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STATUTORY INSTRUMENTS

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**2009 No. 548**

**The Industrial Training Levy (Engineering  
Construction Industry Training Board) Order 2009**

**Assessment of amount of levy**

**8.—(1)** The amount of levy to be assessed in respect of site employees for each leviable establishment is—

1.5 per cent of  $(A + B - C)$

where

**A** is the total emoluments of all persons who are site employees employed by the employer at or from the leviable establishment under a contract of service or apprenticeship during the relevant base period;

**B** is the sum of all payments (including payments for the incidental use of tools) made by the employer during the relevant base period under labour-only agreements for services rendered to the employer by site employees;

**C** is the sum of all payments (including payments for the incidental use of tools) received by the employer during the relevant base period from any other employers in the engineering construction industry under labour-only agreements for services rendered by the employer, or on his behalf, by site employees.

**(2)** The amount of levy to be assessed in respect of off site employees for each leviable establishment is—

0.18 per cent of  $(D + E - F)$

where

**D** is the total emoluments of all persons who are off site employees employed by the employer at or from the establishment under a contract of service or apprenticeship during the relevant base period;

**E** is the sum of all payments (including payments for the incidental use of tools) made by the employer during the relevant base period under labour-only agreements for services rendered to the employer by off site employees;

**F** is the sum of all payments (including payments for the incidental use of tools) received by the employer during the relevant base period from any other employers in the engineering construction industry under labour-only agreements for services rendered by the employer, or on his behalf, by off site employees.

**(3)** In paragraphs (1) and (2) the following are to be excluded from all calculations—

- (a) all company directors remunerated solely by fees;
- (b) all persons who are employed at or from a leviable establishment of the type described in article 6(2)(b) but who are not employed wholly or mainly in any of the activities falling within paragraph 1(a)(ii) of Schedule 1 to the industrial training order.
- (c) all payments under labour-only agreements which are—
  - (i) in respect of the provision of materials;

(ii) otherwise not in respect of the provision of services.

(4) If an amount calculated as a result of either paragraph (1) or (2) is negative, that amount should be treated as zero for the purposes of paragraph (5).

(5) The amount of levy to be assessed in respect of each leviable establishment is the aggregate of the amounts calculated as a result of paragraphs (1) and (2).

(6) Where a leviable establishment ceases to carry on business in the levy period, the amount of levy imposed in respect of the leviable establishment is to be in the same proportion to the amount that would otherwise be due under this article as the number of days between the commencement of the levy period and the date of the cessation of business (both dates inclusive) bears to the number of days in the levy period.