

Guidelines on PAYE, PRSI, Universal Social Charge (USC) Local Property Tax (LPT), Monthly and Annual Estimates

Part 42-05-06

Chapter 4 Part 42 of the Taxes Consolidation Act 1997

Updated March 2018

Contents

1. Operation of the Pay As You Earn (PAYE) system	2
2. Meaning of employer for the purposes of operating the PAYE system	2
3. Estimate and Notice of Estimation of amounts due	2
4. PRSI, USC, and LPT contained in an estimate	3
5. Monthly PAYE estimates	4
5.1. Issue of a notice of a monthly estimate	4
5.2. Who can raise a monthly PAYE estimate?	4
5.3. Claim in respect of a monthly PAYE estimate	4
5.4. Grounds of Claim in respect of a monthly PAYE estimate	4
5.5. Time limit for a Section 989(3) Claim	4
5.6. Discharge of a monthly PAYE estimate	4
5.7. Increasing a monthly PAYE estimate	5
6. Yearly PAYE Estimates	5
6.1. Issue of yearly PAYE estimates	5
6.2. Who can make yearly PAYE estimates?	5
6.3. Discharge of a yearly PAYE estimate	5
6.4. Appeal against a yearly PAYE estimate	6
7. Supplementary Forms P35	6
8. Other material	6

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

The operation of the PAYE system is governed by Chapter 4 Part 42 of the Taxes Consolidation Act (TCA) 1997, Sections 983 to 997A, and also the Income Tax (Employment) (Consolidated) Regulations 2001.

In brief, employers are 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 is known as Form P35).

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 and in PAYE Regulation No. 2 - **“employer” means any person paying emoluments.”**

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

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, they 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 like manner as an assessment quantifies tax due and generates demands for that tax).

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 include amounts in respect of:

- Income tax - Section 985 of the Taxes Consolidation Act 1997 provides the statutory basis for including this in the estimate;
- PRSI (employer and employee contribution) - Section 17 of the Social Welfare Consolidation Act 2005 provides the statutory basis for including these in the estimate;
- USC – Section 531AAA of the Taxes Consolidation Act 1997 applies the provisions of Part 42 (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. Issue of a 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. Therefore, only officers nominated for this purpose can 'sign off' on PAYE monthly estimates and issue notices of such estimates.

5.3. Claim in respect of 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 whose decision is final and conclusive.

5.4. Grounds of Claim in respect of a monthly PAYE estimate

An appeal under Section 989(3)(a) TCA 1997 only applies where the person claims they are not liable to remit tax for the month to which the notice refers.

5.5. Time limit for a Section 989(3) Claim

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 the 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. Issue of yearly PAYE estimates

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. Therefore, only Inspectors or nominated officers for this purpose can 'sign off' on the issue of a **notice** of a yearly estimate.

6.3. Discharge of a yearly PAYE estimate

If, prior to the service of the notice of the 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 to account for additional payments being made after the original P35 has been lodged. 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 his or her 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](#)