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STATUTORY INSTRUMENTS

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**1998 No. 1891**

**INCOME TAX**

**The Income Tax (Employments) (Notional Payments) (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>3rd August 1998</i>
<i>Laid before the House of Commons</i>	- - - -	<i>3rd August 1998</i>
<i>Coming into force</i>	- -	<i>4th August 1998</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 203 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 (Employments) (Notional Payments) (Amendment) Regulations 1998 and shall come into force on 4th August 1998.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Income Tax (Employments) (Notional Payments) Regulations 1994(2) and “regulation” means a regulation of the principal Regulations.

**Amendments to the principal Regulations**

3.—(1) Regulation 2 shall be renumbered as paragraph (1) of that regulation.

(2) In paragraph (1) of that regulation (as so renumbered) the definition of specified sections commencing ““section 203F”” shall be omitted.

(3) After paragraph (1) of that regulation there shall be added—

“(2) In these Regulations references to a section, without more, are to that section of the Taxes Act.”

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(1) 1988 c. 1. Section 203 was amended by section 128 of, and paragraph 4 of Schedule 3 to, the Finance Act 1988 (c. 39), section 45(3) of, and Part IV of Schedule 17 to, the Finance Act 1989 (c. 26), and paragraph 38 of Schedule 19, and Part V(23) of Schedule 26, to the Finance Act 1994 (c. 9). Section 203 was extended by sections 203B to 203L of the Income and Corporation Taxes Act 1988 (inserted by sections 125 to 131 of the Finance Act 1994 and by sections 66(1) and 67(1) of the Finance Act 1998 (c. 36)), and by sections 65(7), 66(3), 67(3), 68(5) and 69(6) of the Finance Act 1998.

(2) S.I. 1994/1212, amended by S.I. 1996/2969.

4. In regulation 3(3)—

- (a) in paragraph (1) for the words “subsection (2) of section 203F”(4) there shall be substituted “section 203F, including the purposes of that section as it has effect in accordance with section 203FA(1) and section 203FB(2), (3)(b), (4) and (5),”(5);
- (b) in paragraph (3) after sub-paragraph (e) there shall be added—
  - “(f) references in paragraph (2) above to shares, or a right over or interest in shares, include references to shares, or a right over or interest in shares, whose value has been enhanced as mentioned in section 203FA.”

5. After regulation 3 there shall be inserted—

**“Specification of market for the purposes of section 203F(2)(b)**

**3A.** The New York Stock Exchange is a market which is specified for the purposes of section 203F(2)(b) (readily convertible assets).

**Exclusion of matters from section 203FA**

**3B.—(1)** The matter described in paragraph (2) below is a matter of a description excluded from the scope of what constitutes enhancing the value of an asset for the purposes of section 203FA.

(2) The matter described is the enhancement of value arising on the acquisition by the employee (whether or not as a result of the exercise of a right to acquire shares) of—

- (a) any shares under a scheme approved by the Board under Schedule 9 to the Taxes Act,
- (b) any right over or interest in shares obtained or acquired by the employee under such a scheme, and
- (c) any shares acquired by the employee as a result of the exercise of a right over shares obtained before 27th November 1996 otherwise than under a scheme approved by the Board under Schedule 9 to the Taxes Act,

where the shares in question form part of the ordinary share capital of—

- (i) an employer which is a company (“the employer company”),
- (ii) a company which has control of the employer company, or
- (iii) a company which either is, or has control of, a company which is a member of a consortium owning either the employer company or a company having control of the employer company.

(3) Sub-paragraphs (a) to (e) of paragraph (3) of regulation 3 shall apply for the interpretation of paragraph (2) above as they apply for the purposes of paragraph (2) of that regulation.”

6. In each of regulations 7(1) and 8(1) there shall be added at the end “, not being a notional payment to which regulation 8A applies”.

7. After regulation 8 there shall be inserted—

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(3) Regulation 3 was amended by [S.I. 1996/2969](#).

(4) Section 203F was amended by section 65 of the Finance Act 1998.

(5) Sections 203FA and 203FB were inserted by sections 66(1) and 67(1) of the Finance Act 1998.

