
STATUTORY INSTRUMENTS

1999 No. 3219

SOCIAL SECURITY TAXES

The Tax Credits (Payment by Employers) Regulations 1999

Made - - - - *2nd December 1999*
Laid before Parliament *3rd December 1999*
Coming into force - - *6th April 2000*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 6 of the Tax Credits Act 1999⁽¹⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Tax Credits (Payment by Employers) Regulations 1999 and shall come into force on 6th April 2000 immediately after the coming into force of section 6 of the Tax Credits Act 1999.

Interpretation

2. In these Regulations unless the context otherwise requires—

“award period” means—

- (a) where the award is of working families' tax credit, the period for which amounts are payable to a person by virtue of section 128(3) of the Social Security Contributions and Benefits Act 1992⁽²⁾ or section 127(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽³⁾, or
- (b) where the award is of disabled person's tax credit, the period for which amounts are payable to a person by virtue of section 129(6) of the Social Security Contributions and Benefits Act 1992 or section 128(6) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Board” means the Commissioners of Inland Revenue;

“certificate of payments” shall be construed in accordance with regulation 4(3);

(1) 1999 c. 10.
(2) 1992 c. 4.
(3) 1992 c. 7.

“Contributions Regulations” means the Social Security (Contributions) Regulations 1979(4) or, in Northern Ireland, the Social Security (Contributions) Regulations (Northern Ireland) 1979(5);

“deductions working sheet” shall be construed in accordance with regulation 2 of the Employments Regulations;

“emoluments” means any income assessable to income tax under Schedule E;

“employer” and “employee” shall be construed in accordance with section 6(1) of the Tax Credits Act 1999;

“Employments Regulations” means the Income Tax (Employments) Regulations 1993(6);

“income tax month” means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

“income tax period” has the same meaning as in regulation 2 of the Employments Regulations;

“income tax quarter” means the period beginning on the 6th day of April and ending on the 5th day of July, or beginning on the 6th day of July and ending on the 5th day of October, or beginning on the 6th day of October and ending on the 5th day of January, or beginning on the 6th day of January and ending on the 5th day of April;

“Management Act” means the Taxes Management Act 1970(7);

“notice” means notice in writing;

“partner” has the same meaning as in regulation 2 of the Family Credit (General) Regulations 1987(8) or, in Northern Ireland, the Family Credit (General) Regulations (Northern Ireland) 1987(9), and in regulation 2 of the Disability Working Allowance (General) Regulations 1991(10) or, in Northern Ireland, the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(11);

“pay period” means the period by reference to which an employee’s emoluments are paid, whether weekly, monthly or otherwise;

“relevant employer” and “relevant subsequent employer” have the meanings given by regulation 3;

“start notification” shall be construed in accordance with regulation 4(2);

“stop notice” shall be construed in accordance with regulation 9(2);

“tax credit” means working families’ tax credit or disabled person’s tax credit;

“tax year” means a year beginning with 6th April in any year and ending with 5th April in the following year.

Definition of “relevant employer” and “relevant subsequent employer”

3.—(1) Subject to paragraph (2) “relevant employer” means an employer who, at the time an award of tax credit is made, or renewed for a further award period, is required, on making any payment of or on account of any income assessable to income tax under Schedule E to any person, to deduct tax in accordance with the Employments Regulations or to deduct contributions

(4) S.I.1979/59.

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

(6) S.I. 1993/744; relevant amending instruments are S.I. 1994/775, S.I. 1994/1212 and S.I. 1996/1312.

(7) 1970 c. 9.

(8) S.I. 1987/1973.

(9) S.R. 1987 No. 463.

(10) S.I. 1991/2887.

(11) S.R. 1992 No. 78.

in accordance with the Contributions Regulations and, in the case of an employee with more than one such employer, means in addition—

- (a) where the award is of working families' tax credit, the employer by whom, at the date of application, the larger (or largest) amount of net earnings as construed in accordance with the Family Credit (General) Regulations 1987 or, in Northern Ireland, the Family Credit (General) Regulations (Northern Ireland) 1987 is payable, or
- (b) where the award is of disabled person's tax credit, the employer by whom, at the date of application, the larger (or largest) amount of net earnings as construed in accordance with the Disability Working Allowance (General) Regulations 1991 or, in Northern Ireland, the Disability Working Allowance (General) Regulations (Northern Ireland) 1992 is payable.

