

PAYE taxpayers – Has HMRC sent you a bill - or a refund calculation?

Tax bills and refunds for PAYE taxpayers

If you are a PAYE taxpayer – an employee or a pensioner – it is reasonable to assume that the tax you pay by deduction from your earnings or pension is correct. Unfortunately this is not always so. Also, it is easy to assume that if there are errors that someone else – like HMRC or the employer – will have to pay for it. Unfortunately this is not true either. The taxpayer can end up footing the bill, even when the original mistake was made by HMRC many years ago.

With the introduction of a new National PAYE computer last autumn, many errors from the past are being identified. Most of the initial batch of almost 6 million tax calculations due to be issued by HMRC should now have been sent out. Some are bills and some refunds. It is a good time to consider what is going on and what is likely to happen next. What is different about this year? We will look at how problems might have arisen and what can be done about them.

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What is going on?

Each year, HMRC checks its records for PAYE taxpayers to see if they have paid the correct amount of tax.

Employees and pensioners usually pay their tax at source under PAYE. But PAYE is only as good as the PAYE tax code used. If the wrong tax code is used, you will pay the wrong amount of tax.

When HMRC checks the information it receives from the DWP, pension providers and employers it may find that, taking all your sources of income together, you have paid the wrong amount of tax.

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What is different about this year?

HMRC introduced a National PAYE computer in autumn 2009. This is the first time that all the PAYE records have been on one computer system. In the medium term this should mean that there are fewer errors. But in the short run:

- a) The system is likely to spot errors from the past

- b) There have been delays
- c) There were unexpected problems with many incorrect tax codes being issued

For example in January 2010 it became clear that there were an unusually high level of incorrect tax codes being issued as a result of data problems with the new system.

Another consequence of introducing the new system is that the routine checks made by HMRC to see that PAYE taxpayers have paid the correct amount of tax were delayed. There is now a significant backlog. HMRC is only now starting to catch up with this backlog. It is beginning to process the information for the tax years to 5 April 2009 (the tax year 2008/09) and to 5 April 2010 (tax year 2009/10).

In addition, it is estimated that there could be another 15 million people affected for tax years from 2007/08 and earlier. For these earlier years the amounts involved are substantial and could lead to tax repayments of £3 billion and additional tax bills of £1.4 billion. It is not clear how much tax is at stake for 2008/09 and 2009/10.

All this means considerable uncertainty for many taxpayers for some time to come.

There is more information on these issues in the National Audit Office's 2009/10 report on HMRC see http://www.nao.org.uk/publications/1011/hmrc_accounts_2009-10.aspx.

Which years are affected?

The initial batch of calculations, which should all have been sent out by the end of January 2011, are for the tax years 2008/09 and 2009/10. If there was an error affecting 2008/09 and 2009/10, it could well affect earlier years too. In particular the year 2006/07 and 2007/08 could potentially be affected.

The normal time limit for making changes to tax assessments is now 4 years, so 2006/07 would be out of time after 5 April 2011. It seems unlikely that HMRC will collect any tax owing from 2006/07, but any refunds due are likely to be paid.

But HMRC is starting to process 2007/08 and a formal decision about any concessions applying to that year has to be confirmed.

A further complication is that HMRC started to process P11D forms (for benefits such as company cars etc) for 2009/10 in November. Processing these forms could mean that some more underpayments of tax for 2009/10 are identified and additional bills issued to some taxpayers.

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Why there might be a problem and what to do about it

There are many reasons why there might be a problem. Common reasons include:

- Being given your annual tax free pay more than once
- A taxable benefit, such a bereavement allowance or state pension, being ignored

- Not being allowed enough tax free pay, or an error in the married couple's allowance or age allowance

You can find out more about tax codes and how they work on the HMRC website at

<http://www.hmrc.gov.uk/incometax/codes-basics.htm>

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What to do if you have received a tax calculation

If you have received a tax calculation, you should check it. There is guidance on the HMRC website about how to check your tax calculation. This can be found at <http://www.hmrc.gov.uk/P800/>

For example, you should check that:

- you have been given the correct personal allowance for your circumstances
- your income details, and details of tax paid are correct (compare these to your P60 forms)
- any married couples allowance and age allowance are correct

You need to establish exactly why the underpayment arose. If you have any remaining doubts, you should contact HMRC on 0845 3000 627.

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If you have paid too much tax

If you have paid too much tax, HMRC will automatically send you a repayment. This should happen within a week. It is important that you check the refund. If HMRC has made a mistake in the calculation of the refund, they could ask for the refund back later on.

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If you have paid too little tax

HMRC has advised that it will not try to collect underpayments of tax which are less than £300.

If the tax owing is £300 or more, but less than £2000, HMRC will automatically collect the amount owing by changing your tax code for 2011-12. This means that you will pay more tax on your income for 12 months from 6 April 2011.

If this arrangement will cause you financial hardship, you can ask HMRC to collect the tax owing over a longer period.

If you owe £2000 or more, HMRC will send you a bill. If you cannot manage to pay this in one go, you should phone HMRC on 0845 3000 627 to arrange more time to pay. You will not normally be allowed more than 12 months to repay the money. HMRC may want the money paid back much sooner. Interest, penalties and surcharges should not apply.

