



SALARY ADVANCES: PROPOSED AMENDMENTS TO REGULATIONS

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ICAEW welcomes the opportunity to comment on the Salary Advances draft amended regulations published by HMRC on 11 September 2023, a copy of which is available from this [link](#)

For questions on this response please contact our Tax Faculty at taxfac@icaew.com quoting REP 101/23.

We consider that the amended regulations will work as intended where an employer itself pays salary advances but may not work if the payment is made by a third party.

We suggest that HMRC ensures that the changes do not adversely impact universal credit and tax credit claimants.

This response of 4 October 2023 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW 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, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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COMMENTS

1. We believe that the draft regulations will achieve the objective described in the **consultation description** if the employer (a Real Time Information employer as defined in regulation 2A of the Income Tax (PAYE) Regulations 2003) itself pays the advance.

Payment by third parties

2. However, we question whether the regulations will work as intended when the advances are paid by third parties as envisaged in the further background to the proposed amendments in **issue 102 of Agent Update** and **February 2023 Employer Bulletin** which say that:

“Employers may also make similar arrangements through a third party, the latter charging a small fee for their services. These arrangements are commonly known as salary advances.”

and

“HMRC will amend secondary legislation, so that salary advances can be reported on or before the employee’s contractual pay day.”.

3. We suggest that the draft legislation may need amending to refer specifically to payments of salary advances made by third parties.

Interaction with social security benefits

4. We recommend that HMRC liaises with DWP to ensure that the proposed changes will not have unintended adverse consequences for universal credits and tax credits claimants.

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>).