(2) "Relevant employer" does not include an employer who is authorised to make deductions in accordance with regulation 20 of the Employments Regulations.

(3) Subject to paragraph (4) "relevant subsequent employer" means an employer who, at the time that the employee notifies the Board in accordance with regulation 10(4) that he has commenced work for that employer (being a time falling after the date on which the employee ceased to be employed by the relevant employer but falling within the same award period), is required, on making any payment of or on account of any income assessable to income tax under Schedule E to any person, to deduct tax in accordance with the Employments Regulations or to deduct contributions in accordance with the Contributions Regulations.

(4) "Relevant subsequent employer" does not include an employer who is authorised to make deductions in accordance with regulation 20 of the Employments Regulations.

Notification to relevant employer or relevant subsequent employer of employee's entitlement to payment of tax credit

4.—(1) Where—

- (a) an employee of a relevant employer becomes entitled to tax credit, or has an award of tax credit renewed for a further award period, or
- (b) a person who—
 - (i) is entitled to tax credit, and
 - (ii) was an employee of a relevant employer at the date on which he become entitled to that tax credit, commences employment with a relevant subsequent employer,the Board shall notify the relevant employer or, as the case may be, the relevant subsequent employer of that employee's entitlement to payment of tax credit in accordance with paragraphs (2) to (4).

(2) A notification of entitlement furnished to the relevant employer or the relevant subsequent employer under paragraph (1) ("start notification") shall be in a form provided by the Board and shall contain the following particulars—

- (a) the date of issue of the start notification;
- (b) the name of the employee concerned;
- (c) the employee's national insurance number and (if known) his payroll number;
- (d) the commencement date and the termination date of the period during which the employer is to be responsible for payment of tax credit to the employee;
- (e) the daily rate of tax credit applicable to each calendar day falling within that period and a table showing the multiples from 1 to 31 of that daily rate;
- (f) the total amount of tax credit to be paid to the employee by the employer.

(3) A start notification shall be accompanied by a certificate of payments in a form provided by the Board to be completed by the relevant employer or the relevant subsequent employer in accordance with regulation 9 (termination of relevant employer's or relevant subsequent employer's obligation to pay tax credit prior to the termination date contained in the start notification), and such certificate shall contain the following particulars—

- (a) the name of the employee concerned;
 - (b) the employee's national insurance number and (if known) his payroll number;
 - (c) the date of issue of the certificate of payments.
- (4) The commencement date contained in the start notification—
- (a) where the employee's pay period is one week or of shorter duration, shall not be earlier than 14 days from the date of issue of the start notification, and
 - (b) in all other cases, shall not be earlier than 42 days from the date of issue of the start notification.

Notification to employee of relevant employer or relevant subsequent employer of employee's entitlement to tax credit

5.—(1) Where an employee of a relevant employer becomes entitled to tax credit, or has an award of tax credit renewed for a further award period, the Board shall notify the employee of his entitlement to payment of tax credit in accordance with paragraph (2).

(2) A notification under paragraph (1) shall be in a form provided by the Board and shall contain the following particulars—

- (a) the weekly amount of tax credit to which the employee is entitled;
 - (b) the dates (if any) between which the Board will be responsible for payment of tax credit to the employee;
 - (c) the dates (if any) between which a named employer of the employee will be responsible for payment of tax credit to the employee;
 - (d) the daily rate of tax credit applicable to each calendar day during the period of the award of tax credit to the employee and a table showing the multiples from 1 to 31 of that daily rate;
 - (e) the total amount of tax credit to be paid to the employee by a named employer.
- (3) Where a person who—
- (a) is entitled to tax credit, and
 - (b) was an employee of a relevant employer at the date on which he became entitled to that tax credit,

commences employment with a relevant subsequent employer, the Board shall notify the employee of his entitlement to payment of tax credit in accordance with paragraph (4).

