
STATUTORY INSTRUMENTS

1993 No. 744

INCOME TAX

The Income Tax (Employments) Regulations 1993

<i>Made</i>	- - - -	<i>16th March 1993</i>
<i>Laid before the House of Commons</i>	- - - -	<i>16th March 1993</i>
<i>Coming into force</i>	- -	<i>6th April 1993</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 203, 204 and 824(5) of the Income and Corporation Taxes Act 1988⁽¹⁾, and section 98A(1) of the Taxes Management Act 1970⁽²⁾, hereby make the following Regulations:

PART I
INTRODUCTORY

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Employments) Regulations 1993.

(2) These Regulations shall come into force on 6th April 1993 immediately after the Income Tax (Employments) (No. 24) Regulation 1993⁽³⁾, the Income Tax (Employments) (No. 25) Regulations 1993⁽⁴⁾ and the Income Tax (Employments) (No. 26) Regulations 1993⁽⁵⁾.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“additional pay” means the appropriate amount required by a code authorisation to be added to the emoluments paid to an employee in order to determine the taxable emoluments;

(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) and by section 45(3) of, and Part IV of Schedule 17 to, the Finance Act 1989 (c. 26); section 824(5) was amended by section 158(2) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

(2) 1970 c. 9; section 98A was inserted by section 165(1) of the Finance Act 1989.

(3) S.I. 1993/725.

(4) S.I. 1993/726.

(5) S.I. 1993/727.

“allowable superannuation contributions” means any sum paid by an employee by way of contribution towards a superannuation fund or scheme which is allowed to be deducted as an expense under Schedule E;

“basic rate” has the same meaning as in section 832(1) of the Taxes Act;

“the Board” means the Commissioners of Inland Revenue;

“code” means any part of the tax tables in which all the amounts of free emoluments or additional pay for any period have been calculated on the basis of the same total amount for the whole year, and references to code include any designation thereof by numbers and letters, alone or in combination;

“code authorisation” means a notice specifying the appropriate code given by an inspector to an employer;

“collector” means a collector of taxes;

“cumulative additional pay”, in relation to any date, means the sum of the additional pay from the beginning of the year up to and including that date;

“cumulative emoluments”, in relation to any date, means the sum of all payments of emoluments made by the employer to the employee from the beginning of the year up to and including that date;

“cumulative free emoluments”, in relation to any date, means the sum of the free emoluments from the beginning of the year up to and including that date;

“cumulative tax” means the tax due in accordance with the appropriate tax tables in respect of any cumulative taxable emoluments at the relevant date;

“cumulative taxable emoluments”, in relation to any date, means the cumulative emoluments reduced by the cumulative free emoluments or, as the case may be, increased by the cumulative additional pay;

“deductions working sheet” means any form of record on or in which are to be kept the matters required by these Regulations in connection with an employee’s emoluments and tax, or, in regulations 20 and 104, the form issued by the inspector for the purpose of keeping that record;

“earnings-related contributions” means contributions payable under the Social Security Contributions and Benefits Act 1992(6) or, in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(7) by or in respect of an employed earner in respect of employed earner’s employment;

“emoluments” means the full amount of any income to be taken into account in assessing liability under Schedule E after the deduction of—

- (a) allowable superannuation contributions, and
 - (b) any sum withheld from an employee in accordance with section 202 of the Taxes Act(8),
- and references to payments of emoluments include references to payments on account of emoluments;

“employed earner” and “employed earner’s employment” have the same meaning as in the Social Security Contributions and Benefits Act 1992, or, in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“employee” means any person in receipt of emoluments;

“employer” means any person paying emoluments;

(6) 1992 c. 4.

(7) 1992 c. 7.

(8) Section 202 was amended by section 24 of the Finance Act 1990 (c. 29).

“free emoluments” means the appropriate amount of any emoluments of the employee which qualify for relief from income tax;

“higher rate” has the same meaning as in section 832(1) of the Taxes Act⁽⁹⁾;

“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” means income tax quarter where regulation 41 has effect, but otherwise means income tax month;

“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;

“inspector” means an inspector of taxes;

“lower rate” has the same meaning as in section 832(1) of the Taxes Act⁽¹⁰⁾;

“the Management Act” means the Taxes Management Act 1970⁽¹¹⁾;

“notice” means notice in writing;

“overriding limit” means the limit on the amount of tax to be deducted from a payment of emoluments where the tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date has been calculated by reference to additional pay, and that limit shall be an amount equal to 50 per cent. of the amount of the emoluments paid;

“pension emoluments” means any payment of emoluments comprising a pension or annuity assessable to income tax under Schedule E;

“previous cumulative tax” means the cumulative tax corresponding to the employee’s cumulative emoluments at the later of the date of the last preceding payment of emoluments or the date last treated as the occasion on which emoluments were paid;

“reliefs from income tax” includes allowances and deductions but not allowable superannuation contributions;

“tax not deducted” means tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date which as a consequence of the overriding limit has not been deducted;

“tax tables” means the tax tables prepared by the Board under section 203 of the Taxes Act, and “simplified tax tables” means such of those tax tables as are prepared by the Board for use where, under regulation 20, tax is deductible without reference to cumulative emoluments and cumulative tax;

“taxable emoluments” means emoluments reduced by free emoluments or, as the case may be, increased by additional pay;

“the Taxes Act” means the Income and Corporation Taxes Act 1988⁽¹²⁾;

“total net tax deducted”, in relation to the emoluments paid to any employee during any period, means the total tax deducted from those emoluments less any tax repaid to the employee;

“trade dispute” has the meaning given by section 27(3) of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, section 27(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“year” means year of assessment and “current year” shall be construed accordingly.

⁽⁹⁾ The definition of “higher rate” in section 832(1) was amended by Part IV of Schedule 14 to the Finance Act 1988.

⁽¹⁰⁾ The definition of “lower rate” in section 832(1) was inserted by section 9(9) of the Finance Act 1992 (c. 20).

⁽¹¹⁾ 1970 c. 9.

⁽¹²⁾ 1988 c. 1.

(2) The table below indexes other general definitions in these Regulations—

Term defined	Regulation
the minimum rate	28(2)
the prescribed place	55(3)
the reckonable date	51(3).

PART II

GENERAL PROVISIONS RELATING TO EMPLOYERS

Multiple employers

3.—(1) Where an employer so elects, he shall be treated for all the purposes of these Regulations as if in respect of each group of his employees specified in the election he were a different employer, that is to say, as if each such group constituted all his employees and in particular, but without prejudice to the generality of the foregoing—

- (a) each such group shall be treated for those purposes as employed in a separate undertaking from that in which any other such group is employed, and
- (b) an employee ceasing to be employed in one such group and commencing employment in another such group shall be treated for those purposes as having ceased to be employed by the employer and having commenced an employment with a new employer.

(2) An election under this regulation must be made by notice to the inspector and any such notice shall contain—

- (a) such information as may be necessary to identify the groups of employees concerned, and
- (b) a certificate that the employer has no employees other than those in the groups so identified.

(3) Subject to paragraph (4), an election shall have effect for the year following that in which it is made and, unless revoked, shall also have effect for any subsequent year.

(4) Where an employer acquires the whole or a part of any trade, business, concern or undertaking of another employer and within 90 days of the acquisition elects under this regulation to be treated as a separate employer in respect of the group of employees employed in the acquired trade, business, concern or undertaking and his existing employees or, where an election is already in force in respect of them, each group of his existing employees, that election shall have effect for the year in which the acquisition takes place and any subsequent year.

(5) An election in force for any year may be revoked by notice to the inspector and any such revocation shall have effect for the year following that in which notice of it is given and any subsequent year, but shall not prejudice the making of a fresh election for that following or any subsequent year.

Intermediate employers

4.—(1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (in this regulation and in regulation 5 referred to as “the principal employer”) shall be deemed to be the employer for the purposes of these Regulations.

(2) The immediate employer shall furnish the principal employer with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of these Regulations.

- (3) If the employee's emoluments are actually paid to him by the immediate employer, then—
- (a) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted or repaid when the emoluments are paid to the employee, and shall deduct or repay the amount so notified to him accordingly; and
 - (b) the principal employer shall make a corresponding deduction or addition on making to the immediate employer the payment out of which those emoluments will be paid.

Troncs

5.—(1) This regulation applies where an organised arrangement exists for gratuities or service charges to be shared among two or more employees by any person (the organised arrangement being commonly known as a tronc and the person in question being commonly known and referred to in this regulation as a tronc-master).

- (2) Subject to paragraph (3), where this regulation applies—
- (a) every payment to an employee by way of the sharing out of gratuities or service charges by the tronc-master (including the retention by him of his own share if he is also an employee) shall be regarded for the purposes of these Regulations as a payment by him of emoluments; and
 - (b) to the extent of any such payment, the tronc-master shall be regarded as the employer for the purposes of these Regulations, notwithstanding regulation 4.
- (3) If in any particular case the Board are satisfied that the tronc-master has failed to observe or fulfil the requirements of these Regulations or any of them and they so direct, then—
- (a) any gratuities or service charges shared as mentioned in paragraph (1) and paid to the tronc-master through the principal employer shall be dealt with in accordance with regulation 4, and
 - (b) any share of gratuities or service charges not so dealt with shall either—
 - (i) be assessed under regulation 103 on the employee receiving the same, or
 - (ii) be taken into account under regulation 7(2)(b) by the inspector in his determination of a code,as the Board may direct.

PART III

CODING

Deduction and repayment of tax under appropriate code

6.—(1) Subject to the conditions specified in paragraph (2), every employer, on making any payment of emoluments to any employee during any year, shall deduct or repay tax in accordance with these Regulations by reference to the appropriate code.

- (2) The conditions specified in this paragraph are that—
- (a) a code authorisation in respect of the employee has been issued to the employer by the inspector for that year, and
 - (b) the appropriate code is specified in the code authorisation.

(3) The employer shall act in accordance with this regulation and shall deduct or repay tax by reference to the appropriate code, notwithstanding that that code, as determined by the inspector, may be the subject of an objection or appeal.

Determination of appropriate code by inspector

7.—(1) The appropriate code shall be determined by the inspector, who for that purpose may have regard to any of the matters specified in paragraph (2).

(2) The matters specified in this paragraph are—

- (a) subject to paragraph (3), the reliefs from income tax to which the employee is entitled for the year in which the code is determined, so far as his title to those reliefs has been established at the time of the determination,
- (b) any income of the employee (other than the emoluments in relation to which the appropriate code is being determined)—
 - (i) on which the tax will be reduced by any relief for the year for which the code is to have effect, or
 - (ii) which is otherwise chargeable under Schedule E,
- (c) any tax overpaid for any previous year which has not been repaid,
- (d) any tax remaining unpaid for any previous year which is not otherwise recovered,
- (e) any amount to be recovered as if it were unpaid tax under the provisions of section 30(1)(13) of the Management Act, 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, and
- (f) such other adjustments as may be necessary to secure that, so far as possible, the tax in respect of the employee's emoluments for the year for which the code is to have effect shall be deducted from the emoluments paid during that year.

(3) Where the code is determined before the beginning of the year for which it is to have effect, the inspector shall disregard any relief such as is referred to in paragraph (2)(a) if he is not satisfied that the employee will be entitled to it for that year.

Code applicable where code authorisation is not issued or received

8.—(1) Where, under regulation 7, the inspector determines that the appropriate code for any year is not different from the code for the preceding year, he shall not be obliged to issue a code authorisation to the employer.

(2) Subject to paragraphs (3) and (5), if for any year, the employer does not receive a code authorisation for an employee who was in his employment on the 5th April in the year preceding that year, a code authorisation shall be deemed to have been issued by the inspector specifying the code which was appropriate on that 5th April as the appropriate code, and the employer shall act in accordance with regulations 6(1) and 38(1).

(3) If for the year ending on 5th April 1994 the employer does not receive a code authorisation for an employee who was in his employment on 5th April 1993 and the code which was appropriate on that date is no longer valid, a code authorisation shall be deemed to have been issued by the inspector specifying as the appropriate code the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in paragraph (4), and the employer shall act in accordance with regulations 6(1) and 38(1).

(4) The rates referred to in this paragraph are the lower rate, the basic rate and the higher rate.

(5) In relation to codes for the year ending on 5th April 1995 and subsequent years, where, under regulation 13(4)(b) and (5), a code is deemed to have been determined by the inspector as the appropriate code for the following year, he shall not be obliged to issue a code authorisation to the employer for that year, but a code authorisation shall be deemed to have been issued by the inspector specifying that code as the appropriate code for that year, and the employer shall act in accordance with regulations 6(1) and 38(1).

Coding at the higher rate or where no tax is deductible

9.—(1) The inspector may determine that tax shall be deducted at the higher rate from the whole of any emoluments if he has reason to believe that the employee will be chargeable at the higher rate on some part of his total income.

(2) The inspector may determine that no tax shall be deducted from any emoluments if—

- (a) the emoluments will be included in an assessment under Schedule D, or
- (b) the inspector is not satisfied that the emoluments will be chargeable to tax, or
- (c) the inspector has reason to believe that the employee will be entitled to a deduction under section 193(1) of the Taxes Act.

(3) Where paragraph (1) or (2) applies, the inspector shall be deemed to have determined the appropriate code, and all the provisions of these Regulations which relate to objections and appeals against the inspector's determination, or to deduction of tax by reference to the appropriate code, or to the specification of the appropriate code in any code authorisation, return or certificate, shall, with the necessary modifications, have effect accordingly.

Notice of coding

10.—(1) Subject to paragraph (2), the inspector, after he has determined the appropriate code for any year, shall give notice of his determination to the employee if the code so determined is different from the code for the preceding year.

