
STATUTORY INSTRUMENTS

1991 No. 1081

INCOME TAX

The Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 1991

<i>Made</i>	- - - -	<i>25th April 1991</i>
<i>Laid before the House of Commons</i>	- - - -	<i>26th April 1991</i>
<i>Coming into force</i>	- -	<i>19th May 1991</i>

The Commissioners of Inland Revenue, in exercise of the powers on them by section 566 of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Income Tax (Sub-contractors in the Construction Industry) (Amendment) Regulations 1991 and shall come into force on 19th May 1991.

Interpretation

2. In these Regulations “the Principal Regulations” means the Income Tax (Sub-contractors in the Construction Industry) Regulations 1975(2) and “Regulation” means a regulation of those Regulations.

Amendments to the Principal Regulations

3. In Regulation 2(1)(3) after “income tax month” there shall be inserted
“income tax period”
“income tax quarter”.
4. For Regulation 7 there shall be substituted—

(1) 1988 c. 1.

(2) S.I. 1975/1960.

(3) Regulation 2 was amended by S.I. 1980/1135 and 1982/1391.

“Monthly payment of amounts deducted to Collector

7. Subject to Regulations 7A and 8A(8), the contractor shall pay to the Collector within 14 days of the end of every income tax month all amounts which he was liable under section 559 of the Income and Corporation Taxes Act 1988 to deduct from payments made by him during that income tax month.

Quarterly payment of amounts deducted to Collector

7A.—(1) Subject to Regulation 8A(8), where the contractor has reasonable grounds for believing that the condition specified in paragraph (2) applies and so chooses, he shall pay to the Collector within 14 days of the end of every income tax quarter all amounts which he was liable under section 559 of the Income and Corporation Taxes Act 1988 to deduct from payments made by him during that income tax quarter.

(2) The condition specified in this paragraph is that the average monthly total amount to be paid to the Collector under—

- (a) the Income Tax (Employments) Regulations 1973⁽⁴⁾,
- (b) the Social Security Act 1975⁽⁵⁾ and the Social Security (Contributions) Regulations 1979⁽⁶⁾ or, as the case may be, the Social Security (Northern Ireland) Act 1975⁽⁷⁾ and the Social Security (Contributions) Regulations (Northern Ireland) 1979⁽⁸⁾, and
- (c) Regulation 7,

will be less than £400 for income tax months falling within the current year.

Payment of amounts deducted to Collector — further provisions

7B.—(1) The Collector shall, if so requested, give a receipt to the contractor for the total amount paid under Regulation 7 or 7A; but if a receipt is given for a total sum paid at the same time which includes that amount and also tax deducted under the Income Tax (Employments) Regulations 1973, or earnings related contributions, or both, then no separate receipt for the total amount so paid need be given.

(2) If the amount specified in Regulation 7 of 7A(1) which a contractor is liable to pay to the Collector exceeds the amount, if any, actually deducted by him from payments made during the relevant income tax period but he satisfies the Collector that he took reasonable care to comply with the provisions of section 559 of the Income and Corporation Taxes Act 1988 and of these Regulations and that either—

- (a) the under-deduction or failure to make a deduction was due to an error made in good faith, or
- (b) in spite of such reasonable care as aforesaid, he had been led to the genuine belief that a payment made by him, which was one to which section 559 of the Income and Corporation Taxes Act 1988 applies, was not or was not wholly such a payment,

then the Collector may direct that the contractor shall not be liable to pay the said excess to the Collector.

(4) S.I. 1973/334; a relevant amending instrument is S.I. 1991/1080.

(5) 1975 c. 14.

(6) S.I. 1979/591.

(7) 1975 c. 15.

(8) S.R. 1979 No. 186.

(3) If the amount specified in Regulation 7 or 7A(1) which a contractor is liable to pay to the Collector exceeds the amount, if any, actually deducted by him from payments made during the relevant income tax period but the Inspector (whether or not an assessment under Regulation 12 has been made) is satisfied that the person to whom the contractor made such payments either—

- (a) was not chargeable to income tax or corporation tax in respect of those payments, or
- (b) has made a return of his income or profits in accordance with section 8 or section 11 of the Taxes Management Act 1970⁽⁹⁾, in computing which income or profits those payments were taken into account, and paid the income tax and Class 4 contributions due or corporation tax due in respect of such income or profits,

then the Inspector shall, if the contractor so requests, direct that the contractor shall not be liable to pay the said excess (or any interest in respect of it) to the Collector.