(4) A notification under paragraph (3) shall be in a form provided by the Board and shall contain the following particulars—

- (a) the dates (if any) between which the Board will be responsible for payment of tax credit to the employee;
- (b) the dates (if any) between which a named employer of the employee will be responsible for payment of tax credit to the employee;
- (c) the total amount of tax credit to be paid to the employee by a named employer.

Relevant employer's or relevant subsequent employer's obligation to pay tax credits

6.—(1) On receipt of a start notification in respect of an employee the relevant employer or the relevant subsequent employer shall, if he reasonably expects that employee to remain in his employment and receive payment for three or more consecutive pay periods commencing with the pay period in which the commencement date contained in that start notification falls, calculate the tax credit to which that employee is entitled to be paid in each pay period during which the employer will be responsible for paying tax credit to that employee in accordance with the start notification.

(2) Subject to paragraph (3), where the employer—

- (a) has received a start notification in respect of an employee, and
- (b) makes a payment of emoluments to that employee on or after the commencement date contained in that start notification,

he shall pay to that employee the tax credit to which the employee is entitled during the pay period to which the payment of emoluments relates.

(3) Where the employer—

- (a) has received a start notification in respect of an employee but does not reasonably expect that employee to remain in his employment and receive payment for three or more consecutive pay periods as mentioned in paragraph (1); or
- (b) becomes aware before the first date on which a payment of emoluments is due following the commencement date contained in that start notification that an employee in respect of whom a start notification has been received has left, or will leave, his employment before the end of the third consecutive pay period,

he shall return the start notification and the uncompleted form of certificate of payments to the Board, indicating on the start notification his reasons for doing so.

(4) The employer shall record on the employee's payslip for the relevant pay period, as a credit described as a "tax credit", any payment made under paragraph (2).

(5) Any amount paid under paragraph (2) shall be recorded on the deductions working sheet for the employee which the employer is required to prepare under regulation 38 of the Employments Regulations.

(6) The employer shall record on the certificate referred to in regulation 39(12) of the Employments Regulations the total tax credit paid to each employee for the tax year to which the certificate relates.

(7) The employer shall record on the certificate referred to in regulation 43 of the Employments Regulations the total tax credit paid for the tax year to which the certificate relates.

(8) Where the employer makes a payment to an employee of an amount of tax credit which exceeds the amount of tax credit which that employee is entitled to be paid in accordance with the start notification, the employer may recover from that employee an amount not exceeding the excess.

(9) No payment of tax credit under paragraph (2) shall be capable of attachment under any enactment, or shall be used by way of set-off or otherwise reduced, extinguished or terminated except in accordance with these Regulations.

Funding of payment by relevant employer or relevant subsequent employer of tax credit

7.—(1) Subject to paragraphs (2), (3) and (4), the relevant employer or the relevant subsequent employer shall fund payments of tax credit under regulation 6(2) for a pay period from the total amounts of tax which the employer is required to pay to the collector of taxes in respect of the deductions from the emoluments of his employees in accordance with the Employments Regulations

(12) Regulation 39 was amended by S.I. 1995/1284.

for the same pay period, and the amount which the employer is required to pay to the collector of taxes in respect of that pay period in accordance with those Regulations shall be reduced by the amount of tax credit which the employer has paid in respect of that same pay period.

(2) If the total amount of tax credit which the employer is required to pay to an employee or employees for a pay period exceeds the total amount of tax which the employer is required to pay to the collector of taxes in respect of the deductions from the emoluments of his employees in accordance with the Employments Regulations for the same pay period, the employer shall fund the payment of the tax credit (or so much of it as remains outstanding) from any deductions made by the employer from the emoluments of his employees for the same pay period in accordance with regulations under section 22(5) of the Teaching and Higher Education Act 1998⁽¹³⁾ or section 73B of the Education (Scotland) Act 1980⁽¹⁴⁾ (student loan repayments), or in accordance with Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998⁽¹⁵⁾, and the aggregate amount which the employer is required to pay to the collector of taxes in respect of that pay period in accordance with those enactments shall be reduced by the amount which the employer has deducted from them and paid in tax credit in respect of the same pay period.