(2) Notice under paragraph (1) need not be given where the change in the code is due to an alteration or alterations in the rates of any of the personal reliefs allowable under sections 257 to 257F(14) or 259 of the Taxes Act or in the tax tables, but the other matters referred to in regulation 7 are not different from those for the preceding year.

Objections and appeals against coding

11.—(1) The employee may give notice of objection to the inspector stating the ground of his objection if he is aggrieved by the inspector's determination.

(2) On receipt of the notice of objection the inspector may amend his determination by agreement with the employee, and in default of such agreement the employee, on giving notice to the inspector, may appeal against the determination.

(3) Subject to paragraph (4), the appeal shall be heard by the General Commissioners in accordance with the like rules as are contained in paragraph 3 of Schedule 3 to the Management Act(15).

(14) Sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988, and the sections as substituted were amended by sections 33 and 57(4) of the Finance Act 1989, section 17(2) of, and Part IV of Schedule 19 to, the Finance Act 1990, section 33(4) of the Finance Act 1991 (c. 31) and paragraphs 2 to 4 of Schedule 5 to the Finance (No. 2) Act 1992 (c. 48); section 259 was amended by section 30 of, and paragraph 5 of Schedule 3 to, the Finance Act 1988 and by paragraph 5 of Schedule 5 to the Finance (No. 2) Act 1992.

(15) Paragraph (3) of Schedule 3 was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988.

(4) The like provisions as are contained in section 44(2) of the Management Act(16) shall apply to the appeal as they apply to appeals against assessments.

(5) On appeal, the General Commissioners shall determine the appropriate code, having regard to the same matters as the inspector may have regard to when the appropriate code is determined by him.

(6) The like provisions as are contained in section 56 of the Management Act(17) shall apply to the determination by the General Commissioners.

(7) Subject to paragraph (6) and regulation 12, the determination of the General Commissioners shall be final.

Amendments of coding

12.—(1) If a code is found not to be appropriate because the actual circumstances are different from the circumstances by reference to which it was determined by the inspector or the General Commissioners, the inspector may, and if so required by the employee shall, amend the previous determination by reference to the actual circumstances.

(2) Subject to paragraph (3), the inspector, after he has amended the determination of the code, shall give notice of the amended determination to the employee not later than the date on which the notice under regulation 13(1) or the code authorisation, as the case may be, is issued to the employer.

(3) Notice under paragraph (2) need not be given where the change in the code is due to an alteration or alterations in the rates of any of the personal reliefs allowable under sections 257 to 257F or 259 of the Taxes Act or in the tax tables, but the other matters referred to in regulation 7 have not changed.

(4) The provisions of regulation 11 regarding objections and appeals shall apply in relation to the amended determination as they apply in relation to the original determination.

Notice to employer of amended coding

13.—(1) Where a determination of the inspector or the General Commissioners is amended after a code authorisation has been issued or is deemed under these Regulations to have been issued, the inspector shall give notice to the employer specifying the code appropriate to the employee's case under the amended determination.

(2) On making any payment of emoluments to the employee after the receipt of the notice mentioned in paragraph (1), the employer shall deduct or repay tax by reference to that code.

(3) In relation to the year ending on 5th April 1994, where there is a change in the rates of any of the personal reliefs allowable under sections 257 to 257F of the Taxes Act, the inspector may give notice requiring the employer to amend specified codes as directed, with effect from the date specified in the notice.

(4) In relation to codes for the year ending on 5th April 1995 and subsequent years, where there is a change in the rates of any of the personal reliefs allowable under sections 257 to 257F of the Taxes Act—

- (a) if the change relates to the current year, the inspector may give notice requiring the employer, with effect from the date specified in the notice, to amend specified codes as directed;

(16) Section 44(2) was substituted by section 133(2) of the Finance Act 1988.

(17) Section 56 was amended by section 45(3) of the Finance (No. 2) Act 1975 (c. 45), paragraph 6 of Schedule 22 to the Finance Act 1984 (c. 43) and section 156(3) of the Finance Act 1989.

- (b) if the change relates to the following year, the inspector may give notice requiring the employer to carry forward to the following year and adjust as directed specified codes for the current year.

(5) A code amended by virtue of paragraph (3), or amended by virtue of paragraph (4)(a) in respect of the current year, shall be the appropriate code for that year, and a code carried forward to the following year and adjusted by virtue of paragraph (4)(b) shall be deemed to have been determined by the inspector as the appropriate code for that year, and in any of such cases all the provisions of these Regulations which relate to objections and appeals against the inspector's determination, or to deduction of tax by reference to the appropriate code or to the specification of the appropriate code in any code authorisation, return or certificate, shall, with the necessary modifications, have effect accordingly.

PART IV

DEDUCTION AND REPAYMENT OF TAX

Deduction of tax—general

Calculation and making of deduction or repayment

14.—(1) Except where these Regulations otherwise provide, the employer shall ascertain, on the occasion of any payment of emoluments to the employee,—

- (a) the cumulative emoluments of the employee at the date of the payment,
- (b) the cumulative free emoluments or, as the case may be, the cumulative additional pay,
- (c) the cumulative taxable emoluments, and
- (d) the cumulative tax.

(2) If the cumulative tax together with any tax not deducted when the last preceding payment of emoluments was made exceeds the previous cumulative tax—

- (a) the employer shall deduct the excess from the emoluments on making the payment in question, but
- (b) the deduction shall not exceed the overriding limit.

(3) If the cumulative tax together with any tax not deducted when the last preceding payment of emoluments was made is less than the previous cumulative tax, and subject to regulation 36, the employer shall repay the difference to the employee on making the payment in question.

(4) If the cumulative tax together with any tax not deducted when the last preceding payment of emoluments was made is equal to the previous cumulative tax, no tax shall be either deducted or repaid when the payment in question is made.

First payment in the year

15. Where the payment of emoluments is the first payment in the year—

- (a) the employer shall deduct the cumulative tax from the emoluments on making the payment in question, and paragraphs (2) to (4) of regulation 14 shall not apply, but
- (b) the deduction shall not exceed the overriding limit.

Deductions in accordance with regulation 9

16.—(1) Subject to paragraph (3), this regulation applies where, in accordance with regulation 9, the inspector determines that tax shall be deducted from any emoluments wholly at the higher rate or that no tax shall be deducted from those emoluments.

- (2) Where this regulation applies, regulations 14 and 15 shall not apply, but the employer shall—
- (a) deduct tax at the higher rate, or shall deduct no tax as the case may require, without regard to the employee's cumulative emoluments or the cumulative tax, and
 - (b) where tax is deductible at the higher rate, record—
 - (i) the date of payment,
 - (ii) the amount of the emoluments, and
 - (iii) the amount of tax deducted from the emoluments.
- (3) Where the inspector's determination that no tax shall be deducted is an amended determination, the employer shall—
- (a) if the inspector so directs, make any repayment of tax which may be due by reference to the employee's cumulative emoluments and the corresponding cumulative tax, and
 - (b) record the particulars specified in regulation 38(3).

Deduction in special cases

- 17.**—(1) This regulation applies to—
- (a) any payment of emoluments made on 4th or 5th April in a leap year or on 5th April in any other year to an employee who is paid weekly;
 - (b) any payment of pension emoluments in the year in which retirement takes place unless the inspector directs that regulation 14 shall apply; and
 - (c) any other payment of emoluments made in any year to any employee to which the inspector directs that this regulation shall apply for that year.
- (2) Where this regulation applies regulation 14 shall not apply, but the employer, on making any such payment, shall deduct, by reference to the appropriate code, the amount of tax which would have been deductible if the payment had been made on the preceding 6th April.
- (3) On making any such payment the employer shall—
- (a) record on the deductions working sheet for that employee—
 - (i) the date of the payment,
 - (ii) the amount of the emoluments, and
 - (iii) the amount of tax, if any, deducted on making the payment; and
 - (b) either record the particulars specified in paragraph (4) on the deductions working sheet or keep such records as enable the production of those particulars.
- (4) The particulars specified in this paragraph are—
- (a) the free emoluments, or, as the case may be, the additional pay for the appropriate code,
 - (b) the taxable emoluments, and
 - (c) where additional pay has been added, the tax due and the overriding limit.

Emoluments not paid weekly or monthly

18. Where emoluments are paid at regular intervals other than regular intervals of a week or a month—

- (a) the employer shall record the actual date of every such payment, and
- (b) any payment of such emoluments shall be deemed for the purposes of these Regulations to be made on the date on which it would have been made if a payment had been made in the last day of the preceding year.

Subsidiary emoluments of employee paid monthly or at greater intervals

19.—(1) This regulation applies where the employer makes a payment in respect of overtime or other extra earnings to an employee whose main emoluments—

- (a) are paid monthly, or
- (b) are paid at intervals greater than a month,

at an earlier date than that on which the main emoluments are paid.

(2) Where this regulation applies—

- (a) the employer shall not repay tax to the employee on the occasion of the payment, notwithstanding that tax may be repayable under regulation 14; but
- (b) regulation 14 shall have effect as if the payment was made on the same date as that on which the main emoluments are next paid.

Employee on fixed pay

20.—(1) In the case of an employee who is in receipt of a fixed salary or wage, the inspector may authorise the employer to deduct tax from each payment of emoluments which he makes to the employee by reference only to the amount of that payment, without regard to the cumulative emoluments and cumulative tax.

(2) Where the inspector has authorised the employer in accordance with paragraph (1), the employer shall—

- (a) deduct tax accordingly by reference to the appropriate taxable emoluments in the simplified tax tables, and
- (b) maintain a record on a deductions working sheet bearing the appropriate code, which the inspector shall issue for that purpose, of—
 - (i) the date of each such payment,
 - (ii) the amount of the emoluments,
 - (iii) the amount of the free emoluments,
 - (iv) the amount of the taxable emoluments, and
 - (v) the amount of tax, if any, deducted on making the payment.

(3) If an employer who has been authorised to deduct tax in accordance with paragraph (1) ceases to employ the employee in question, he shall forthwith return the deductions working sheet, duly completed, to the inspector or, if so required, to the collector.

(4) Regulations 6, 14 to 16, 23, 25, 26 and 38(1) shall not apply in cases to which this regulation applies.

Aggregation of emoluments in non-cumulative cases

21. Where under these Regulations tax is deductible otherwise than by reference to cumulative emoluments and cumulative tax, the amount of tax to be deducted in any week or income tax month shall be calculated by reference to the aggregate of the emoluments paid to the employee in that week or month.

Tax-free emoluments

22. Where the employer makes a payment to or for the benefit of the employee in respect of his income tax, the amount of the emoluments which the employer pays to the employee shall be deemed for the purposes of deduction and repayment of tax under these Regulations to be such a sum as will include the amount assessable on the employee in respect of the payment made by the employer in respect of the employee's income tax.

Cessation of employment

23.—(1) If the employer ceases to employ an employee in respect of whom a code authorisation has been issued to him, or is deemed under these Regulations to have been issued to him, he shall forthwith send to the inspector a certificate on the form provided containing the particulars specified in paragraph (2).

(2) The particulars specified in this paragraph are—

- (a) the name of the employee,
- (b) the employee's national insurance number,
- (c) any other number used to identify the employee,
- (d) the date on which the employment ceased,
- (e) the code appropriate to the employee,
- (f) the week or income tax month in which the last payment of emoluments was made to the employee, or in a case falling within regulation 18 was deemed to be so made,
- (g) the cumulative emoluments at the date of the payment referred to in sub-paragraph (f) above, and
- (h) the corresponding total net tax deducted.

(3) The employer shall make two copies of the certificate on the form provided, and subject to paragraph (4), shall deliver them to the employee on the day on which the employment ceases.

(4) If the employer fails to deliver the two copies of the certificate to the employee on the day on which the employment ceases and is so required under regulation 84(8), he shall deliver the two copies of the certificate to the specified office and not to the employee.

Emoluments paid after employment ceased

24.—(1) This regulation applies where any payment of emoluments is made to an employee—

- (a) by an employer after the employee has ceased to be employed by him, or
- (b) in respect of an employment which has ceased, by a trustee in bankruptcy, a receiver, a liquidator or any other person making such a payment in respect of an obligation of a former employer,

and the payment has not been included in the certificate issued to the employee in accordance with regulation 23(3).

(2) Where this regulation applies regulation 14 shall not apply, but the person making the payment shall—

- (a) deduct tax at the basic rate in force for the year in which the payment is made, and
- (b) record on a deductions working sheet (which he shall prepare for the purpose unless he has already prepared one for that year)—
 - (i) the date of the payment,
 - (ii) the amount of the emoluments, and

(iii) the amount of tax deducted on making the payment.

Commencement of subsequent employment

25.—(1) Immediately on commencing his next employment, the employee shall deliver the two copies of the certificate mentioned in regulation 23(3) to his new employer who, subject to paragraph (8), shall take the action specified in paragraphs (2) to (5).

(2) The action specified in this paragraph is that the employer shall—

(a) insert on one copy of the certificate—

(i) the address of the employee,

(ii) any number used to identify him,

(iii) the date on which the employment commenced, and

(iv) the code in use by the employer in respect of the employee, if other than the code contained in the certificate; and

(b) forthwith send that copy to the inspector by whom code authorisations are ordinarily issued to him.

(3) The action specified in this paragraph is that the employer shall—

(a) prepare a deductions working sheet in accordance with the particulars given on the copies of the certificate; and

(b) record on the working sheet the cumulative emoluments shown on the copies of the certificate.

(4) The action specified in this paragraph is that the employer shall record on the deductions working sheet or keep such records as enable the production of the following particulars, namely—

(a) save where the code contained in the certificate reflects additional pay, the cumulative free emoluments, the cumulative taxable emoluments and the corresponding cumulative tax as at the week or month shown on the copies of the certificate;

(b) where the code contained in the certificate reflects additional pay, the cumulative additional pay, the cumulative taxable emoluments and either the cumulative tax as at the week or month shown on the copies of the certificate or the total net tax deducted shown on the copies of the certificate, whichever is the less.