**“Certain notional payments made between 6th April 1998 and 31st July 1998—  
accounting for income tax**

**8A.**—(1) This regulation applies to any notional payment falling within section 203B (payment by intermediary), section 203C (employee of non-UK employer), section 203F (readily convertible assets), section 203FA (enhancing the value of an asset), section 203FB (gains from share options), section 203G (vouchers and credit-tokens), section 203H (credit-tokens) or section 203I (cash vouchers), where the notional payment—

- (a) is made in the period beginning on 6th April 1998 and ending on 31st July 1998, and
- (b) is a notional payment in respect of which the employer would, but for section 65(7), 66(3), 67(3), 68(5) or 69(6) of the Finance Act 1998, have been liable to deduct an amount of income tax in accordance with regulation 7, or to account for an amount of income tax in accordance with regulation 8.

(2) The employer shall be liable to account to the Board, not later than the date specified in paragraph (3) below, for an amount of income tax in respect of the notional payments referred to in paragraph (1) above equal to the amount which he would have been liable to deduct in accordance with regulation 7 or for which he would have been liable to account in accordance with regulation 8.

(3) The date specified is the 19th August 1998.”

**8.** After regulation 12 there shall be inserted—

“**12A.** In Chapter IV of the principal Regulations(6) after regulation 80 there shall be inserted—

**“Payment for assignment or release of a right to acquire shares**

**80ZA.**—(1) This regulation applies where—

- (a) the consideration for the assignment or release of a right to acquire shares takes the form of a payment,
- (b) the payment is made in the period beginning on 6th April 1998 and ending on 31st July 1998,
- (c) so much of that payment (“the relevant amount”) as does not exceed the amount assessable by virtue of section 135 of the Taxes Act is treated, in accordance with section 203FB(3)(a) of that Act, as a payment of assessable income of the relevant person, and
- (d) the employer would, but for section 67(3) of the Finance Act 1998, have accordingly been liable to deduct an amount of income tax in accordance with these Regulations in respect of the relevant amount.

(2) Regulation 40 shall have effect as if the relevant amount was an amount of emoluments paid by the employer in the income tax month ending on 5th August 1998.””

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

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3rd August 1998

*Nick Montagu*  
*S C T Matheson*  
Two of the Commissioners of Inland Revenue

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Income Tax (Employments) (Notional Payments) Regulations 1994 (S.I. 1994/1212) (“the principal Regulations”).

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 makes an amendment of a drafting nature to regulation 2 of the principal Regulations.

Regulation 4 amends regulation 3 of the principal Regulations (previously amended by S.I. 1996/2969) which excludes from the scope of section 203F of the Income and Corporation Taxes Act 1988 (“the 1988 Act”) tradeable assets provided to employees in the form of shares in an employer company (or in a company controlling an employer company) acquired under an approved share option scheme or profit sharing scheme or on the exercise of rights over shares obtained before 27th November 1996. The amendment made by these Regulations extends the exclusion so as to cover cases where such shares would otherwise be assets the enhancement of which constitutes assessable income under section 203FA (assets with enhanced value) or constitutes assessable income under section 203FB (gains from share options etc.) of the 1988 Act. Sections 203FA and 203FB were inserted in the 1988 Act by sections 66(1) and 67(1) of the Finance Act 1998.

Regulation 5 inserts new regulations 3A and 3B in the principal Regulations. Regulation 3A specifies the New York Stock Exchange as a market for the purposes of the definition of “readily convertible asset” in section 203F of the 1988 Act. Regulation 3B excludes from section 203FA of the 1988 Act any enhancement of value of shares in an employer company (or in a company controlling an employer company) arising on the acquisition of shares or any right over or interest in shares under an approved share option scheme or profit sharing scheme or where the shares were acquired by the employee on the exercise of a right obtained before 27th November 1996.

Regulation 6 excepts from regulation 7 and 8 of the principal Regulations notional payments falling within regulation 8A of those Regulations (inserted by regulation 7 of these Regulations).

Regulation 7 inserts regulation 8A in the principal Regulations which makes provision for accounting for income tax in respect of notional payments made in the period between 6th April 1998 and 31st July 1998 where the notional payments fall within the amendments made by section 65, 68 or 69 of the Finance Act 1998 to section 203C, 203F, 203G, 203H or 203I of the 1988 Act, or within section 203FA or 203FB of the 1998 Act.

Regulation 8 inserts regulation 12A in the principal Regulations which makes a similar provision for accounting for income tax as that made by regulation 7 in relation to a payment of assessable income deemed to be made by section 203FB(3)(a) of the 1988 Act on an assignment or release of an option to acquire shares.