(3) If the total amount of tax credit which the employer is required to pay to an employee or employees for a pay period exceeds the aggregate of—

- (a) the total amount of tax which the employer is required to pay to the collector of taxes in respect of the deductions from the emoluments of his employees in accordance with the Employments Regulations for the same pay period, and
- (b) the total amount of the deductions made by the employer from the emoluments of his employees for the same pay period in accordance with regulations under section 22(5) of the Teaching and Higher Education Act 1998 or section 73B of the Education (Scotland) Act 1980 or in accordance with Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998,

the employer shall fund the payment of the tax credit (or so much of it as remains outstanding) from the total amounts of earnings-related contributions which the employer is required to pay to the collector of taxes in respect of the emoluments of his employees (whether by means of deduction or otherwise) for the same pay period in accordance with the Contributions Regulations, and the aggregate amount which the employer is required to pay to the collector of taxes in respect of that pay period in accordance with those enactments shall be reduced by the amount which the employer has deducted from them and paid in tax credit in respect of the same pay period.

(4) If the total amount of tax credit which the employer is required to pay to an employee or employees for a pay period exceeds the aggregate of—

- (a) the total amount of tax which the employer is required to pay to the collector of taxes in respect of the deductions from the emoluments of his employees in accordance with the Employments Regulations for the same pay period,
- (b) the total amount of the deductions made by the employer from the emoluments of his employees for the same pay period in accordance with regulations under section 22(5) of the Teaching and Higher Education Act 1998 or section 73B of the Education (Scotland) Act 1980 or in accordance with Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998, and
- (c) the total amounts of earnings-related contributions which the employer is required to pay to the collector of taxes in respect of the emoluments of his employees (whether by means

⁽¹³⁾ 1998 c. 30. As at the date of the making of these Regulations, no Regulations had been made under Section 22(5) of the Teaching and Higher Education Act 1998 or Section 73B of the Education (Scotland) Act 1980.

⁽¹⁴⁾ 1980 c. 44; section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998.

⁽¹⁵⁾ S.I. 1998/1760 (N.I. 14). Relevant instruments made under S.I. 1998/1760 (N.I. 14) are S.R. 1999 No. 192 and S.R. 1999 No. 370.

of deduction or otherwise) in accordance with the Contributions Regulations for the same pay period,
the employer may apply to the Board in accordance with regulation 8 for funds to pay the tax credit (or so much of it as remains outstanding) to the employee or employees.

Application for funding from the Board

8.—(1) Where—

- (a) the condition in regulation 7(4) is satisfied, or
- (b) the relevant employer or the relevant subsequent employer considers that the condition in regulation 7(4) will be satisfied on the date of any subsequent payment of emoluments to one or more employees who are entitled to payment of tax credit,

the employer may apply to the Board for funding on a form provided, or approved, for that purpose by the Board.

(2) An application by an employer under paragraph (1) shall be for any amount up to, but not exceeding, the total sum required by the employer to pay tax credit under regulation 6(2) to his employee or employees entitled to payment of tax credit for—

- (a) the period of 6 months immediately following the date of the employer's application, or
- (b) a period of 6 months commencing not earlier than 6 months before the date of the employer's application but not later than that date.

(3) If an application by an employer under paragraph (1) is accepted the Board shall pay to the employer the amount applied for or such other amount as the Board may determine in the circumstances to be reasonable having regard to all relevant matters including—

- (a) the past obligations and the likely future obligations of the employer under the enactments specified in regulation 7, and
- (b) the obligations of the employer under any start notification issued to him in the period of 6 months ending with the date of the application under paragraph (1).

(4) An officer of the Board may vary a determination under paragraph (3) if he has reason to believe that it was incorrect at the time that it was made.

(5) An officer of the Board may make a determination superseding an earlier determination, whether as originally made or as varied in accordance with paragraph (4), which has become inappropriate for any reason.

(6) The Board shall notify the employer of any decision or variation of a termination they make in respect of—

- (a) an application under paragraph (1), or
- (b) the amount determined by the Board under paragraph (3).