(5) The action specified in this paragraph is that, subject to paragraphs (6) and (7), the employer shall, on making any payment of emoluments to the employee, deduct or repay tax by reference to the appropriate code in accordance with regulation 14, and keep the records required by paragraphs (3) and (4) of regulation 38, as if the cumulative emoluments and cumulative tax shown on the deductions working sheet prepared in accordance with paragraph (3) above represented emoluments paid to the employee by the new employer and tax deducted by him.

(6) If tax is repayable on the occasion of the first such payment and the amount repayable exceeds £200, the new employer shall forthwith notify the inspector and shall not make the repayment until authorised to do so by the inspector.

(7) Where the certificate indicates that regulation 17 has been applied, references in paragraphs (3) to (5) to cumulative emoluments, cumulative free emoluments and cumulative tax shall be disregarded, and regulation 17 shall apply to payments of emoluments made by the new employer.

(8) Where the two copies of the certificate show that the last payment of emoluments was in the year preceding that in which the new employment commences, the new employer shall—

(a) if the date of the commencement of the new employment is within the first seven weeks of the year, comply with paragraphs (1) to (7) with the modification that he shall deduct

or repay tax without taking into account the cumulative emoluments and cumulative tax shown on the copies of the certificate; and

- (b) in any other case, comply with paragraph (2), but deduct tax from each payment of emoluments made by him to the employee, and keep records on a deductions working sheet which he shall prepare for that purpose, as if those payments had been payments to which regulation 30(2) applies.

(9) The delivery of the two copies of the certificate in accordance with paragraph (1) shall be treated for the purposes of this regulation as the issue of a code authorisation to the new employer in respect of the employee specifying the code contained in the certificate as the appropriate code.

(10) Where in relation to the year ending on 5th April 1994 the code contained in the certificate is no longer valid, the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in regulation 8(4) shall be treated for the purposes of paragraph (9) as if it was the code contained in the certificate.

(11) If the employee objects to the disclosure of his cumulative emoluments to his new employer, he may deliver the two copies of the certificate to the inspector before he commences his new employment, and the inspector may issue a code authorisation in respect of the employee to the new employer and direct that regulation 17 shall apply to all payments of emoluments which the new employer makes to the employee.

Pension emoluments

26.—(1) Retirement on pension shall not be treated as a cessation of employment for the purposes of regulation 23 or of this regulation if the emoluments are paid by the same person both before and after retirement, but any such person shall—

- (a) deduct tax in accordance with regulation 17 on making payments of pension emoluments to the employee after retirement; and
- (b) send to the inspector within 14 days after retirement a certificate on the form provided containing the particulars specified in paragraph (2).

(2) The particulars specified in this paragraph are—

- (a) the name of the employee,
- (b) the employee's national insurance number,
- (c) the date of the employee's retirement,
- (d) the cumulative emoluments at the date of retirement, and
- (e) the amount of pension payable weekly or monthly as the case may be.

(3) If the two copies of the certificate given to the employee in accordance with regulation 23(3) are delivered to an employer who pays or will pay pension emoluments to that employee, the employer shall—

- (a) deduct tax by reference to the code shown on the certificate and in accordance with regulation 17; and
- (b) complete one copy of the certificate in accordance with regulation 25(2) and send it to the inspector mentioned in that paragraph.

Death of employee

27.—(1) On the death of an employee in respect of whom a code authorisation has been issued by the inspector, or is deemed under these Regulations to have been issued, the employer shall forthwith send to the inspector the certificate mentioned in regulation 23(1), or the certificate mentioned in regulation 30(4), as the case may require, together with the two copies of the certificate

mentioned in regulation 23(3), and shall insert on the certificate the name and address of the personal representative of the deceased employee, if they are known to him.

(2) If the employer pays any emoluments after the date of the employee's death in respect of the employee's employment with him, he shall, on making any such payment, deduct or repay tax as if the deceased employee was still in his employment at the date of the payment, and—

- (a) if the amount of those emoluments and the date on which they will be paid are known to him at the time he completes the certificate mentioned in paragraph (1), he shall include on the certificate the amount of the emoluments, the date on which they will be paid, and the amount of tax which will be deducted or repaid; and
- (b) in any other case, he shall indicate on the certificate that a further payment of emoluments will be made by him.

Deduction of tax where appropriate code not known

Employee for whom appropriate code not known

28.—(1) Subject to paragraphs (4) and (5), if the employer makes any payment of emoluments—

- (a) to an employee in respect of whom he has not received a code authorisation from the inspector (and in respect of whom no code authorisation is deemed under regulation 8 to have been issued by the inspector), and that payment is equivalent to emoluments at a rate exceeding the minimum rate specified in paragraph (2), or
- (b) to a new employee with other employment, or to a new employee to whom neither regulation 29 nor 30 applies, at a rate exceeding £1 a week, or £4 a month,

the employer, on the occasion of any such payment, shall, subject to paragraph (3), forthwith render a return to the inspector giving the name and address of the employee, the employee's national insurance number, the date on which his employment commenced, and such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7.

(2) "The minimum rate" means—

- (a) subject to paragraph (b) below, such sum as represents one fifty-second part of the relief for the time being allowable under section 257(1) of the Taxes Act, rounded to the nearest 50 pence, or
- (b) in the case of an employee who is paid monthly or at longer intervals, one twelfth part of the relief for the time being allowable under section 257(1) of the Taxes Act, rounded to the nearest £1.

(3) If the employer, having rendered the return mentioned in paragraph (1), makes any subsequent payment of emoluments to the employee, he shall not be required to render any further return in the same year pursuant to that paragraph.

(4) This regulation shall not apply where—

- (a) the employee has delivered two copies of a certificate received by him in accordance with regulation 23(3) to his employer immediately on commencing employment; or
- (b) subject to paragraph (5), the employee is resident outside the United Kingdom and the emoluments consist of a pension.

(5) If the employer pays a pension, not being a pension arising wholly from an employment carried on abroad, to a person who is resident outside the United Kingdom in respect of whom he has not received a code authorisation from the inspector, and the payment is equivalent to emoluments at a rate exceeding the minimum rate, the employer shall, on the occasion of the first such payment, forthwith render a return to the inspector giving the name and address of the person entitled to the

pension, the date on which the pension commenced, and such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7.

Employee taking up employment after full-time education

29.—(1) This regulation applies to an employee within regulation 28(1)(a) who certifies, on a form provided by the Board, that he is taking up employment for the first time after a period of full-time education and that he has not made a claim as defined in regulation 81.

(2) If any payment made as described in regulation 28(1) is the first payment of emoluments made by the employer during the year to an employee to whom this regulation applies, and that payment is equivalent to emoluments at a rate exceeding the minimum rate, the employer, on making the payment, shall, on a deductions working sheet which he shall prepare for the purpose, enter cumulative emoluments and cumulative tax before the first payment as nil and deduct tax in accordance with regulation 14, applying the code specified by the Board as the appropriate code.

(3) On making any subsequent payment of emoluments to the employee where paragraph (2) applied to the first payment and where a code authorisation has not been issued in respect of the employee, the employer shall deduct or repay tax in accordance with regulation 14, continuing to apply the code specified by the Board as the appropriate code, and shall keep the records required by paragraphs (3) and (4) of regulation 38.

Employee taking up only or main employment

30.—(1) This regulation applies to an employee within regulation 28(1)(a), who is not within regulation 29, and who certifies, on a form provided by the Board, that the employment is his only or main employment.

(2) If any payment made as described in regulation 28(1) is the first payment of emoluments made by the employer during the year to an employee to whom this regulation applies, and that payment is equivalent to emoluments at a rate exceeding the minimum rate, the employer, on making the payment, shall deduct tax and keep records on a deductions working sheet which he shall prepare for the purpose as if the payment were one to which regulation 17 applied, applying the code specified by the Board as the appropriate code.

(3) On making any subsequent payment of emoluments to the employee where paragraph (2) applied to the first payment and where a code authorisation has not been issued in respect of the employee, the employer shall deduct tax as if such subsequent payment were one to which regulation 17 applied, applying the code specified by the Board as the appropriate code, and shall keep the records required by that regulation.

(4) Where paragraph (2) applied to the first payment of emoluments made by the employer to the employee and the employer ceases to employ the employee before a code authorisation has been issued to him by the inspector, then, unless regulation 34 has become applicable, regulations 23 and 25 shall apply, subject to the modifications that—

- (a) the two copies of the certificate of the employer under regulation 23(3) shall not contain particulars of the cumulative emoluments and cumulative tax; and
- (b) the new employer, instead of deducting or repaying tax by reference to the cumulative emoluments and cumulative tax, shall deduct tax and keep records in accordance with paragraph (3) as if each payment of emoluments made by him were one to which regulation 17 applied.

Other new employees

31.—(1) This regulation applies to an employee within regulation 28(1) who is not within regulation 29 or 30.

(2) Subject to paragraph (3), if any payment made as described in regulation 28(1) is the first payment of emoluments made by the employer during the year to an employee to whom this regulation applies, and the payment is at a rate exceeding £1 a week or £4 a month, the employer, on making the payment, shall, on a deductions working sheet which he shall prepare for the purpose, enter cumulative emoluments and cumulative tax before the first payment as nil and deduct tax in accordance with regulation 14, applying the code which effects deduction of tax at the basic rate as the appropriate code.

(3) If the payment is a payment of pension emoluments, then, subject to regulation 28(4) and (5), the employer, on making the payment, shall deduct tax and keep records on a deductions working sheet which he shall prepare for the purpose as if the payment were a payment to which regulation 30(2) applied, and for the purposes of paragraph (4) below, regulation 30(2) shall be treated as having applied to the payment.

(4) On making any subsequent payment of emoluments to the employee where paragraph (2) applied to the first payment and where a code authorisation has not been issued in respect of the employee, the employer shall deduct or repay tax in accordance with regulation 14, continuing to apply the code which effects deduction of tax at the basic rate as the appropriate code, and shall keep the records required by paragraphs (3) and (4) of regulation 38.

Initial procedure when payments made to employee for whom appropriate code not known

32. Whenever in accordance with regulation 29, 30, or 31, the employer uses the code specified by the Board or the code which effects deduction of tax at the basic rate, a code authorisation shall, for the purposes of regulations 6, 8, 13(1), 23(1) and 27(1), be deemed to have been issued to the employer by the inspector specifying whichever of those codes applies as the appropriate code.

Subsequent procedure on issue of code authorisation

33. On making any payment of emoluments to the employee after a code authorisation has been issued in respect of the employee, the employer shall—

- (a) deduct or repay tax by reference to the appropriate code in accordance with regulation 14, and
- (b) keep the records required by regulation 38 and for those purposes—
 - (i) any cumulative emoluments notified to the employer by the inspector shall be treated as if they represented emoluments paid by the employer; and
 - (ii) the total net tax deducted before the first payment made in accordance with this regulation shall be taken to be the sum of the total net tax deducted, if any, notified to the employer by the inspector and any tax which the employer was liable to deduct from the employee's emoluments under regulation 29, 30 or 31.

Subsequent procedure on presentation of copies of certificate

34.—(1) This regulation applies where, after the employer has acted in accordance with regulation 29, 30 or 31—

- (a) the employee delivers the two copies of a certificate received by him in accordance with regulation 23(3) to the employer, and
- (b) a code authorisation has not been issued to the employer in respect of the employee.

(2) Where this regulation applies and the certificate relates to an employment in respect of which the last payment of emoluments was made in the year in which the employee delivers the copies, then, unless the employer has already ceased to employ the employee, paragraphs (1) to (7) of regulation 25 shall apply as if the employee had delivered the two copies immediately on

commencing employment with the employer, and the delivery of the two copies shall be treated as if it were the issue on that day of a code authorisation to the employer in respect of the employee specifying the code shown on the certificate as the appropriate code, except that—

- (a) the employer shall not be obliged to prepare a further deductions working sheet if he has already prepared one;
- (b) the cumulative emoluments and total net tax deducted immediately before the payment of emoluments following the delivery of the copies shall be taken to be the sum of such cumulative emoluments and total net tax deducted as are shown on the copies, subject to paragraphs (1) to (7) of regulation 25, and such emoluments and tax as have been paid or deducted by the employer since the commencement of the employment;
- (c) regulation 25(6) shall not apply on the occasion of the payment of any emoluments to the employee by the employer after the employee has delivered the copies.

(3) Where this regulation applies and the certificate relates to an employment in respect of which the last payment of emoluments was made in the preceding year, and the employee delivers the copies—

- (a) within the first seven weeks of the year, then, subject to paragraph (4), and unless the employer has already ceased to employ the employee, the employer shall comply with regulation 25(2) and the cumulative emoluments and the total net tax deducted shall be such emoluments and tax as have been paid or deducted by the employer since the commencement of the employment or 6th April whichever was the later and the delivery of the copies shall be treated as if it were the issue on that day of a code authorisation to the employer in respect of the employee specifying the code shown on the certificate as the appropriate code;
- (b) after the end of the seventh week of the year, regulation 25 shall not apply.

(4) Where the certificate relates to the year ended 5th April 1993 and the code shown on the certificate is no longer valid, a code authorisation shall be deemed to have been issued on that day to the employer in respect of the employee specifying the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in regulation 8(4) as the appropriate code.

Repayment of tax

Repayment during absence from work through sickness etc.

35.—(1) In the circumstances specified in paragraph (2), and on application being made in person by the employee or his authorised representative, the employer shall—

- (a) make such repayment of tax to the employee as may be appropriate, having regard to the employee's cumulative emoluments at the date of the pay day in question, the corresponding cumulative tax and any tax not deducted when the last preceding payment of emoluments was made,
- (b) record the particulars specified in regulation 38(3), and
- (c) record the particulars specified in regulation 38(4) or, as the case may be, keep such records as enable the production of those particulars,

as if the occasion were one on which emoluments had been paid.

