submitted by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to an invitation to comment on draft Regulations published in April 2003 by the Revenue

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MANDATORY E-FILING OF EMPLOYERS' END-OF-YEAR RETURNS

Introduction

1. We welcome the opportunity to comment on the draft regulations that provide for mandatory electronic filing of employers' end-of-year returns issued by the Revenue on 14 April.

'Snapshot' date and notice to employers of obligation to e-file

2. New Regulation 46ZD(4)(b) defines 'the specified date' as being not later than 31 January in the tax year preceding that for which the employer is directed to file electronically. The specified date is the date on which the Revenue will take a 'snapshot' of the number of employees. Whilst the Revenue, having taken their snapshots, will know whether every employer is within the category that needs to file electronically, this is of little use to employers as there appears to be nothing in the Regulations stating by when the Revenue have to tell employers whether they will be obliged to file electronically.
3. To e-file for 2004/05 employers will need to have made software choices (even if it is to decide to do nothing for another year) by January/early February 2004 at the latest. To allow time for appeals against incorrect Revenue notifications (including the appeal period, time to arrange hearing, receive decision, etc), employers need to know whether they have an obligation to file electronically well before this.
4. As the draft regulations stand, the Revenue are not obliged to issue a notice informing employers whether they must file electronically by any particular date and we believe that the Regulations should provide for a deadline in order to provide certainty for employers. We consider that the Regulations should provide (in both sets) for the specified date to be not later than 31 October in place of 31 January and the date by which the Revenue have to issue a notice to employers should be laid down in the Regulations as being not later than 14 November.
5. We understand that, to give employers time to take decisions regarding software requirements and because many organisations have inflated workforces of temps in late November/December, the date of the snapshot of employee numbers will be in October 2003. We trust that notifications of whether employers have to file electronically will be dispatched by the Revenue in late October/early November, ideally within 14 days of the date of the snapshot.

Declarations

6. At present, the paper form P35 is signed by the employer. We would welcome clarification of how the declaration will be signed under e-filing.

Employer confidence

7. One matter that does need to be settled before the system goes live is that employers need to be able to e-file quickly and easily on a robust system, preferably one provided by the Revenue for no charge. As we said at para 153 of our representations

on Finance Bill 2002 submitted to the Chancellor in May 2002 (TAXREP 17/02):
‘The Government and the Revenue should be concentrating their efforts on ensuring that ... e-filing systems are easy to use, robust and reliable and only then encouraging taxpayers to use the service. To date the experience of taxpayers and agents of e-filing is at best mixed. It is essential that the quality and reliability of, and therefore public confidence in, the e-filing service improves. This may well take some years to achieve.’.

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