(7) An employer may appeal to the General Commissioners against—

- (a) the Board's refusal of an application under paragraph (1),
- (b) an amount determined by the Board under paragraph (3), or
- (c) an amount determined by the Board under paragraph (3) as varied under paragraph (4),

by giving notice to the Board within thirty days of the receipt by him of notice of the Board's decision.

(8) An appeal under paragraph (7) shall be heard by the General Commissioners for the division in which the place of employment is situated.

(9) The provisions of Part V of the Management Act and of the General Commissioners (Jurisdiction and Procedure) Regulations 1994(16) shall apply with any necessary modifications to the appeal as they apply to appeals against assessments.

(10) On appeal, the General Commissioners, having regard to the matters set out in paragraph (3) may—

- (a) confirm the Board’s refusal of an application under paragraph (1), or allow the appeal against that refusal;
- (b) confirm, increase or reduce the amount determined under paragraph (3) or that amount as varied under paragraph (4).

(11) Subject to paragraph (9), the determination of the General Commissioners shall be final.

(12) Where—

- (a) an employer appeals to the General Commissioners under paragraph (7); and
- (b) the General Commissioners determine the appropriate amount of funding in a sum which exceeds the amount determined by the Board under paragraph (3),

the Board shall pay to that employer a sum equal to the excess.

(13) An amount which is paid to an employer by the Board under paragraph (12) shall carry interest at the rate applicable under section 178 of the Finance Act 1989(17) for the purposes of section 824 or, as the case may be, section 826 of the Income and Corporation Taxes Act 1988(18) from the date on which the condition in regulation 7(4) is satisfied until payment.

(14) Funds provided to an employer by the Board in accordance with this regulation shall be for the purpose only of payment by that employer of tax credit under regulation 6(2) to one or more employees.

Termination of relevant employer’s or relevant subsequent employer’s obligation to pay tax credit prior to the termination date contained in the start notification

9.—(1) In any of the circumstances specified in paragraph (2) and subject to paragraphs (9) and (10), the relevant employer or relevant subsequent employer shall cease to make payments of tax credit to an employee in accordance with regulation 6(2) prior to the termination date contained in the start notification.

(2) The circumstances specified in this paragraph are—

- (a) where the employer has received notification from the Board to cease payment of tax credit (“stop notice”) in respect of that employee;
- (b) the death of the employee;
- (c) the employee ceasing to be employed by the employer otherwise than by reason of the employee’s death.

(3) In the circumstances specified in paragraph (2)(a) and subject to paragraph (9), the employer shall not pay tax credit to the employee at any time following the latest payable date specified in the stop notice.

(4) In the circumstances specified in paragraph (2)(b) the employer shall not pay tax credit to the employee at any time following the date on which the employer became aware of the death.

(16) S.I. 1994/1812.

(17) 1989 c. 26; relevant amendments were made by paragraph 1(3) of Schedule 4 to the Finance Act 1998 (c. 36).

(18) 1988 c. 1; relevant amendments to Section 824 were made by sections 196 and 199(2)(a) of, and by paragraph 41 of Schedule 19 and Part V of Schedule 26 to, the Finance Act 1994 (c. 9). Relevant amendments to Section 826 were made by Section 180(6) and (7) of the Finance Act 1989 (c. 26), sections 196 and 199 of, and paragraph 42 of Schedule 19 to, the Finance Act 1994 (c. 9), by paragraphs 1 and 2 of Schedule 4 to the Finance Act 1998 (c. 36) and by S.I. 1998/3173.

(5) In the circumstances specified in paragraph (2)(c) and subject to paragraph (10), the employer shall not pay tax credit to the employee either—

- (a) at any time following the last day on which that employee was in his employment, or
- (b) at any time following the last day of the pay period in which the employee ceased to be employed,

whichever the employer chooses.

(6) Subject to paragraphs (9) and (10), where two or more of the circumstances specified in paragraph (2) occur in respect of the same employee the relevant employer or relevant subsequent employer shall not pay tax credit to that employee at any time following the earliest of the dates specified in paragraphs (3), (4) and (5)(b).