(2) The circumstances specified in this paragraph are that, owing to absence from work through sickness or other similar cause, the employee is entitled to receive no emoluments on the usual pay day, and regulation 17 would not apply to a payment made on that day.

(3) If, owing to absence from work otherwise than through sickness or other similar cause, the employee is entitled to receive no emoluments on the usual pay day, then, subject to regulation 36,

the employer shall proceed in accordance with paragraph (1) as if the absence was due to sickness or other similar cause.

Trade Disputes

36.—(1) This regulation applies where the employee is absent from work in consequence of a trade dispute at his place of employment.

(2) Where this regulation applies, then, subject to paragraph (6), unless the employee is not participating or directly interested in the trade dispute, the employer shall—

- (a) on the occasion of any payment of emoluments, calculate the amount of tax to be deducted or repaid, or
- (b) if no emoluments are paid on the usual pay day, calculate, in accordance with regulation 35(1), the amount of tax (if any) due to be repaid on that day,

and shall then proceed in accordance with paragraphs (3) to (5) below.

(3) The employer shall—

- (a) make no repayment of tax calculated as due to be repaid under paragraph (2) and not yet set off in accordance with sub-paragraph (b) below until—
 - (i) the employee is no longer so absent, or
 - (ii) the employer ceases to employ the employee, or
 - (iii) the employee has become genuinely employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation, or
 - (iv) the employee dies; but
- (b) deduct any tax due to be so deducted except that the deduction shall be reduced by any repayment for the year calculated in accordance with paragraph (2) and not yet paid or set off in accordance with this sub-paragraph.

(4) Where the absence of an employee extends beyond the end of the year, the employer shall—

- (a) give notice to the employee of the amount of any repayment of tax calculated in accordance with paragraph (2) which has not been set off against any tax due to be deducted under paragraph (3)(b); and
- (b) complete the certificate which is to be given under regulation 39 and the return which is to be rendered under regulation 43 as if that tax had been repaid to the employee.

(5) If he has not made any repayment of tax withheld under paragraph (3) within 42 days after the relevant event specified in sub-paragraph (a) of that paragraph, the employer shall not repay that tax to the employee after that date, but shall proceed in accordance with regulation 42(7).

(6) An employee from whom a repayment of tax has been withheld in accordance with paragraph (3) may request a benefit officer to certify that a determining authority under the Social Security Administration Act 1992(18) or, in Northern Ireland, the Social Security Administration (Northern Ireland) Act 1992(19), has decided for the purposes of a claim to benefit that the employee has proved that he is not participating or directly interested in a trade dispute, and if the benefit officer so certifies, the employer shall make such repayment as may be appropriate.

(7) In this regulation—

“benefit” has the same meaning as in regulation 81;

(18) 1992 c. 5.

(19) 1992 c. 8.

“benefit officer” means the appropriate officer of the Department of Employment or the Department of Social Security, as the case may be, or, in Northern Ireland, the appropriate officer of the Department of Health and Social Services for Northern Ireland;

“place of employment” has the meaning given by section 27(3) of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, section 27(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Repayment after cessation of employment

37.—(1) This regulation applies in the case of a person who has ceased to be employed.

(2) Where this regulation applies, the person shall, on applying for a repayment, produce to the inspector the two copies of the certificate delivered in accordance with regulation 23(3) or regulation 89(2) and a certificate that he was not a claimant within the meaning of regulation 81 for the relevant period, together with such evidence of his unemployment as the inspector may require.

(3) Where this regulation applies, and where the person has not made or has ceased to make a claim as defined in regulation 81, any repayment which may be appropriate at any date, having regard to his cumulative emoluments at that date, the corresponding cumulative tax, and any other emoluments paid to the employee for the year but not included in the cumulative emoluments, shall be made to him by the inspector.

Documents relating to the deduction and repayment of tax

Deductions working sheets etc.

38.—(1) Subject to the condition specified in regulation 6(2)(a), every employer, on making any payment of emoluments to any employee during any year, shall, if he has not already done so, prepare a deductions working sheet for that employee.

- (2) The employer shall record—
- (a) the name of the employee,
 - (b) the employee’s national insurance number,
 - (c) the appropriate code, and
 - (d) the year to which the working sheet relates,

on each deductions working sheet which he is required to prepare under these Regulations.

- (3) The employer shall record—
- (a) the date of the payment,
 - (b) the amount of the emoluments, and
 - (c) the amount of tax, if any, deducted or repaid on making the payment,

on the deductions working sheet for that employee regarding every payment of emoluments which he makes to the employee.

- (4) The employer shall either—
- (a) record—
 - (i) the cumulative emoluments in relation to the date of payment,
 - (ii) the cumulative free emoluments or, as the case may be, the cumulative additional pay, in relation to that date,
 - (iii) the cumulative taxable emoluments in relation to that date,
 - (iv) the corresponding cumulative tax,

- (v) where additional pay has been added to the payment, the tax due at that date,
 - (vi) the overriding limit, if any, in relation to the payment,
 - (vii) the amount of any tax not deducted at that date as a consequence of the overriding limit, and
 - (viii) the amount of tax, if any, repayment of which is precluded by regulation 36, on the deductions working sheet for that employee regarding every payment of emoluments which he makes to the employee; or
- (b) keep such records as enable the production of the particulars mentioned in paragraphs (i) to (viii) of sub-paragraph (a) above.

Certificate of tax deducted

39.—(1) The employer shall give a certificate under this regulation to every employee who is in his employment on the last day of the year and from whose emoluments any tax has been deducted during that year.

(2) The certificate shall be in a form provided or authorised by the Board and, subject to regulation 36(4), shall show—

- (a) the year to which it relates,
- (b) the total amount of the emoluments paid by the employer to the employee during the year, being emoluments which the employer was required to take into account for the purposes of deducting or repaying tax,
- (c) the total net tax deducted from the emoluments,
- (d) the appropriate code,
- (e) the employee’s national insurance number,
- (f) the name and address of the employer, and
- (g) in the case of a form not provided by the Board, that it has been approved by them in substitution for such a form.

(3) In the case of an employee taken into employment after the beginning of the year, the certificate shall include any emoluments paid to the employee by any previous employer and any tax deductible from those emoluments, being emoluments and tax which the employer giving the certificate was required to take into account for the purposes of deducting or repaying tax in the case of emoluments paid by him.

PART V

PAYMENT AND RECOVERY OF TAX, ETC.

Payment

Payment of tax monthly by employer

40.—(1) Subject to regulations 41 and 48(11), the employer shall pay the amount specified in paragraph (2) to the collector within 14 days of the end of every income tax month.

(2) The amount specified in this paragraph shall be determined by the formula—

$$(A + B) - (C + D)$$

where—

A is all amounts of tax which the employer was liable under these Regulations to deduct from emoluments paid by him in that income tax month;

B is all amounts of tax by which deductions in that income tax month were reduced in accordance with regulation 36(3)(b), being amounts in respect of which a reduction was claimed in an earlier income tax month in accordance with C below;

C is any amounts calculated as due to be repaid in that income tax month, but whose repayment was precluded during that income tax month by regulation 36(3); and

D is any amounts which he was liable to repay in that income tax month (excepting any amounts for which a reduction was claimed in any previous income tax month, or which are being recovered from the Board under regulation 42(6)).

Payment of tax quarterly by employer

41.—(1) Subject to regulation 48(11), the employer shall pay the amount specified in paragraph (2) to the collector within 14 days of the end of every income tax quarter where—

- (a) the employer has reasonable grounds for believing that the condition specified in paragraph (3) applies and so chooses, or
- (b) regulation 20 applies.

(2) The amount specified in this paragraph shall be determined by the formula—

$$(A + B) - (C + D)$$

where—

A is all amounts of tax which the employer was liable under these Regulations to deduct from emoluments paid by him in that income tax quarter;

B is all amounts of tax by which deductions in that income tax quarter were reduced in accordance with regulation 36(3)(b), being amounts in respect of which a reduction was claimed in an earlier income tax quarter in accordance with C below;

C is any amounts calculated as due to be repaid in that income tax quarter, but whose repayment was precluded during that income tax quarter by regulation 36(3); and

D is any amounts which he was liable to repay in that income tax quarter (excepting any amounts for which a reduction was claimed in any previous income tax quarter, or which are being recovered from the Board under regulation 42(6)).

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

- (a) regulation 40,
- (b) the Social Security Contributions and Benefits Act 1992 and the Social Security (Contributions) Regulations 1979(20) or, in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Contributions) Regulations (Northern Ireland) 1979(21), and
- (c) section 559 of the Taxes Act(22) and the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993(23),

will be less than £450 for income tax months falling within the current year.

(20) S.I. 1979/591.

(21) S.R. (N.I.) 1979 No. 186.

(22) Section 559 was amended by section 28 of the Finance Act 1988 and by S.I. 1989/2405 (N.I. 19).

(23) S.I. 1993/743.

Payment of tax by employer—further provisions

42.—(1) The collector shall give a receipt to the employer for the total amount paid under regulation 40 or 41 if so requested; but if a receipt is given for the total amount of tax and any earnings-related contributions paid at the same time, then no separate receipt for tax only need be given.

(2) If the amount specified in regulation 40(2) or 41(2) which the employer is liable to pay to the collector exceeds the amount actually deducted by him from emoluments paid during the relevant income tax period, the collector, on being satisfied by the employer that he took reasonable care to comply with these Regulations and that the under-deduction was due to an error made in good faith, may direct that the amount of the excess shall be recovered from the employee, and, where the collector so directs, the employer shall not be liable to pay the amount of that excess to the collector.

(3) If the amount specified in regulation 40(2) or 41(2) which the employer is liable to pay to the collector exceeds the amount actually deducted by him from emoluments paid during the relevant income tax period, the Board, if they are of the opinion that an employee has received his emoluments knowing that the employer has wilfully failed to deduct the amount of tax which he was liable to deduct under these Regulations from those emoluments, may direct that the amount of the excess shall be recovered from the employee, and, where the Board so direct, the employer shall not be liable to pay the amount of that excess to the collector.

(4) If tax recoverable from an employee under paragraph (3) does not carry interest under section 88 of the Management Act(24), it shall carry interest in accordance with regulation 51 from the reckonable date until whichever is the earlier of—

- (a) the date on which payment is made, or
- (b) the date (if any) immediately before the date on which it begins to carry interest under section 86 of the Management Act(25).

(5) If a difference arises between the employer and the employee—

- (a) as to whether the employer has deducted tax, or
- (b) as to whether, having regard to regulation 22, the employer is deemed to have deducted tax, or
- (c) as to the amount of the tax that has been deducted, or
- (d) as to the amount of the tax that is deemed, having regard to regulation 22, to have been deducted

from emoluments paid to the employee, the matter shall, for the purpose of ascertaining the amount of any tax to be recovered from the employee under paragraph (2) or (3), be determined by—

(i) such General Commissioners as the Board, having regard to all the circumstances, shall direct, or

(ii) in the case of a non-resident employee, the Special Commissioners, and the determination of those Commissioners shall be final.

(24) Section 88 was amended by paragraph 87 of Schedule 6 to the Finance Act 1971 (c. 68), section 46(4) of the Finance (No. 2) Act 1975, section 61(4) of the Finance Act 1980 (c. 48), paragraph 32 of Schedule 29 and Schedule 31 to the Income and Corporation Taxes Act 1988, and sections 159, 160(1), 161 and 179(1) of the Finance Act 1989, and (prospectively) by section 86(4) of the Finance (No. 2) Act 1987 (c. 51).

(25) Section 86 was substituted by section 46(1) of the Finance (No. 2) Act 1975; the section as substituted was amended by sections 61(3) and 62(1) and (2) of the Finance Act 1980, Part V of Schedule 16 to the Finance Act 1987 (c. 16), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, sections 156(1) and 179(1) of the Finance Act 1989, section 73(4) and (5) of, and paragraph 1 of Schedule 15 to, the Finance Act 1991, sub-paragraphs (1) and (8) of paragraph 2 of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12) and paragraph 3 of Schedule 11 to, and Part VII(8) of Schedule 18 to, the Finance (No. 2) Act 1992, and (prospectively) by section 86(2) of the Finance (No. 2) Act 1987 and section 158(1) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

(6) If the total of the amounts which the employer was liable to repay during any income tax period exceeds the total of the amounts which he was liable to deduct during that income tax period, the employer shall be entitled to deduct the excess from any subsequent payment which he is liable to make to the collector under regulation 40 or 41 or to recover that excess from the Board; but that excess shall not include any amount for which a reduction was made in a payment under regulation 40 or 41 in a previous income tax period, or any amount which is otherwise being recovered from the Board.

(7) If he has not made any repayment of tax withheld under paragraph (3) of regulation 36 within 42 days after the relevant event specified in sub-paragraph (a) of that paragraph, the employer shall pay the tax not repaid to the collector forthwith, and paragraph (1) of this regulation shall apply to the amount paid.

(8) A certificate of the collector that any amount of interest payable under paragraph (4) 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.

(9) Any document purporting to be a certificate under paragraph (8) shall be deemed to be such a certificate until the contrary is proved.

Documents relating to the payment of tax

Return by employer at end of year where deductions working sheets required

43.—(1) The employer shall render a return to the inspector or, if so required, to the collector, not later than 44 days after the end of the year, in such form as the Board may approve or prescribe, containing the particulars specified in paragraph (2) in respect of each employee in respect of whom the employer was required at any time during the year to prepare or maintain a deductions working sheet in accordance with these Regulations.

