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 STATUTORY INSTRUMENTS
 

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## 1985 No. 350

## INCOME TAX

**The Income Tax (Employments) (No. 15) Regulations 1985**

<i>Made</i> - - - - -	<i>7th March 1985</i>
<i>Laid before the House of Commons</i> - -	<i>8th March 1985</i>
<i>Coming into Operation</i>	<i>6th April 1985</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 204 of the Income and Corporation Taxes Act 1970<sup>(a)</sup> and of all the powers enabling them in that behalf, hereby make the following Regulations:—

*Citation and commencement*

1. These Regulations may be cited as the Income Tax (Employments) (No. 15) Regulations 1985 and shall come into operation on 6 April 1985.

*Interpretation*

2. In these Regulations “the Principal Regulations” means the Income Tax (Employments) Regulations 1973<sup>(b)</sup>.

*Amendments to the Principal Regulations*

3. In Regulation 7 of the Principal Regulations for paragraph *(dd)* there shall be substituted:—

“(dd) any amount to be recovered as if it were unpaid tax under the provisions of section 30(1) of the Taxes Management Act 1970<sup>(c)</sup>, being an amount of tax in respect of Schedule E repaid to the employee in excess of the amount properly due to him, which is not otherwise recovered;”

4. At the beginning of Regulation 26(1) of the Principal Regulations there shall be inserted:—

“Subject to the provisions of Regulation 27A(8) of these Regulations,”

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(a) 1970 c.10.

(b) S.I. 1973/334; relevant amending instruments are S.I. 1978/1196, 1981/44, 1982/66, 1984/1858.

(c) 1970 c.9; a new section 30 was substituted by section 149, Finance Act 1982 (c.39).

5. After Regulation 27 of the Principal Regulations there shall be inserted:—

*“Specified amount of tax payable by employer*

27A.— (1) If after 14 days following the end of any income tax month the employer has paid no amount of tax to the Collector under Regulation 26 for that income tax month, despite demand being made, and there is reason to believe that the employer is liable so to pay, the Collector upon consideration of the employer's record of past payments may to the best of his judgment specify the amount of tax which he considers the employer is liable to pay and serve notice on him of that amount.

(2) If, on the expiration of the period of 7 days allowed in the notice, the specified amount of tax or any part thereof is unpaid, the amount so unpaid shall be certified by the Collector and shall be deemed to be an amount of tax which the employer was liable to pay for that income tax month in accordance with Regulation 26.

(3) The provisions of paragraph (2) of this Regulation shall not apply if, during the period allowed in the notice, the employer pays to the Collector the full amount of tax which the employer is liable to pay under Regulation 26 for that income tax month, or the employer satisfies the Collector that no amount is due for that income tax month.

(4) The production of a certificate such as is mentioned in paragraph (2) of this Regulation shall be sufficient evidence that the employer is liable to pay to the Collector the amount shown in the certificate; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved. To the amount shown in the said certificate the provisions of paragraphs (1) and (2) of Regulation 28 shall apply.

(5) Provided the employer has paid no amount under Regulation 26 for the relevant income tax months a notice may be given by the Collector under paragraph (1) of this Regulation which extends to 2 or more consecutive income tax months, and the provisions of these Regulations shall have effect as if the said consecutive income tax months were the latest income tax month specified in the notice.

(6) A notice may be given by the Collector under paragraph (1) of this Regulation notwithstanding that an amount of tax has been paid to him by the employer under Regulation 26 for any income tax month, if after seeking the employer's explanation the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this Regulation shall have effect accordingly save that paragraph (2) of this Regulation shall not apply if the employer during the period allowed in this notice satisfies the Collector that no further amount is due for the relevant income tax month.

(7) If during the period allowed in a notice given by the Collector under this Regulation the employer claims, but does not satisfy the Collector, that the payment made in respect of the income tax month specified therein is the full amount he is liable to pay to the Collector for that income tax month, the employer may require the Collector to inspect the employer's documents and records as if the Collector had called upon the employer to produce those

documents and records in accordance with paragraph (1) of Regulation 32 and the provisions of Regulation 32 shall apply in relation to that inspection and the notice given by the Collector under this Regulation shall thereafter be disregarded.

(8) Notwithstanding anything in this Regulation, if the employer pays any amount certified by the Collector under this Regulation and that amount exceeds the amount which he would have been liable to pay in respect of that income tax month apart from this Regulation, he shall be entitled to set-off such excess against any amount which he is liable to pay to the Collector under Regulation 26 for any subsequent income tax month.

(9) If, after the end of the year, the employer renders the returns statement and declaration required by Regulation 30 and pays the total net tax which he is liable to pay any excess of tax paid and not otherwise recovered by set-off in accordance with the provisions of this Regulation shall be repaid."

6. In Regulation 28(1) of the Principal Regulations after the words "is liable under Regulation 26" there shall be inserted:—

"or is deemed liable under Regulation 27A".

7. In Regulation 29(1) of the Principal Regulations after the words "in pursuance of Regulation 27," there shall be inserted:—

"27A,"

8. In Regulation 49 of the Principal Regulations—

(1) for sub-paragraph (c) of paragraph (3) there shall be substituted:—

"(c) any amount to be recovered as if it were unpaid tax under the provisions of section 30(1) of the Taxes Management Act 1970, being an amount of tax in respect of Schedule E repaid to the employee in excess of the amount properly due to him, to the extent that the Inspector took the said amount into account in determining the appropriate code and the aforesaid total net tax was in consequence greater than it would otherwise have been."

(2) paragraph (3A) shall be omitted.

9. In Regulation 52(2) of the Principal Regulations the words "or paragraph 3A" shall be omitted.

*J. H. Gracey,*  
*D. B. Rogers,*  
Two of the Commissioners  
of Inland Revenue.

7th March 1985.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations, effective from 6 April 1985,

- (1) (a) enable the Collector, where he believes an employer has not made full payment of PAYE tax deducted for an income tax month, to estimate the amount he considers the employer is liable to pay and to serve notice on him of that amount; if during the period allowed in the notice the employer does not either pay the full amount which he is liable to pay or the estimate or satisfy the Collector that no more is due, the amount of the estimate remaining unpaid will then be certified by the Collector and be recoverable from the employer;
  - (b) make provision for an employer subject to such notice to require the Collector to inspect his PAYE records where the employer claims but does not satisfy the Collector that the payment made for the income tax month is the full amount due; and
  - (c) provide for set-off against the liability of any subsequent income tax month or for repayment at the tax year's end of any excess PAYE tax so paid to the Collector.
- (2) (a) delete spent references in the PAYE Regulations to section 22(5), Finance Act 1978 (c.42) (repealed for 1982/83 and subsequent years by section 149(2), Finance Act 1982) which concerned recovery of over-repayment of PAYE tax deducted from a wife's income, and
  - (b) where appropriate substitute references to the new section 30, Taxes Management Act 1970 substituted by section 149(1), Finance Act 1982, which concerns the recovery of over-repayment of tax generally.

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