(7) A stop notice shall be in a form provided by the Board and shall contain the following particulars—

- (a) the date of issue of the stop notice;
- (b) the name of the employee concerned;
- (c) the employee’s national insurance number and (if known) his payroll number;
- (d) the latest date for which tax credit is payable to that employee (“ the latest payable date”).

(8) Except where an earlier date has been agreed between the Board and the employer, the latest payable date—

- (a) where the employee’s pay period is one week or of shorter duration, shall not be earlier than 14 days from the date of issue of the stop notice, and
- (b) in all other cases, shall not be earlier than 42 days from the date of issue of the stop notice.

(9) In the circumstances specified in paragraph (2)(a) the employer may, after the latest payable date, make a payment to the employee of tax credit that is outstanding at that date in respect of any period which falls within the award period in which the circumstances specified in paragraph 2(a) arise.

(10) In the circumstances specified in paragraph (2)(c) the employer may, after the date chosen by the employer in accordance with paragraph (5), make a payment to the employee of tax credit that is outstanding at that date in respect of any period which falls within the award period in which the circumstances specified in paragraph (2)(c) arise.

(11) A stop notice shall be effective in respect of an employee unless and until a new start notification is received from the Board in respect of that employee.

(12) Where no payment of emoluments is due from the relevant employer or relevant subsequent employer to an employee for a complete pay period the employer shall either—

- (a) cease to make payments of tax credit to that employee in accordance with regulation 6(2) prior to the termination date contained in the start notification, or
- (b) continue to pay tax credit in accordance with regulation 6(2) as if payment of emoluments had been made in that pay period,

whichever the employer chooses.

Obligations of relevant employer or relevant subsequent employer and employee on termination of employer’s obligation to pay tax credit prior to the termination date contained in the start notification

10.—(1) On the death of an employee the employer shall, not later than 7 days following the date on which the employer became aware of the death—

- (a) enter the following details on either the certificate of payments referred to in regulation 4(3) or on a certificate which has been approved for this purpose by the Board—
 - (i) the total tax credit paid to the employee in accordance with the start notification in force at the time; and
 - (ii) the date of the final payment of tax credit and the pay period to which that final payment of tax credit related; and
- (b) sign, date and send the completed certificate to the Board after retaining a copy.
- (2) In the circumstances referred to in regulation 9(2)(c) the employer shall, not later than 7 days following the date on which payments of tax credit ceased in accordance with regulation 9(5)—
 - (a) enter the details set out in paragraph (1)(a) on either the certificate of payments referred to in regulation 4(3) or on a certificate which has been approved for this purpose by the Board, and
 - (b) sign, date and send the completed certificate to the employee after retaining a copy.
- (3) Where the employer ceases payment in accordance with regulation 9(12) the employer shall, not later than 7 days following the last day of the pay period following the pay period in which the last payment of tax credit was made—
 - (a) enter the details set out in paragraph (1)(a) on either the certificate of payments referred to in regulation 4(3) or on a certificate which has been approved for this purpose by the Board, and
 - (b) sign, date and send the completed certificate to the employee after retaining a copy.
- (4) Where the employee ceases to be employed by the employer as mentioned in regulation 9(2)(c) and commences work for another employer during the same award period, the employee shall notify the Board that he has commenced work for that other employer.
- (5) A notification by the employee under paragraph (4) shall contain the following particulars—
 - (a) the new employer’s name and address;
 - (b) (if known) the new employer’s PAYE reference number;
 - (c) (if known) the employee’s new payroll number;
 - (d) the date on which the new employment has commenced or will commence;
 - (e) (if known) the new employer’s pay period.

Board’s obligations following termination of employer’s obligation to pay tax credit prior to the termination date contained in the start notification

11.—(1) Subject to paragraph (2), where a relevant employer or relevant subsequent employer has ceased to make payment of tax credit in accordance with regulation 9 the Board shall pay to the employee the tax credit to which he is entitled until the termination of the award period or the commencement date referred to in a new start notification, whichever first occurs.

