

# **Guidelines on PAYE Monthly and Annual Estimates**

## **Part 42-05-06**

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The contents of this Tax and Duty Manual apply in respect of **emoluments paid on or before 31 December 2018**. For emoluments paid on or after 1 January 2019, section 990 of the Taxes Consolidation Act 1997 (as amended with effect from 1 January 2019) provides for the making of assessments (rather than estimates). Further information on PAYE assessments can be found in [Tax and Duty Manual Part 42-04-72](#).

## 1. Operation of the Pay As You Earn (PAYE) system

### 1.1. Emoluments paid on or before 31 December 2018

The operation of the PAYE system in respect of emoluments paid on or before 31 December 2018 was governed by Chapter 4, Part 42 of the Taxes Consolidation Act (TCA) 1997 (Sections 983 to 997A) and the Income Tax (Employment) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001).

In brief, employers were obliged to operate the PAYE system and, in particular, to –

- deduct tax at source under the PAYE system from emoluments payable to employees and office holders (PAYE Regulation No. 16),
- remit such deductions to Revenue (PAYE Regulations No. 28 and 29), and
- submit relevant documentation in relation to such deductions (see, for example, PAYE Regulation No. 31 regarding the obligation on an employer to send an end of year PAYE return on a form prescribed by the Revenue Commissioners – the prescribed form for this purpose was known as Form P35).

### 1.2. Emoluments paid on or after 1 January 2019

Finance Act 2017 deleted section 989 TCA 1997 and amended section 990 TCA 1997 with effect from 1 January 2019. This is in line with the move under PAYE Modernisation from monthly (P30) and annual (P35) reporting to monthly reporting under section 985G TCA 1997.

For emoluments paid on or after 1 January 2019, section 990 TCA 1997 provides that where Revenue believe an employer has not submitted any return for a month, or, where a return has been submitted but does not include the total amount of deductions due, Revenue may raise an assessment (rather than an estimate) on the employer of the amounts due.

The Income Tax (Employment) Regulations 2018 (S.I. No. 345 of 2018) apply in respect of emoluments paid on or after 1 January 2019.

Further detail can be found in [Tax and Duty Manual Part 42-04-72](#).

## 2. Meaning of employer for the purposes of operating the PAYE system

The meaning of employer for the purposes of the PAYE system is contained in Section 983 TCA 1997 as follows:

**“employer”** means any person paying emoluments.

**“emoluments”** means anything assessable to income tax under Schedule E.

### NOTE:

**The remainder of this manual applies in respect of emoluments paid on or before 31 December 2018. References to provisions in the Taxes Consolidation Act 1997 are to provisions which applied in respect of such emoluments i.e. prior to revisions to such provisions which took effect from 1 January 2019.**

## 3. Estimate and Notice of Estimation of amounts due

Where an employer has not submitted any return for a month or where Revenue believe the employer has underpaid on the monthly or annual return, Revenue may make an estimate of the amounts due.

Where such an ‘estimate’ is made, then the inspector or other officer who made the ‘estimate’ may serve notice on the employer specifying the amount of the tax so estimated.

There are two types of PAYE estimate -

- **monthly estimates** – commonly known as a P30 estimate (Section 989 TCA 1997); and
- **yearly estimates** – commonly known as a P35 estimate (Section 990 TCA 1997).

The purpose of a PAYE estimate is to quantify the amounts of the PAYE income tax, PRSI, USC, LPT due, and to generate demands seeking those amounts.

In practice, PAYE estimates are generated by –

- (a) the Office of the Collector-General where employers fail to fulfil their obligations as regards submission of employer Forms P30 and P35, or as regards remittances of PAYE income tax, PRSI, USC, LPT, and
- (b) Revenue auditors where, following an audit, there is no agreement as to the quantum of PAYE income tax, PRSI, USC, LPT due.

The following material is either exempt from or not required to be published under the Freedom of Information Act 1997.

[...]

#### 4. PRSI, USC and LPT contained in an estimate

Where a PAYE estimate is to be raised, it should, as appropriate, include amounts in respect of:

- PRSI (employer and employee contribution) - the statutory basis for including these in the estimate is provided by Article 11 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 and Section 17 of the Social Welfare Consolidation Act 2005;
- USC – Section 531AAA of the Taxes Consolidation Act 1997 applies the provisions of Part 42 TCA 1997(PAYE system) to USC in relation to the collection and recovery of unpaid amounts;
- LPT – Part 10, Chapter 1 of the Finance (Local Property Tax) Act 2012 (as amended) deals with Deduction at Source for Employers.