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When might HMRC consider writing off some of the tax owing?

If you think there was a mistake by your employer or pension provider then you may ask HMRC to consider collecting the tax owing from your employer or pension provider. There is guidance on this on the HMRC website at <http://www.hmrc.gov.uk/manuals/pommanual/pay95011.htm>.

If you think tax was underpaid because of a mistake by HMRC, then you can ask HMRC to consider writing off some or all of the tax. It must have been reasonable for you to have thought that your tax code was correct – this means that you should have checked your tax code when it was issued. In addition, HMRC must have delayed in using information available to it. HMRC considers a delay of 12 months from the end of the tax year in which it should have been aware of the error to be reasonable. This means that errors in 2009/10 would not be covered by this concessionary treatment. See the HMRC website at <http://www.hmrc.gov.uk/esc/esc.htm> for more details.

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Further information and advice

You can contact HMRC for advice on 0845 3000 627, or on the phone number for your own tax office – use the [Tax Office locator](#) on the HMRC website. You will need the PAYE tax reference from your P60 from.

If you are on low income and would like help from TaxAid please look at our advice page <http://taxaid.org.uk/pages/taxaid-helpline>

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Standard letters for you to use

There are two pro-forma letters below on which you may base your letter to HMRC. The basic text of these letters is in **red**. Instruction and sections you need to change are in **blue**. You should fill in details of your own address, tax office and circumstances. It will help if you keep a copy of the letter.

You can copy the text from the examples below:

Letter a) is for the situation where you think your employer (or pension provider) has made a mistake – and so they should be responsible for paying the additional tax. ([Link to letter a](#))

Letter b) is for the situation where HMRC has made a mistake and has delayed in making use of information, and it was reasonable for you to think that your tax affairs were correct. ([Link to letter b](#))

a) Standard letter where you think your employer or pension provider has made a mistake

[Your address]

HM Revenue & Customs

[HMRC office address]

[Date]

Dear Sirs,

Your Name

Your National Insurance Number

I am writing in response to your tax calculations for the tax year[s] 2008/9, and/or 2009/10 *[amend as appropriate]*.

The tax calculations appear to show an underpayment of tax for *[state tax years as above]*.

It would seem to me that my employer *[and/or pension provider]* cannot have operated PAYE correctly. I understand that the law and HMRC practice (as detailed in HMRC manual PAYE 95011) requires that HMRC should first “ensure that any underpayment of tax has not occurred because of an employer under-deduction”. I would ask you to review the operation of PAYE in this case and consider whether my employer *[and/or pension provider]* should be held liable for the amount due. *[State here any particular reasons why PAYE may not have been operated correctly e.g. you handed over P45 but this was not processed, P46 procedure not followed, notices of coding not applied correctly]*.

Please confirm that you are seeking to recover the tax you believe to be underpaid from my employer and that I do not need to take any further action.

Yours faithfully,

b) Letter for the situation where HMRC has made a mistake and has delayed in making use of information, and it was reasonable for you to think that your tax affairs were correct.

[Your address]

HM Revenue & Customs

[HMRC office address]

[Date]

Dear Sirs,

[Your Name]

[Your National Insurance Number]

I am writing in response to your tax calculations for the tax years 2008/09 and/or 2009/10. *[Amend as appropriate].*

The tax calculations appear to show an underpayment of tax when, as far as I was aware, my tax affairs were in order and all the tax I was due to pay had been deducted by my *[employer/pension provider]* under PAYE.

I accept that the calculations are based on my correct income figures *[if the calculations are not correct you should point out any errors].*

HMRC have failed to make timely use of information supplied to them and I would therefore like to apply for the tax to be given up under ESC A19.

This is on the basis that:

- HMRC had all the relevant information already in its possession.

P14s [and P11Ds] for 2008/9 would have been received by HMRC by 19th May 2009 and P14s [and P11Ds] for 2009/10 would have been received by 19th May 2010. State Pensions and Benefits data would have been received from the DWP in a similar timeframe.

- Whilst the underpayment has been notified to me within twelve months of the end of the tax year in which HMRC received the relevant information, the arrears have been allowed to build up over two whole tax years in succession and in these circumstances, ESC A19 allows for arrears notified within less than 12 months to be given up
- I had no reason to believe that my tax affairs were not in order. *[To make this statement, HMRC expect you to have checked the tax codes sent to you, and contacted them for explanations if necessary, or asked for help if you have particular problems eg with language, reading, numbers etc].*

Give further details of why you did not understand that you were underpaying tax e.g. I rang HMRC on xx date about my codings, and was assured all was correct;

I have never received any notices of coding to enable me to check my tax code; I have always worked as a xxxxx and have no experience of financial matters. I have only recently come to the UK and do not understand the UK tax system; I have had several part-time jobs and a number of changes, and have found it difficult to keep up with all the changes of tax codes; I have had the same two sources of income for many years. It does not seem reasonable that as an unrepresented taxpayer/elderly person I could understand that I might have underpaid tax in these circumstances. I have been suffering from... . I did not understand my notices of coding because...].

Failure to give up this tax under ESC A19 will cause me to suffer financial difficulties *[give any relevant information about your personal circumstances].*

I would therefore ask you to give this letter you urgent and sympathetic attention.

Yours faithfully,

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