(2) Where—

- (a) a relevant employer or relevant subsequent employer has ceased to make payment of tax credit by reason of the death of the employee, and
- (b) that employee is survived by a partner,

the Board shall make payment to that partner of the amount of tax credit to which that employee would have been entitled but for his death.

Formal determination of tax credit funding

12.—(1) This regulation applies where funds have been provided to the employer under regulation 8 in respect of one or more employees and it appears to the inspector or other officer of the Board that the employer may have retained some or all of those funds.

(2) Where this regulation applies the inspector or other officer of the Board shall determine the amount of funds provided under regulation 8 and retained by the employer to the best of his judgment and shall serve notice of his determination on the employer.

(3) A determination under this regulation may cover the funds provided under regulation 8—

- (a) for any one or more pay periods in a tax year, and
- (b) in respect of a class or classes of employees specified in the notice of determination (without naming the individual employees) or of one or more named employees so specified.

(4) An appeal against a determination under this regulation that is to be brought before the General Commissioners shall be brought before the General Commissioners for the division in which the place given by the provisions of this regulation (“the relevant place”) is situated.

(5) Parts IV, V, except section 55, and VI of the Management Act shall apply with any necessary modifications to a determination under this regulation as if it were an assessment and as if the amount of funds determined were income tax charged on the employer.

(6) The relevant place is whichever of the places specified in paragraph (7) is identified by an election made by the employer.

(7) Those places are—

- (a) the place (if any) in the United Kingdom which, at the time when the election is made, is the employer’s place of business;
- (b) the place (if any) which at that time is the employer’s place of residence in the United Kingdom.

(8) Where the employer fails to make an election for the purposes of paragraph (4) before the time limit given in paragraph (9)(b) an officer of the Board may elect which of the places specified in paragraph (7) is to be the relevant place.

(9) An election by an employer for the purposes of this regulation—

- (a) shall be made by notice to an officer of the Board;
- (b) shall be made at the time when notice of appeal is given or before such later date as the Board allow; and
- (c) shall be irrevocable.

(10) Where there is no place falling within paragraph (7) an officer of the Board may give directions for determining the relevant place.

(11) A direction given under paragraph (10) shall not have effect in relation to an appeal unless the officer of the Board has served on the employer a notice stating the effect of the direction in relation to the appeal.

(12) In paragraph (7)(a) “place of business” means—

- (a) the place where the trade, profession, vocation or business of the employer is carried on, or
- (b) if the trade, profession, vocation or business is carried on at more than one place, the head office or place where it is mainly carried on.

Recovery of tax credit funding

13.—(1) Subject to paragraph (3), the provisions of any enactments relating to the recovery of income tax charged under Schedule E shall apply to the recovery of the amount of funds provided under regulation 8 specified in paragraph (2) as if the amount of funds provided under regulation 8 were tax charged under Schedule E by way of an assessment on the employer.

(2) The amount of funds provided under regulation 8 specified in this paragraph is any amount of funds which an employer is deemed liable under regulation 12 to pay to the collector for any income tax period.

(3) Summary proceedings for the recovery of funds determined under regulation 12 may be brought in England, Wales or Northern Ireland at any time before the expiry of twelve months after the date on which the amount of funds provided under regulation 8 was determined.

(4) Proceedings may be brought for the recovery of funds determined under regulation 12 without distinguishing the amounts which the employer is liable to repay in respect of each employee and without specifying the employees in question, and the amount of funds provided under regulation 8 shall be one cause of action or one matter of complaint for the purpose of proceedings under section 65, 66 or 67 of the Management Act(19).

(5) Nothing in paragraph (4) shall prevent the bringing of separate proceedings for the recovery of each amount of the several amounts of funds determined under regulation 12 which the employer is liable to pay for any income tax period in respect of his several employees.

(6) A certificate of the collector that the amount of funds determined under regulation 12 has not been paid to him, or to the best of his knowledge and belief, to any other collector or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and due to the Crown.

(7) Any document purporting to be a certificate under paragraph (6) shall be deemed to be such a certificate until the contrary is proved.

Inspection of employer's records

14.—(1) Every relevant employer or relevant subsequent employer, whenever called upon to do so by any authorised officer of the Board, shall produce the records specified in paragraph (2) to that officer for inspection, at such time as that officer may reasonably require, at the prescribed place.