(2) The particulars specified in this paragraph are such particulars as the Board may require for the identification of—

- (a) the employee,
- (b) the year to which the return relates,
- (c) the total amount of the emoluments paid by the employer to the employee during that year,
- (d) the appropriate code, and
- (e) subject to regulation 36(4), the total net tax deducted from the emoluments.

(3) The return required by paragraph (1) shall include the statement and declaration specified in paragraph (4) and the certificate specified in paragraph (5).

(4) The statement and declaration specified in this paragraph is a statement and declaration, signed by the employer, in the form approved or prescribed by the Board, containing a list of all deductions working sheets on which the employer was required to keep records in accordance with these Regulations in respect of that year.

(5) The certificate specified in this paragraph is a certificate, signed by the employer, showing—

- (a) the total net tax deducted or the total net tax repaid in the case of each employee, and
- (b) the total net tax deductible or repayable under these Regulations in respect of all his employees,

during that year.

(6) Where an employee has been taken into employment after the beginning of the year, the return made under paragraph (1) shall also show the total amount of—

- (a) any emoluments paid to the employee by any previous employer, and
- (b) any tax deductible or, where required either to be recorded on the deductions working sheet or to be capable of being produced from other records pursuant to regulation 25(4), any tax deducted from those emoluments,

being emoluments and tax which the employer rendering the return was required to take into account for the purposes of deducting or repaying tax in the case of emoluments paid by him.

(7) Where the employer is a body corporate, the statement and declaration specified in paragraph (4) and the certificate specified in paragraph (5) shall be signed either by the secretary or by a director of the body corporate.

(8) If an employer has failed to pay the total net amount of tax which he is liable to pay to the collector within 14 days of the end of any year, the collector may prepare a certificate showing the net amount of tax remaining unpaid for that year.

(9) Paragraphs (1) to (5) of regulation 54 shall apply to the amount shown in a certificate under paragraph (8) with the modification that summary proceedings for the recovery of the net amount of tax or such part of it as remains unpaid may be brought at any time before the expiry of—

- (a) twelve months after the date limited for delivery of the statement specified in paragraph (4), or
- (b) if that statement is not delivered by that date, the expiry of twelve months after its delivery.

(10) A certificate of the collector under paragraph (8) that the net amount of tax remaining unpaid for that year 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 is due to the Crown.

(11) Any document purporting to be a certificate under paragraph (8) shall be deemed to be such a certificate until the contrary is proved.

(12) Section 98A of the Management Act shall apply in relation to the provisions of paragraph (1) requiring a return to be made.

Return by employer where deductions working sheets not required

44. A return shall be made in respect of every employee to whom the employer paid emoluments at any time during the year at a rate exceeding the minimum rate, but in respect of whom the employer was not required under these Regulations to prepare a deductions working sheet.

Additional return in cases involving a trade dispute

45.—(1) In the circumstances specified in paragraph (2), the employer shall forthwith render an additional return containing the particulars specified in paragraph (3) and the statement specified in paragraph (4).

(2) The circumstances specified in this paragraph are where—

- (a) the employer has not made any repayment of tax withheld under regulation 36(3) within 42 days after the relevant event specified in regulation 36(3)(a), and
- (b) a return has been made under regulation 43 in accordance with regulation 36(4)(b).

(3) The particulars specified in this paragraph are, in respect of each employee, such particulars as the Board may require—

- (a) for the identification of the employee,
- (b) of the year to which the return relates, and
- (c) of the total tax not repaid.

- (4) The statement specified in this paragraph is a statement containing—
- (a) a list of the names of all employees in respect of whom the additional return is made,
 - (b) the amount of tax not repaid in respect of each of those employees, and
 - (c) a total of the tax not repaid by the employer for that year.

Return of other additional emoluments

46.—(1) The employer shall render a return or returns to the inspector, not later than 61 days after the end of the year, in such form as the Board may approve or prescribe, containing in respect of each employee—

- (a) the particulars specified in paragraph (2), and,
 - (b) in the case of an employee who is employed in employment to which Chapter II of Part V of the Taxes Act applies, the additional particulars specified in paragraph (3).
- (2) The particulars specified in this paragraph are particulars of—
- (a) any emoluments given by the employer to the employee otherwise than in money,
 - (b) any payments made on behalf of the employee and not repaid,
 - (c) any emoluments which the employee is treated by section 141(1) of the Taxes Act as having received in that year by reason of the provision of a non-cash voucher by the employer,
 - (d) any emoluments which the employee is treated by section 142(1) of the Taxes Act as having received in that year by reason of the provision of a credit-token by the employer, and
 - (e) any living accommodation which has been provided for the employee or for members of his family or household by the employer and of the amount of any emoluments of which the employee is treated by virtue of section 145 or 146 of the Taxes Act⁽²⁶⁾, or by virtue of those sections together, as being in receipt in respect of that accommodation.
- (3) The particulars specified in this paragraph are particulars of—
- (a) any payments made by the employer to the employee by reason of his employment in respect of expenses,
 - (b) any sums put by the employer at the disposal of the employee by reason of his employment and paid away by him, and
 - (c) any benefits provided by the employer for the employee (or for any other person) by reason of his employment such as give rise to any charge to tax under sections 154 to 165 of the Taxes Act.

Unpaid tax

Notice and certificate when tax not paid

47.—(1) This regulation applies where, within 14 days of the end of any income tax period, the employer has paid no amount of tax to the collector under regulation 40 or 41 for that income tax period, and the collector is unaware of the amount, if any, which the employer is liable so to pay.

(2) Where this regulation applies, the collector may give notice to the employer, requiring him to render, within 14 days, a return in such form as the Board may prescribe showing the amount of

(26) Section 146 was amended by section 179(5) of the Finance Act 1989.

tax which the employer is liable to pay to the collector under regulation 40 or 41 in respect of the income tax period in question.

(3) Where a notice given by the collector under paragraph (2) extends to two or more consecutive income tax periods, these Regulations shall have effect as if those consecutive income tax periods were one income tax period.

(4) The collector may give a notice under paragraph (2) notwithstanding that an amount of tax has been paid to him by the employer under regulation 40 or 41 for an income tax period, if he is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that income tax period, and this regulation shall have effect accordingly.

(5) Upon receipt of a return made by the employer under paragraph (2), the collector may prepare a certificate showing the amount of tax which the employer is liable to pay to him for the income tax period in question.

(6) Paragraphs (1) to (5) of regulation 54 shall apply to the amount shown in a certificate under paragraph (5).

(7) The production of the return made by the employer under paragraph (2) and of the certificate of the collector under paragraph (5) shall be sufficient evidence that the amount shown in the certificate is the amount of tax which the employer is liable to pay to the collector in respect of the income tax period in question.

(8) Any document purporting to be a certificate under paragraph (5) shall be deemed to be such a certificate until the contrary is proved.

Notice of specified amount and certificate when tax not paid

48.—(1) This regulation applies where, after 14 days following the end of any income tax period, the employer has paid no amount of tax to the collector under regulation 40 or 41 for that income tax period, despite demand being made, and there is reason to believe that the employer is liable so to pay.

(2) Where this regulation applies, 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 the employer of that amount.

(3) Where the employer has paid no amount under regulation 40 or 41 for the relevant income tax periods, the collector may give a notice under paragraph (2) which extends to two or more consecutive income tax periods, and these Regulations shall have effect as if those income tax periods were the latest income tax period specified in the notice.

(4) The collector may give a notice under paragraph (2) notwithstanding that an amount of tax has been paid to him by the employer under regulation 40 or 41 for any income tax period, if he is not satisfied, after seeking the employer's explanation, that the amount so paid is the full amount which the employer is liable to pay to him for that income tax period, and this regulation shall have effect accordingly.

(5) If, during the period allowed in a notice given by the collector under paragraph (2), the employer claims, but does not satisfy the collector, that the payment made in respect of the income tax period specified in the notice is the full amount he is liable to pay to the collector for that income tax period, then—

- (a) 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 regulation 55(1), and
- (b) regulation 55 shall apply to that inspection, and the notice given by the collector under paragraph (2) shall be disregarded.

(6) Subject to paragraph (7), if the specified amount of tax, or any part of it, is unpaid on the expiration of the period of seven days allowed in the notice, the amount so unpaid shall—

- (a) be certified by the collector, and
- (b) be deemed to be an amount of tax which the employer was liable to pay for that income tax period in accordance with regulation 40 or 41.

(7) Paragraph (6) shall not apply if, during the period allowed in the notice—

- (a) the employer pays the full amount of tax which he is liable to pay to the collector under regulation 40 or 41 for that income tax period, or
- (b) the employer satisfies the collector that no amount, or no further amount, is due for that income tax period.

(8) Paragraphs (1) to (5) of regulation 54 shall apply to the amount shown in a certificate under paragraph (6).

(9) The production of a certificate under paragraph (6) shall be sufficient evidence that the employer is liable to pay the amount shown in the certificate to the collector.

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

(11) 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 period 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 40 or 41 for any subsequent income tax period.

(12) If the employer renders the return required by regulation 43(1) after the end of the year, 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 this regulation shall be repaid.

Formal determination of tax payable by employer

49.—(1) This regulation applies where it appears to the inspector that there may be tax payable under regulation 40 or 41 which—

- (a) has not been paid to the collector, and
- (b) has not been certified by the collector under regulation 43, 47, 48 or 55.

(2) Where this regulation applies, the inspector may determine the amount of that tax to the best of his judgment, and shall serve notice of his determination on the employer.

(3) A determination under this regulation shall not include tax in respect of which a direction under regulation 42(2) or (3) has been made; and directions under that regulation shall not apply to tax determined under this regulation.

(4) A determination under this regulation may—

- (a) cover the tax payable by the employer under regulation 40 or 41 for any one or more income tax periods in a year, and
- (b) extend to the whole of that tax or to such part of it as is payable 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.

(5) Where—

- (a) any part of the tax determined under this regulation is not paid within 30 days from the date on which the determination became final and conclusive, and

- (b) the Board consider that a direction under regulation 42(3) would, but for paragraph (3) of this regulation, have been made,

the Board may direct that such part of that tax as it appears to them should have been but was not deducted under these Regulations by the employer on payment of the relevant emoluments shall (without prejudice to the right of recovery from the employer) be recovered from the employee.

(6) If tax recoverable from an employee under paragraph (5) does not carry interest under section 88 of the Management Act, it shall be recoverable from the employee together with interest in accordance with—

- (a) regulation 50, in relation to any year not later than the year ended 5th April 1992, from the reckonable date (as defined in that regulation), or
(b) regulation 51, in relation to the year ended 5th April 1993 or any subsequent year, from the reckonable date (as defined in that regulation)

until whichever is the earlier of—

- (i) the date on which payment is made, or
(ii) the date (if any) immediately before the date on which it begins to carry interest under section 86 of the Management Act.

(7) A determination under this regulation shall be subject to the like provisions as are contained in Parts IV, V and VI of the Management Act as if it was an assessment, and as if the amount of tax determined was income tax charged on the employer, and those Parts of that Act shall apply accordingly with any necessary modifications.

(8) Regulation 100 shall apply, with the necessary modifications, to appeals against determinations under this regulation as it applies to appeals against assessments of emoluments.

(9) A certificate of the collector that any amount of interest payable under paragraph (6) 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.

(10) Any document purporting to be a certificate under paragraph (9) shall be deemed to be such a certificate until the contrary is proved.

Interest on unpaid tax which has been formally determined

50.—(1) Where—

- (a) an employer has not paid an amount of tax to the collector under regulation 40 or 41, and
(b) the inspector, at any time after 19th April 1988, makes a determination of the amount of such tax under regulation 49, and
(c) the determination does not relate to a year later than the year ended 5th April 1992, and
(d) tax is payable pursuant to that determination,

the tax so payable shall carry interest at the prescribed rate from the reckonable date until payment.

(2) Subject to paragraph (3), in this regulation “the reckonable date” means the 14th day after the end of the year to which the determination relates and, for the purposes of this regulation, where tax payable by the employer for any one or more income tax periods is covered by a determination, that determination shall relate to the year of which that period forms part.

(3) Where, at any time after 19th April 1988, an inspector makes a determination that relates to a year earlier than the year ending on 5th April 1988, then tax payable in accordance with that determination shall carry interest at the prescribed rate from 19th April 1988 until payment and in those circumstances that date shall be the reckonable date.

Interest on tax overdue—general

51.—(1) Subject to paragraph (2), where, in relation to the year ended 5th April 1993 or any subsequent year, an employer has not within 14 days after the end of a year paid to the collector the total net tax deductible by him in respect of all his employees during that year, the tax not so paid shall carry interest at the prescribed rate from the reckonable date until payment.

(2) Paragraph (1) shall not apply to any tax in respect of which a direction under regulation 42(2) or (3) has been made.

(3) In this regulation “the reckonable date”, in relation to any year, means the 14th day after the end of that year.

(4) A certificate of the collector that any amount of interest payable under this regulation 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.

(5) Any document purporting to be a certificate under paragraph (4) shall be deemed to be such a certificate until the contrary is proved.

Interest on tax overdue—further provisions

52.—(1) In regulation 50 and 51 “the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989(27) for the purposes of section 86 of the Management Act; and where that rate changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989(28) by virtue of those Regulations, the change shall have effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

(2) The tax payable to which regulation 50(1) or 51(1) applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(29).

(3) Interest payable under regulation 50 or 51 shall be recoverable as if it were an amount of tax which an employer is liable under regulation 40 or 41 to pay to the collector.

Interest on tax overpaid

Interest on tax overpaid by employer

53.—(1) Where tax in respect of the year ended 5th April 1993 or any subsequent year is repaid to an employer in the circumstances specified in paragraph (2), the tax repaid shall carry interest at the prescribed rate from the relevant time until the order for the repayment is issued.