#### 5. Monthly PAYE estimates

##### 5.1. Issuing of notice of a monthly estimate

Section 989(2) TCA 1997 provides for both -

- the making of an estimate, and
- the serving of a notice of that estimate on the relevant employer

by Revenue as regards the PAYE tax that the employer is liable to remit.

Section 989(3)(e) TCA 1997 allows Revenue to increase an estimate.

Section 989(4) TCA 1997 allows Revenue to extend an 'estimate' or amended estimate to two or more consecutive income tax months.

## 5.2. Who can raise a monthly PAYE estimate?

Section 989(5) TCA 1997 provides that the Revenue Commissioners may nominate any of their officers for the purposes of section 989.

## 5.3. Appeal against a monthly PAYE estimate

Section 989(3)(a) TCA 1997 provides that where a person claims not to be liable to remit tax for the month to which a notice under subsection (2) refers, that person may appeal to the Appeal Commissioners within 14 days after the date of the notice.

## 5.4. Grounds of appeal in respect of a monthly PAYE estimate

An appeal under Section 989(3)(a) TCA 1997 only applies where the person claims that he, she or it, as the case may be, is not liable to remit tax for the month to which the notice refers.

## 5.5. Time limit for a section 989(3) appeal

The time limit for such a claim is 14 days after the date of the notice under subsection (2).

## 5.6. Discharge of a monthly PAYE estimate

Section 989(3)(c) TCA 1997 provides that a monthly PAYE estimate can be discharged where the employer submits the relevant return (i.e. a Form P30) and pays the tax due.

However, Section 989(3)(d) TCA 1997 provides that where proceedings for the recovery of the tax due in the monthly estimate have commenced, the estimate cannot be discharged prior to completion of the recovery proceedings unless the Revenue Commissioners otherwise direct.

## 5.7. Increasing a monthly PAYE estimate

Where Revenue has reason to believe that the amount estimated in a notice under subsection (2) is less than the amount which the person was liable to remit, section 989(3)(e) TCA 1997 provides that the estimate may be increased.

## 6. Yearly PAYE Estimates

### 6.1. Issuing of a yearly PAYE estimate

Section 990(1) TCA 1997 provides for both -

- the making of an estimate, and
- the serving of a notice of that estimate on the relevant employer

by Revenue as regards the PAYE tax that the employer is liable to remit.

Section 990(1A)(d) TCA 1997 allows for Revenue to amend an estimate.

Section 990(3) TCA 1997 allows for Revenue to extend an 'estimate' or amended estimate to two or more consecutive years.

### 6.2. Who can make yearly PAYE estimates?

Section 990(1) TCA 1997 enables an inspector, or other officer as the Revenue Commissioners may nominate for the purposes of section 990, to make yearly PAYE estimates.

### 6.3. Discharge of a yearly PAYE estimate

If, prior to the service of a notice of an estimate, the employer had not lodged a P35 for the year, the estimate may be discharged by the employer, within 14 days of service of the notice, by lodging the outstanding return and paying any tax, interest and costs due.

If the employer does not do this, then the estimate becomes immediately enforceable and no estimate will be discharged while enforcement proceedings are taking place in respect of the estimate, unless the Collector-General directs otherwise.

### 6.4. Appeal against a yearly PAYE estimate

An employer who had lodged the P35 before the estimate was raised and who considers that the estimate of the tax, or balance of the tax due is excessive, may, within 30 days after the date of the notice appeal under Section 990(2) TCA 1997 to the Appeal Commissioners.

## 7. Supplementary Forms P35

A supplementary P35 should be submitted by an employer to account for additional payments that should have been, but were not, included in the original P35. It is imperative that a supplementary P35 is lodged to ensure correct credit is given for PAYE, PRSI, USC, LPT deducted and remitted for the employees concerned. All supplementary P35s must be signed by the employer or the employer's representative. Where the employer is a mandatory e-filer, any supplementary P35 returns should be filed on ROS. An amended P35 should be filed where corrections are required for employees who were included on the original P35 return.

The following material is either exempt from or not required to be published under the Freedom of Information Act 1997.

[...]

## 8. Other material

Further information is available in [Guidelines for issuing Manual PAYE, PRSI, USC, LPT, Annual P35 Estimate and Amended Estimate](#) .