(2) The records specified in this paragraph are—

- (a) all wages sheets, deductions working sheets and other documents and records whatsoever relating to the calculation or payment of the tax credits of his employees in respect of the tax years or income tax months specified by the authorised officer; or
- (b) such of those wages sheets, deductions working sheets or other documents and records as may be specified by the authorised officer.

(3) “The prescribed place” mentioned in paragraph (1) means—

- (a) such place in the United Kingdom as the employer and the authorised officer may agree upon; or
- (b) in default of such agreement, the place in the United Kingdom at which the documents and records referred to in paragraph (2)(a) are normally kept; or

(19) Section 65 was amended by section 57(1)(a), (b), (c) of the Finance Act 1984 (c. 43), and Schedule 19, paragraph 30 of the Finance Act 1998 (c. 36). Section 66 was amended by section 57(2) of the Finance Act 1984 (c. 43), Part II of Schedule 1 to the County Courts (Northern Ireland Order) 1980 (S.I. 1980/397), and the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724). Section 67 was amended by section 58 and Part III of Schedule 15 to the Finance Act 1976 (c. 40), and section 156 of the Finance Act 1995 (c. 4).

- (c) in default of such agreement and if there is no such place as is referred to in subparagraph (b), the employer's principal place of business in the United Kingdom.
- (4) The authorised officer may—
- (a) take copies of, or make extracts from, any document produced to him for inspection in accordance with paragraphs (1) and (2); and
 - (b) remove any document so produced if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period.
- (5) Where any document is removed in accordance with paragraph (4)(b), the authorised officer shall provide a receipt for that document.
- (6) Where any document is removed in accordance with paragraph (4)(b) which is reasonably required for the proper conduct of a business, the authorised officer shall, not later than seven days following the date on which the document was so removed, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.
- (7) Where a lien is claimed on a document produced in accordance with paragraphs (1) and (2), the removal of the document in accordance with paragraph (4)(b) shall not be regarded as breaking the lien.
- (8) Where records are maintained by computer, the person required to make them available for inspection shall provide the authorised officer with all facilities necessary for obtaining information from them.
- (9) For the purposes of paragraphs (1) and (2), the wage sheets, deductions working sheets and other documents and records mentioned in those paragraphs shall be retained by the employer for not less than three years after the end of the tax year to which they relate.

*Nick Montagu
Tim Flesher*

2nd December 1999

Two of the Commissioners of Inland Revenue

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under section 6 of the Tax Credits Act 1999 and come into force on 6th April 2000, specify the circumstances in which certain employers shall make payments of working families' tax credit and disabled person's tax credit ("tax credit") to certain of their employees, and also provide the machinery for such payments and for recovery of sums provided by the Commissioners of Inland Revenue ("the Board") for the purpose of such payments.

Regulation 1 provides for citation and commencement, and regulations 2 and 3 contain definitions.

Regulation 4 specifies the circumstances in which notification to commence payment of tax credit to a particular employee shall be given to an employer.

Regulation 5 provides for notification to the employee that payment of tax credit will be made by an employer for a specified period.

Regulation 6 sets out an employer's obligations following receipt of notification from the Board that he is to make payment of tax credit to an employee.

Regulation 7 specifies how an employer should fund payment of tax credit to an employee.

Regulation 8 sets out the circumstances in which an employer may make application to the Board for funds to make payment of tax credit, and also provides the machinery for such applications.

Regulation 9 provides for the termination of the obligation on the employer to make payment of tax credit to an employee prior to the termination date contained in the start notification.

Regulations 10 and 11 specify the obligations on an employer, an employee and the Board respectively following the termination of the obligation on the employer to make payment of tax credit to an employee prior to the termination date contained in the start notification.

Regulations 12 and 13 provide for the formal determination and recovery by the Board of funds provided to an employer to enable him to make payment of tax credit to an employee.

Regulation 14 makes provision for the production and inspection of employers' records relating to the payment of tax credits to their employees, to and by officers of the Board.