(2) The circumstances specified in this paragraph are where the tax is repaid—

- (a) after the end of the year following that in respect of which the tax was paid, and
- (b) after the end of the year in which the tax was paid.

(3) In this regulation “the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of the Taxes Act(30); and where that rate

(27) Section 178 was amended by section 17(10) of the Social Security Act 1990 (c. 27), paragraph 107 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c. 6), paragraph 19(4) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 and paragraph 5 of Schedule 11 to the Finance (No.2) Act 1992.

(28) S.I. 1989/1297, to which there are amendments not relevant to these Regulations.

(29) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(30) Section 824 was amended by paragraph 7 of Schedule 13 to the Finance Act 1988, sections 110(5), 111(4), 158(2) and 179(1) of, and Parts IV, VIII and X of Schedule 17 to, the Finance Act 1989, and sub-paragraphs (1) and (52) of paragraph 14 of Schedule 10 to the Taxation of Chargeable Gains Act 1992.

changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989 by virtue of those Regulations, the change shall have effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

- (4) In this regulation “the relevant time” means—
- (a) in the case of a repayment of tax which was paid more than twelve months after the end of the year in respect of which the payment was made, the end of the year in which that tax was paid; and
 - (b) in any other case, the end of the year after the year in respect of which the payment was made.

Recovery

Recovery of tax

54.—(1) Subject to paragraph (3), the provisions of any enactment relating to the recovery of income tax charged under Schedule E shall apply to the recovery of the amount of tax specified in paragraph (2) (in this regulation referred to as “the amount of tax”) as if the amount of tax had been charged under Schedule E by way of an assessment on the employer.

(2) The amount of tax specified in this paragraph is any amount of tax which an employer is liable under regulation 40 or 41, or is deemed liable under regulation 48, to pay to the collector for any income tax period.

(3) Summary proceedings for the recovery of the amount of tax may be brought in England, Wales or Northern Ireland at any time before the expiry of twelve months—

- (a) after the date on which the amount of tax became payable, or
- (b) where a return has been required under regulation 47, after the date of the delivery of that return to the collector.

(4) Proceedings may be brought for the recovery of the amount of tax without distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question, and the amount of tax shall be one cause of action or one matter of complaint for the purposes of—

- (a) proceedings under section 66 of the Management Act⁽³¹⁾, and
- (b) summary proceedings, including, in Scotland, proceedings in the sheriff court.

(5) Nothing in paragraph (4) shall prevent the bringing of separate proceedings for the recovery of each of the several amounts 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 tax 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.

⁽³¹⁾ Section 66 was amended by paragraph 36 of Schedule 2 to the County Courts Act 1984 (c. 28), section 57(2) of the Finance Act 1984 and by S.I. 1980/397 (N.I.3) and 1991/724.

Inspection of records

Inspection of employer's records

55.—(1) Every 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, certificates given in accordance with regulations 29(1) and 30(1) (other than those which the employer has sent to the inspector) and other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees in respect of the years or income tax periods specified by such officer or to the deduction of tax from such emoluments; or

(b) such of those wages sheets, deductions working sheets, certificates 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

(c) in default of such agreement and if there is no such place as is referred to in subparagraph (b) above, 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);

(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) a receipt for any document so removed; and

(b) a copy of the document, free of charge, within seven days, to the person by whom it was produced or caused to be produced where the document is reasonably required for the proper conduct of a business.

(6) Where a lien is claimed on a document produced in accordance with paragraphs (1) and (2), the removal of the document under paragraph (4)(b) shall not be regarded as breaking the lien.

(7) 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.

(8) By reference to the information obtained from an inspection of the documents and records produced under paragraphs (1) and (2), the collector may, on the occasion of each inspection, prepare a certificate showing—

(a) the amount of tax which it appears from the documents and records so produced that the employer is liable to pay to the collector for the years or income tax periods covered by the inspection; and

(b) any amount of such tax which 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.

(9) Paragraphs (1) to (5) of regulation 54 shall apply to the amount shown in a certificate under paragraph (8), with the modification that summary proceedings for the recovery of the amount of tax, or such part of it as remains unpaid, may be brought at any time before the expiry of twelve months after the date of the certificate.

(10) The production of a certificate under paragraph (8) shall be sufficient evidence that the employer is liable to pay the amount shown in the certificate pursuant to paragraph (8)(b) to the collector in respect of the years or income tax periods mentioned in the certificate.

(11) Any document purporting to be a certificate under paragraph (8) shall be deemed to be such a certificate until the contrary is proved.

(12) For the purposes of paragraphs (1) and (2), such of the wages sheets, deductions working sheets, certificates and other documents and records mentioned in those paragraphs as are not required by other provisions of these Regulations to be sent to the inspector or collector shall be retained by the employer for not less than three years after the end of the year to which they relate.

PART VI

SPECIAL PROVISIONS

CHAPTER I

COUNCILLORS' ATTENDANCE ALLOWANCES

Interpretation of Chapter I

56. In this Chapter unless the context otherwise requires—

“attendance allowance” means a payment by way of attendance allowance within section 173(1) of the Local Government Act 1972⁽³²⁾, regulations made under section 18 of the Local Government and Housing Act 1989⁽³³⁾ or regulation 4(1) of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1981⁽³⁴⁾;

“council” and “joint committee” shall be construed in accordance with section 148(1) of the Local Government Act (Northern Ireland) 1972⁽³⁵⁾;

“councillor” means any person who is entitled to receive a payment by way of attendance allowance by virtue of section 173(1) of the Local Government Act 1972 or regulations made under section 18 of the Local Government and Housing Act 1989 and any member of a council entitled to receive a payment by way of attendance allowance by virtue of regulation 4(1) of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1981;

“employer” includes the local authority, council, joint authority or joint committee paying the attendance allowance;

“local authority” in England and Wales has the meaning assigned to it by section 270(1) of the Local Government Act 1972 and in Scotland has the meaning assigned to it by section 235(1) of the Local Government (Scotland) Act 1973⁽³⁶⁾.

⁽³²⁾ 1972 c. 70; section 173(1) was amended by section 24(1) of the Local Government, Planning and Land Act 1980 (c. 65) and by paragraph 26 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42).

⁽³³⁾ 1989 c. 42; the Regulations in force on the date these Regulations are made are the Local Authorities (Members' Allowances) Regulations 1991 (S.I. 1991/351) and the Local Authorities Etc. (Allowances) (Scotland) Regulations 1991 (S.I. 1991/397 (S.39)).

⁽³⁴⁾ S.R. (N.I.) 1981 No. 354.

⁽³⁵⁾ 1972 c. 9 (N.I.).

⁽³⁶⁾ 1973 c. 65.

Councillor's option to have tax deducted at basic rate

57.—(1) This regulation applies where a councillor is entitled to receive an attendance allowance.

(2) Where a councillor is aggrieved by the inspector's determination under regulation 7 or 9, he may, by notice to the inspector, opt to have income tax deducted from the attendance allowance at the basic rate in force at the time of payment of the attendance allowance.

(3) On receipt of any such notice the inspector shall give notice to the employer of the exercise of the option.

(4) On receipt of a notice given by the inspector to the employer under paragraph (3), and subject to paragraph (5), the employer, on making any payment of an attendance allowance to the councillor, shall deduct income tax at the basic rate in force at the time of that payment.

(5) Where a councillor has exercised his option under paragraph (2) and the inspector considers that the councillor may be obliged to expend money wholly, exclusively and necessarily in the performance of his duties as a councillor, the inspector may direct the employer to disregard an appropriate amount of the councillor's attendance allowance in calculating the tax to be deducted when any payment of attendance allowance is made to the councillor.

(6) Where the inspector has given notice to the employer of the exercise by a councillor of the option in paragraph (2), the employer shall record, on a deductions working sheet, the particulars specified in paragraph (7) regarding every payment of attendance allowance which he makes to the councillor.

(7) The particulars specified in this paragraph are—

- (a) the date of the payment,
- (b) the amount of the attendance allowance,
- (c) where paragraph (5) applies, the net amount of the attendance allowance from which tax has been deducted, and
- (d) the amount of tax deducted from the attendance allowance.

Application of Part V of these Regulations

58. Part V of these Regulations shall apply to tax liable to be deducted under regulation 57(4).

CHAPTER II

RESERVE AND AUXILIARY FORCES

Interpretation of Chapter II

59.—(1) In this Chapter unless the context otherwise requires—

“the Ministry” means—

- (a) in relation to emoluments paid to members of the Merchant Navy Reserve, the Department of Transport, and,
- (b) in all other cases, the Ministry of Defence;

“reserve and auxiliary forces” includes the forces specified in paragraph (2);

“reserve pay” means emoluments paid by the Ministry to members of the reserve and auxiliary forces;

“reservist” means any person in receipt of reserve pay other than a person who is not resident in the United Kingdom and is serving outside the United Kingdom.

(2) The forces specified in this paragraph are—

- (a) Royal Naval Reserve,
- (b) Royal Marines Reserve,
- (c) Royal Fleet Reserve,
- (d) Royal Naval Special Reserve (Special List),
- (e) Women's Royal Naval Reserve,
- (f) Women's Royal Naval Supplementary Reserve,
- (g) Queen Alexandra's Royal Naval Nursing Service Reserve,
- (h) Voluntary Aid detachment (Naval Reserve),
- (j) Regular Army Reserve of Officers,
- (k) Army Reserves, including Regular Reserves and Army General Reserve,
- (l) Territorial and Army Volunteer Reserve,
- (m) Officer cadets of University Officers Training Corps,
- (n) Royal Air Force Reserve of Officers,
- (o) Royal Air Force Volunteer Reserve (including University Air Squadron members),
- (p) Class E of the Royal Air Force Reserve,
- (q) Women's Royal Air Force Reserve of Officers,
- (r) Women's Royal Air Force Volunteer Reserve,
- (s) Royal Auxiliary Air Force,
- (t) Women's Royal Auxiliary Air Force,
- (u) Princess Mary's Royal Air Force Nursing Service Reserve,
- (v) Officers, Adult Instructors and Adult Warrant Officers of the Sea Cadet Corps, Army Cadet Forces, Air Training Corps and Combined Cadet Force, and
- (w) Merchant Navy Reserve.

Disapplication of Parts III and IV of these Regulations

60. Parts III and IV of these Regulations shall not apply to reserve pay.

Deduction of tax

61.—(1) Subject to paragraph (2), the Ministry, on making any payment of reserve pay to a reservist during any year, shall deduct income tax at the basic rate in force at the time payment is made.

(2) The Ministry shall not deduct income tax if—

- (a) it has received notice from the inspector of a determination for that year under any of the following provisions of this Chapter that tax shall not be deducted from reserve pay, and
- (b) it has not received notice of any amendment of that determination.

(3) Regulation 8 shall not apply to any notice within paragraph (2).

(4) This regulation shall apply on the making of any payment of reserve pay notwithstanding that an objection or appeal has been made under regulation 63 or 64.

Determination by inspector

62.—(1) The inspector may make a determination that tax shall not be deducted from reserve pay if he is satisfied that the reservist will not be liable to income tax on the full amount of the reserve

pay in that year, on the footing that any reliefs from income tax to which the reservist is entitled are allowable primarily against his income from other sources.

(2) The inspector may make the determination referred to in paragraph (1) either prior to or at any time during any year.

(3) If the inspector makes the determination referred to in paragraph (1), he shall give notice of that determination to the reservist and to the Ministry.

Objections and appeals

63.—(1) A reservist from whose reserve pay tax has been deducted in accordance with regulation 61 may give notice of objection to the inspector stating the grounds of his objection if he is aggrieved by that deduction.

(2) On receipt of the notice of objection the inspector shall make a determination whether income tax at the basic rate shall be deducted from the reserve pay, and shall give notice of that determination to the reservist.

(3) The inspector may amend his determination by agreement with the reservist, and, in default of such agreement, the reservist, on giving notice to the inspector, may appeal against the determination.

(4) An appeal under paragraph (3) may be made to the General or Special Commissioners.

(5) Subject to paragraph (6), an appeal to the General Commissioners shall be heard in accordance with the like rules as are contained in paragraph 3 of Schedule 3 to the Management Act.

(6) The like provisions as are contained in section 44(2) of the Management Act shall apply to the appeal as they apply to appeals against assessments.

(7) On appeal, the Commissioners shall determine whether income tax at the basic rate shall be deducted from the reserve pay having regard to the circumstances by reference to which the inspector may determine under regulation 62 that income tax at the basic rate shall not be deducted from reserve pay.

(8) Subject to regulation 64, the determination of the Commissioners shall be final.

(9) If, on appeal, the Commissioners determine that tax shall not be deducted from the reserve pay, the inspector shall give notice of that determination to the Ministry.

Amended determinations

64.—(1) If a determination by the inspector or the Commissioners under regulation 62 or 63 is found to be inappropriate because the actual circumstances are different from the circumstances by reference to which it was made, the inspector shall amend that determination.

(2) The inspector shall give notice of his amendment of that determination to the reservist and to the Ministry.

(3) Regulation 63 shall apply in relation to an amendment of a determination as it applies in relation to a determination under regulation 63(2).

Certificate of tax deducted

65.—(1) The Ministry may, and when required to do so shall, give the reservist a certificate in a form authorised by the Board showing the particulars specified in paragraph (2) in respect of any payment of reserve pay made during the year from which tax is deducted.

(2) The particulars specified in this paragraph are—

- (a) the date of the payment,
- (b) the amount of the payment, and

- (c) the amount of tax deducted on making the payment.

Repayment to reservist during the year

66.—(1) The Ministry shall not repay tax in respect of reserve pay to a reservist.