(4) If a contractor is aggrieved by the failure of a Collector to make a direction under paragraph (2), he may, by notice in writing to the Collector within thirty days after the date of a notice given after 19th April of a refusal by the Collector to make such a direction, appeal to the General Commissioners against such refusal.”

5. In Regulation 8(10)—

- (a) for the word “month” wherever it appears there shall be substituted the word “period”;
- (b) in paragraphs (1) and (3) after “Regulation 7” there shall be inserted “or 7A”;
- (c) in paragraph (1) for the words “that Regulation” there shall be substituted the words “those Regulations”;
- (d) in paragraph (2) for the word “months” wherever it appears there shall be substituted the word “periods”.

6. In Regulation 8A(11)—

- (a) for the word “month” wherever it appears there shall be substituted the word “period”;
- (b) after “Regulation 7” wherever appearing there shall be inserted “or 7A”;
- (c) in paragraph (5) for the word “months” wherever it appears there shall be substituted the word “periods”.

7. In Regulation 9(12)—

- (a) in paragraph (1) after “Regulation 7” there shall be inserted “or 7A”;
- (b) for the word “month” wherever it appears there shall be substituted the word “period”.

8. In Regulation 11(13) for the words “income tax months” wherever they appear there shall be substituted the words “income tax periods”.

⁽⁹⁾ 1970 c. 9; section 8 was substituted by section 90(1) of the Finance Act 1990 (c. 29); section 11 was amended by paragraph 5 of Schedule 24 to the Finance Act 1972 (c. 41), paragraph 8 of Schedule 7 to the Capital Gains Tax Act 1979 (c. 14), paragraph 10 of Schedule 29 to the Income and Corporation Taxes Act 1988, and section 91(4) of the Finance Act 1990.

⁽¹⁰⁾ Regulation 8 was substituted by S.I. 1990/61.

⁽¹¹⁾ Regulation 8A was substituted by S.I. 1985/351 and amended by S.I. 1990/61.

⁽¹²⁾ Regulation 9 was amended by S.I. 1984/1857 and 1985/351.

⁽¹³⁾ Regulation 11 was amended by S.I. 1982/1391 and 1988/636.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

25th April 1991

A. J. G. Isaac
T. J. Painter
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Sub-contractors in the Construction Industry) Regulations 1975 (“the 1975 Regulations”) to allow certain contractors to pay the deduction imposed by section 559 of the Income and Corporation Taxes Act 1988 on payments to sub-contractors (“the statutory deduction”) to the Inland Revenue quarterly rather than monthly. The amended rules will apply to contractors whose average monthly payments of Pay As You Earn (“PAYE”), National Insurance Contributions (“NIC”) and the statutory deduction are expected to be less than £400 in total, and will apply to payments falling due after these Regulations come into force on 19th May 1991.

Regulation 1 provides for citation and commencement and regulation 2 contains definitions.

The remainder of these Regulations make amendments to the 1975 Regulations.

Regulation 3 provides for new definitions to be inserted in Regulation 2(1) of the 1975 Regulations.

Regulation 4 substitutes three new Regulations in the 1975 Regulations (Regulations 7, 7A and 7B) in place of the previous Regulation 7. The new Regulation 7A provides that a contractor who expects that his average monthly payments of PAYE, NIC and the statutory deduction will be less than £400 in total may pay the statutory deduction quarterly and not monthly. Regulation 7B contains further provisions relating to the payment of the statutory deduction by contractors, and these apply whether the statutory deduction is being paid monthly or quarterly.

Regulations 5, 6, 7 and 8 amend Regulations 8, 8A, 9 and 11 of the 1975 Regulations respectively to ensure that the 1975 Regulations apply to contractors paying quarterly as well as to those paying monthly.