(2) On application being made to him by the reservist, the inspector may make such repayment to the reservist as may be appropriate at any time during the year having regard to the matters specified in paragraph (3).

(3) The matters specified in this paragraph are—

- (a) the reserve pay of the reservist for the period from the beginning of the year up to and including the date of that application,
- (b) the amount of tax deducted from that reserve pay as evidenced by certificates of pay and tax supplied under regulation 65, and
- (c) any reliefs from income tax to which the reservist is entitled, and his income for the year from all other sources and his liability to tax on that income, as estimated by the inspector.

Ministry records

67.—(1) The Ministry shall record, on a deductions working sheet, the particulars specified in paragraph (2) regarding every payment of reserve pay made to a reservist.

(2) The particulars specified in this paragraph are—

- (a) the date of the payment,
- (b) the amount of the payment, and
- (c) the amount of tax, if any, deducted on making the payment.

End of year certificate

68.—(1) After the end of the year the Ministry shall give the certificate specified in paragraph (2) to a reservist to whom paragraph (3) applies.

(2) The certificate specified in this paragraph is a certificate in the form provided or authorised by the Board showing—

- (a) the total amount of reserve pay paid by the Ministry to the reservist during the year,
- (b) the total tax deducted from the reserve pay,
- (c) the force in which the reservist was serving and his service number, and
- (d) in the case of a form not provided by the Board, that it has been authorised by them in substitution for such a form.

(3) A reservist to whom this paragraph applies is a reservist who—

- (a) is a member of the reserve and auxiliary forces on the last day of the year and from whose reserve pay tax has been deducted during that year, and
- (b) has not been given a certificate under regulation 65 in respect of each payment of reserve pay during that year.

Application of Parts V and VIII of these Regulations

69.—(1) Part V of these Regulations shall apply with any necessary modifications to tax liable to be deducted under regulation 61.

(2) Part VIII of these Regulations shall apply with any necessary modifications to reserve pay.

Other emoluments of reservist

70. Nothing in this Chapter shall affect the application of these Regulations to any other emoluments of a reservist.

CHAPTER III HOLIDAY PAY

Interpretation of Chapter III

71. In this Chapter unless the context otherwise requires—

“fund” means a person who pays holiday pay to an individual who is not employed by him (or, on the death of that individual, to some other person);

“holiday pay” means any payment obtained by an individual (or, on his death, by some other person) in exchange for a voucher, stamp or similar document purchased by a person who employs (or employed) that individual for any holiday period;

“recipient” means an individual (or, on that individual’s death, some other person claiming in respect of that individual’s right) who is paid holiday pay by a fund.

Disapplication of Parts III and IV of these Regulations

72. Parts III and IV of these Regulations shall not apply to holiday pay paid by a fund.

Deduction of tax

73. A fund, on making any payment of holiday pay to a recipient, shall deduct income tax at the basic rate in force at the time the payment is made.

Certificate of tax deducted

74.—(1) A fund, on making any payment of holiday pay, shall give the recipient a certificate in a form authorised by the Board showing the particulars specified in paragraph (2).

(2) The particulars specified in this paragraph are—

- (a) the recipient’s name,
- (b) the tax year in which the payment is made,
- (c) the date of the payment,
- (d) the amount of the payment, and
- (e) the amount of tax deducted on making the payment.

Repayment to recipient during the year

75.—(1) A fund shall not repay tax deducted from a payment of holiday pay to a recipient.

(2) On application being made to him by the recipient, the inspector may make such repayment to the recipient as may be appropriate at any time during the year having regard to the matters specified in paragraph (3).

(3) The matters specified in this paragraph are—

- (a) the holiday pay of the recipient (or of the individual in respect of whose right the recipient is paid) for the period from the beginning of the year up to and including the date of that application,

- (b) the amount of tax deducted from that holiday pay as evidenced by certificates of pay and tax supplied under regulation 74, and
- (c) any reliefs from income tax to which the recipient is (or the individual in respect of whose right the recipient is paid was) entitled, his income for the year from all other sources and his liability to tax on that income, as estimated by the inspector.

Fund records

76.—(1) A fund shall record, on a deductions working sheet, the particulars specified in paragraph (2) regarding every payment of holiday pay made to a recipient.

- (2) The particulars specified in this paragraph are—
 - (a) the recipient's name,
 - (b) the tax year to which the deductions working sheet relates,
 - (c) the date of the payment,
 - (d) the amount of the payment, and
 - (e) the amount of tax deducted on making the payment.

Application of Parts V and VIII of these Regulations

77.—(1) Part V of these Regulations shall apply with any necessary modifications to tax liable to be deducted under regulation 73.

- (2) Part VIII of these Regulations shall apply with any necessary modifications to holiday pay.

Other emoluments of recipient

78. Nothing in this Chapter shall affect the application of these Regulations to any other emoluments of a recipient.

CHAPTER IV OTHER CASES

Death of employer

79. If an employer dies, anything which he would have been liable to do under these Regulations shall be done by—

- (a) his personal representatives, or
- (b) where an employer paid emoluments on behalf of another person, the person succeeding him, or
- (c) where an employer paid emoluments on behalf of another person and no person succeeds him, the person on whose behalf he paid emoluments.

Succession to a business, etc.

80.—(1) This regulation applies where there has been a change in the employer from whom an employee receives—

- (a) emoluments in respect of his employment in any trade, business, concern or undertaking, or in connection with any property, or
- (b) any annuity or pension.

- (2) Subject to paragraphs (3) and (4), where this regulation applies—
- (a) the change shall not be treated as a cessation of employment for the purposes of regulation 23, but,
 - (b) in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place.
- (3) The employer after the change shall not be liable for the payment of any tax which was deductible from emoluments paid to the employee before the change took place.
- (4) If a trade dispute began, but did not end, before the change took place—
- (a) regulations 36(5), 42(7) and 45 shall apply to the employer before the change as though the time limit of 42 days had expired when the change took place, and
 - (b) the employer after the change shall be liable to make repayment of any tax withheld by the employer before the change in accordance with regulation 36(3) in the year in which the change took place, and regulation 42(6) shall apply in such a case.
- (5) The employer before the change shall furnish the employer after the change with such particulars as may be necessary to enable the employer after the change to comply with this regulation.

PART VII

SOCIAL SECURITY BENEFITS

CHAPTER I

GENERAL

Interpretation of Part VII

81. In this Part of these Regulations unless the context otherwise requires—

“benefit” means a payment in accordance with the Social Security Act 1986⁽³⁷⁾ or the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, the Social Security (Northern Ireland) Order 1986⁽³⁸⁾ or the Social Security Contributions and Benefits (Northern Ireland) Act 1992, which includes taxable benefit;

“claim” means a claim to a benefit;

“claimant” means a person who has made a claim and who is not an employed claimant;

“employed claimant” means an employed earner who has made a claim;

“taxable benefit” means income chargeable under section 617(1) of the Taxes Act⁽³⁹⁾; and

“working sheet” means any form of record on or in which the matters required by this Part of these Regulations are to be kept.

⁽³⁷⁾ 1986 c. 50.

⁽³⁸⁾ S.I. 1986/1888 (N.I.18).

⁽³⁹⁾ Section 617(1) was amended by paragraph 18 of Schedule 2 to the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 18), paragraph 93 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 and paragraph 33 of Schedule 2 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) and by S.I. 1991/2874.

Application of other parts of these Regulations

82.—(1) Parts III to VI of these Regulations shall apply to payments of taxable benefit only to the extent and with the modifications set out in this Part of these Regulations.

(2) To the extent that Parts III to VI of these Regulations are applied to this Part of these Regulations and unless the context otherwise requires—

“emoluments” shall be interpreted as “taxable benefit”;

“employee” shall be interpreted as “claimant”;

“employer” shall be interpreted as “the Department”;

and related expressions shall be construed accordingly.

CHAPTER II

PAYMENTS TO WHOLLY UNEMPLOYED PERSONS

Interpretation of Chapter II

83.—(1) In this Chapter “the Department” means—

(a) in Great Britain, the Department of Employment whether or not a particular payment including taxable benefit was actually made by that Department, or

(b) in Northern Ireland, the Department of Health and Social Services for Northern Ireland.

(2) Where a payment of taxable benefit is made by the Department of Social Security that Department shall make arrangements to enable the Department to comply with these Regulations.

(3) For the purposes of this Chapter any reference to the deduction or repayment of tax on making any payment shall be taken to refer to the duties imposed upon the Department by regulations 88 and 89.

Procedure on making claim

84.—(1) On making a claim after a period of employment to which Part IV of these Regulations applied, the claimant shall deliver to the Department the two copies of the certificate delivered to him in accordance with regulation 23(3).

(2) On making a claim after a previous claim to which regulation 89 applied, the claimant shall deliver to the Department the two copies of the certificate delivered to him in accordance with regulation 89(2)(c).

(3) The Department shall forthwith—

(a) prepare a deductions working sheet in the form provided or in a form authorised by the Board and in accordance with the particulars given on the copies of the certificate, the two copies of which were delivered by the claimant;

(b) record on the working sheet the cumulative emoluments shown on the certificate;

(c) either record on the working sheet or keep such records as enable the production of the following particulars, namely—

(i) save where the code contained in the certificate reflects additional pay, the cumulative free emoluments, the cumulative taxable emoluments and the corresponding cumulative tax as at the week or month shown on the copies of the certificate;

(ii) where the code contained in the certificate reflects additional pay, the cumulative additional pay, the cumulative taxable emoluments and either the cumulative tax

as at the week or month shown on the copies of the certificate or the total net tax deducted shown on the copies of the certificate, whichever is the less; and

(d) supply those particulars to the inspector, in such form as the Board may provide, together with such further information as may be required for the purposes of these Regulations.

(4) If the details on the certificate, the two copies of which were delivered by the claimant, are such that if a calculation were made in accordance with those figures under regulation 91 on the day of claim a repayment of tax exceeding £200 would arise, the Department shall so inform the inspector in accordance with paragraph (3)(d) above.

(5) If the claim is made within the first seven weeks of the year and a certificate, the two copies of which were delivered in accordance with this regulation, shows that the last payment of emoluments or taxable benefit was in the preceding year, the Department shall comply with paragraph (3), but without recording the cumulative emoluments or total net tax deducted (if any) shown on the certificate.

(6) The code shown on the certificate shall be treated as the appropriate code for the purposes of these Regulations, except that where the certificate relates to the year ended 5th April 1993 and the code shown on the certificate is no longer valid, the appropriate code shall be deemed to be the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in regulation 8(4).

(7) If, on the making of a claim, no copies of a certificate have been delivered in accordance with paragraphs (1) or (2), or, subject to paragraph (5), the two copies of a certificate so delivered show that the last payment of emoluments was in a year preceding that in which the claim was made, the Department shall, for the purposes of paragraph (3), record the code specified by the Board as the appropriate code.

(8) If, on making a claim, a claimant to whom paragraph (1) applies declares that his last employer has not delivered the two copies of the certificate referred to in that paragraph to him, the Department may require that last employer to deliver those two copies to a specified office of the Department.

(9) Subject to paragraph (10), if a claimant has not delivered the two copies of a certificate in accordance with paragraph (1) or (2) and the two copies of the certificate have not been obtained under paragraph (8) within the period specified by the Board, the Department shall render a return to the inspector, giving the name and address of the claimant, the date of claim and such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7.

(10) The return referred to in paragraph (9) shall not be rendered if the claimant certifies, in a form provided by the Board, that—

- (a) he is undergoing a course of full-time education and has not had regular employment since 6th April, or
- (b) he has not had regular employment since the end of his full-time education.

Determinations and notifications by the inspector

85.—(1) The inspector may determine an appropriate code for any claimant in accordance with regulation 7, and if he does so regulations 6, 8 and 10 to 13 inclusive shall apply to that determination.

(2) Any notification of code or amended code, or of cumulative emoluments and total net tax deducted received from the inspector by the Department shall be recorded in substitution for any previous record and shall be used for the purpose of all calculations required under this Chapter.

Quarterly attenders

86.—(1) If the Department decides that a claimant may make quarterly declarations in respect of his claim and the claimant has not had regular employment for at least twelve months, these Regulations shall not apply as regards any subsequent payment of benefit or event relating to the claim in question.

(2) If the Department decides that a claimant may make quarterly declarations in respect of his claim on the ground that he is in receipt of a pension in respect of a former employment such that no benefit is payable, the Department shall so notify the inspector.

Determination and recording of amount of taxable benefit

87. On each occasion that a payment of benefit is made to a claimant to whom regulation 86 does not apply, the Department shall determine and record the taxable benefit included in the payment.

End of year

88.—(1) After the end of the year the Department shall, in respect of each claimant whose latest claim was not treated as terminated under regulation 89 during the year—

- (a) make a tax calculation in accordance with regulation 91;
- (b) subject to paragraph (2), issue the certificate specified in paragraph (4) to the claimant; and
- (c) render the return specified in paragraph (5) to the inspector.

(2) The Department shall not be required to issue the certificate specified in paragraph (4) if no taxable benefit has been paid and a tax calculation in accordance with regulation 91 is not required.

(3) If a payment of benefit in respect of any year is made after the certificate for that year referred to in paragraph (1) has been rendered or would have been rendered but for paragraph (2), the Department shall proceed under regulation 90 as if further taxable benefit had been paid.

(4) The certificate specified in this paragraph is a certificate in such form as the Board may provide, and shall show as appropriate—

- (a) the year to which it relates,
- (b) the total benefit for the year excluding any amounts previously notified under regulation 89 or 90,
- (c) the taxable benefit included in such total benefit,
- (d) the code appropriate to the claimant,
- (e) any previous emoluments and any tax deducted from those emoluments which the Department was required to take into account under regulation 91,
- (f) the total emoluments for the year and the corresponding total net tax deducted, and
- (g) the amount of tax refunded by the Department.

(5) The return specified in this paragraph is a return in such form as the Board may prescribe, and shall show as appropriate—

- (a) such particulars as may be required for the identification of the claimant,
- (b) the particulars specified in paragraph (4),
- (c) the amount of any refund withheld under regulation 91(3) which the inspector has not authorised to be repaid, and
- (d) the excess (if any) of the total tax due arising from the calculation under regulation 91 over tax previously deducted in the year

Termination of claim

89.—(1) For the purposes of these Regulations a claim is to be treated as terminated if the claimant—

- (a) gives notice of termination, or
- (b) fails to make a further claim, or
- (c) fails to make a declaration in respect of the claim.

(2) Where a claim is treated as terminated, the Department shall—

- (a) make a tax calculation in accordance with regulation 91;
- (b) forthwith deliver to the inspector a certificate in such form as the Board may provide containing the following particulars—
 - (i) such particulars as may be required for the identification of the claimant,
 - (ii) the last day in accordance with paragraph (3) below,
 - (iii) the code appropriate to the claimant,
 - (iv) the cumulative emoluments (including taxable benefit) and the corresponding total net tax deducted at the date of termination or, if regulation 91(4) or (5) applies, the taxable benefit,
 - (v) the amount of any tax shown by the calculation to be payable in addition to that already paid,
 - (vi) the amount of any refund withheld under regulation 91(3) which the inspector has not authorised to be repaid, and
 - (vii) the date of issue of the certificate;
- (c) make two copies of the certificate specified in sub-paragraph (b) above on the form provided, and deliver them to the claimant on the same date as the certificate is delivered to the inspector; and
- (d) give notice to the claimant of—
 - (i) the total benefit for the year excluding any sums previously notified under this regulation or regulation 90, and
 - (ii) the taxable benefit included in that total benefit.

(3) Subject to paragraph (3), the relevant date for the purpose of any tax calculation which the Department is required to make under this regulation shall be the last day for which benefit was claimed, and if paid was not recoverable, except that if that last day is 4th or 5th April the relevant date shall be the preceding 3rd April.

(4) The Department shall not be required to amend a tax calculation solely because the date originally treated as the relevant date is subsequently shown to be incorrect.

Notification of taxable benefit adjustment

90. If after the issue of a certificate under regulation 88(1) or of a notice under regulation 89(2) (d) or under this regulation, further taxable benefit is paid or taxable benefit overpaid is refunded by the claimant, the Department shall—

- (a) give notice to the claimant of the revised figure of total benefit and the taxable benefit included in that revised figure in accordance with the relevant regulation; and
- (b) notify the inspector of the sums paid or refunded in such form as the Board may provide.

Tax calculation

91.—(1) Subject to paragraphs (4) and (5), whenever the Department is required by these Regulations to make a tax calculation, the Department shall ascertain—

- (a) for the year up to the relevant date—
 - (i) the cumulative emoluments including taxable benefit,
 - (ii) the cumulative free emoluments or, as the case may be, the cumulative additional pay,
 - (iii) the cumulative taxable emoluments, and
 - (iv) the cumulative tax; and
- (b) the total net tax deductible at the relevant date, save that where the code reflects additional pay, the total net tax deductible shall not exceed the overriding limit.

(2) If the total net tax deductible calculated in accordance with paragraph (1) exceeds the previous total net tax deducted, the Department shall amend the record of the code as if a direction had been received from the inspector on the relevant date under regulation 17.

(3) If the previous total net tax deducted recorded on the working sheet exceeds the total net tax deductible calculated in accordance with paragraph (1), the Department shall repay the excess to the claimant, save that any sum notified to the inspector under regulation 84(4) whose repayment has not been authorised by him shall not be repaid.

(4) No tax calculation shall be made if the inspector has made a direction that the provisions of regulation 17 shall apply to the claimant for the relevant year.

(5) Subject to regulation 85(2), the inspector shall be deemed to have made a direction under paragraph (4) where—

- (a) regulation 84(7) has been applied and the certificate referred to in regulation 84(10) has not been given, or
- (b) the two copies of the certificate delivered under regulation 84(1) or (2) do not relate to the claimant's last employment or claim before the present claim, whichever is later, or
- (c) the claimant is in receipt of a pension from a former employer, or
- (d) it appears to the Department on the occasion of a claim that a previous claim should have been treated as terminated in accordance with regulation 89, or
- (e) the code is one issued under regulation 9.

(6) In this regulation—

“the relevant date” means—

- (a) where a calculation is required by regulation 88, the end of the year, and
- (b) where a calculation is required by regulation 89, the date specified in regulation 89(3);

“the total net tax deductible” means the total tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date.

Death of claimant

92.—(1) On the death of a claimant the Department shall comply with regulation 89 where the name and address of the claimant's personal representative is known, except that—

- (a) the two copies of the certificate mentioned in regulation 89(2)(c) shall be sent to the inspector together with the certificate under regulation 89(2)(b), and
- (b) the notice referred to in regulation 89(2)(d) shall be sent to the personal representative.

(2) If the Department has not been notified of the name and address of the claimant's personal representative within 30 days of a claimant's death—

- (a) the inspector shall be deemed to have made a direction under regulation 17, and
- (b) the Department shall then proceed as in paragraph (1) above, except that the notice under regulation 89(2)(d) shall not be sent.

Finance

93.—(1) The Board shall advance monies to the National Insurance Funds of Great Britain and Northern Ireland at intervals to be agreed with the Department of Social Security and the Department of Health and Social Services for Northern Ireland respectively for use in making repayments of income tax under these Regulations.

(2) The Departments mentioned in paragraph (1) shall provide the Board with a quarterly statement of receipts and payments in such form as the Board may require.

CHAPTER III

PAYMENTS TO EMPLOYED PERSONS

Interpretation of Chapter III

94. In this Chapter “the Department” means—

- (a) in Great Britain, the Department of Employment or, as the case may be, the Department of Social Security, or
 - (b) in Northern Ireland, the Department of Health and Social Services for Northern Ireland
- by whom a payment of benefit is made.

Benefit paid by the paying Department direct to the claimant

95.—(1) If the Department pays benefit directly to an employed claimant—

- (a) the Department shall determine and record the amount of taxable benefit, and
- (b) the full sum shall be paid without any deduction or repayment of income tax.

Benefit paid by employer

96.—(1) If benefit is paid to an employed claimant by his employer on behalf of the Department and the employer calculates the benefit payable by reference to instructions supplied by the Department, the employer shall also calculate the taxable benefit in accordance with those instructions.

(2) If benefit is paid to an employed claimant by his employer on behalf of the Department and paragraph (1) does not apply, the Department shall notify the employer of the amount of benefit and of taxable benefit.

(3) If the employer has undertaken to pay benefit on behalf of the Department, the Department shall pay the full amount of benefit to the employer without any deduction on account of income tax.

(4) Subject to paragraph (5), Parts III to VI of these Regulations shall apply to the taxable benefit paid by the employer on behalf of the Department as if it were a payment of emoluments from the employment.

(5) In any case in which it appears to the Board that deduction of tax from the taxable benefit referred to in paragraph (4) by reference to the tax tables is impracticable, the Board may made

such other arrangements as are appropriate for the collection of tax in respect of taxable benefit in such cases.

Termination of claim

97.—(1) A claim shall be treated as terminated if the employed claimant—

- (a) gives notice of termination, or
- (b) fails to make a further claim, or
- (c) fails to make a declaration in respect of the claim.

(2) Where a claim is treated as terminated the Department shall notify the inspector and the employed claimant of the total benefit and taxable benefit paid in respect of the claim, showing the amounts appropriate to each year.

Adjustments

98. If, after the payment of benefit by an employer or the Department, the Department recovers part or all of that payment from the employed claimant, the Department shall notify the inspector and the employed claimant of the adjustment to the figure of taxable benefit, showing the amounts appropriate to each year.

PART VIII

ASSESSMENT AND DIRECT COLLECTION

Assessment

99.—(1) Nothing in these Regulations shall prevent an assessment under Schedule E being made on a person in respect of his emoluments.

(2) The assessment of emoluments shall be made in accordance with section 29 of the Management Act~~(40)~~.

(3) All the emoluments of an employee may be included in one assessment.

Appeals

100.—(1) Subject to paragraph (2), an appeal against an assessment of emoluments shall be heard by the General or Special Commissioners in accordance with the like provisions as are contained in section 31~~(41)~~ and Part V of the Management Act.

(2) The appeal shall be brought before the General Commissioners for the division in which the place where the assessment was made is situated and not the General Commissioners for the division in which the place of employment is situated where—

- (a) the place of employment referred to in paragraph 3 of Schedule 3 to the Management Act and the place where the assessment was made are not within the same division, and
- (b) the inspector so elects by notice given to the employee.

(40) Section 29 was amended by Part II of Schedule 14 to the Finance Act 1971, section 44(5) of the Finance (No. 2) Act 1975, paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, section 119 of, and Part VIII of Schedule 14 to, the Finance Act 1988, and Part V of Schedule 17 to the Finance Act 1989.

(41) Section 31 was amended by paragraph 3(1) of Schedule 22 to the Finance Act 1984, paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, Part V of Schedule 17 to the Finance Act 1989, paragraph 14 of Schedule 14 to the Finance Act 1990, and paragraph 2(7) of Schedule 10 to the Taxation of Chargeable Gains Act 1992.

Repayment of overpayments and recovery of underpayments

101.—(1) If the tax payable under the assessment is less than the total net tax deducted from the employee's emoluments during the year less any subsequent repayments made, the inspector may, and if the person assessed so requires shall, repay the difference to the person assessed instead of taking it into account in determining the appropriate code for a subsequent year.

(2) If the tax payable under the assessment exceeds the total net tax deducted from the employee's emoluments during the year less any subsequent repayments made, the inspector may require the person assessed to pay the excess to the collector instead of taking it into account in determining the appropriate code for a subsequent year, and where the inspector so requires the person assessed shall pay the excess accordingly.

(3) Subject to paragraph (5), for the purpose of determining the amount of the difference mentioned in paragraph (1) or the excess mentioned in paragraph (2), any necessary adjustment shall be made to the total net tax deducted in respect of the matters specified in paragraph (4).

(4) The matters specified in this paragraph are —

- (a) any tax which the employer was liable to deduct from the employee's emoluments but failed so to deduct, having regard to whether or not the Board or the collector have directed that that tax shall be recovered from the employee;
- (b) any shortfall in deductions made in accordance with these Regulations from the employee, where—
 - (i) payments of profit-related pay have been made to the employee in accordance with a profit-related pay scheme registered under Chapter III of Part V of the Taxes Act,
 - (ii) in consequence of the relief given by that Chapter less tax has been deducted from those payments than would have been deducted if the scheme had not been registered, and
 - (iii) the registration of the scheme has subsequently been cancelled with effect from a time before that relevant for the purposes of the relief;
- (c) any tax overpaid or remaining unpaid for any year; and
- (d) any amount to be recovered as if it were unpaid tax under section 30(1) of the Management Act, 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 that amount to be recovered into account in determining the appropriate code and the total net tax deducted was in consequence greater than it would otherwise have been.

(5) An adjustment under sub-paragraph (a) or (b) of paragraph (4) shall be disregarded for the purposes of determining the amount of the difference mentioned in paragraph (1) and of computing any tax overpaid under sub-paragraph (c) of paragraph (4).

Provisions for direct collection—general

102.—(1) The inspector may proceed in accordance with any of the provisions and arrangements specified in paragraph (2) in any of the cases specified in paragraph (3).

(2) The provisions and arrangements specified in this paragraph are—

- (a) the provisions of regulation 103,
- (b) the provisions of regulation 104, and
- (c) arrangements made for the collection of the tax in respect of the emoluments of any employees.

(3) The cases specified in this paragraph are—

- (a) cases of casual employment, and

- (b) any other case in which the inspector is of opinion that deduction of tax by reference to the tax tables is impracticable.

Direct collection involving assessment

103.—(1) As early in the year as may be, the inspector shall make an assessment for that year in the amount specified in paragraph (2).

(2) The amount specified in this paragraph is—

- (a) where the assessment is made upon a pension or pensions, the amount receivable in the current year estimated to the best of the inspector's judgment; but if this provision does not apply then

(b) where—

- (i) the inspector is unable to ascertain the full amount of the employee's emoluments for the preceding year,
- (ii) the inspector is unable to ascertain the full amount of the employee's emoluments for the part of the preceding year during which the employee was in employment, or
- (iii) the employee had no emoluments for the previous year,

an amount estimated to the best of the inspector's judgment; but if this provision does not apply then

- (c) where the employee was in employment during part only of that preceding year, the amount which bears the same proportion to the amount of the employee's emoluments for the preceding year as a full year bears to the part of that preceding year during which the employee was in employment; but if this provision does not apply then

(d) the amount of the employee's emoluments for the preceding year.

(3) The inspector shall serve a notice of assessment on the employee, and regulation 100 shall apply accordingly as regards appeals.

(4) If the employee has appealed against the assessment, so much of the tax as appears to the inspector to be not in dispute shall be treated as tax payable under the assessment for so long as the appeal remains undetermined; but if the employee considers that a smaller amount is not in dispute, he may require the amount not in dispute to be determined by the Commissioners by whom an appeal against the assessment falls to be determined.

(5) The inspector shall transmit particulars of the tax payable under the assessment to the collector.

(6) The tax payable under the assessment shall be paid to the collector in four equal instalments during the period beginning 30 days after the service of the notice of assessment and ending on the following 5th April, with the first instalment being payable on the last day of the first quarter of that period, the second on the last day of the second quarter of that period, the third on the last day of the third quarter of that period, and the fourth on the following 5th April.

(7) If the employee proves that his emoluments for the period from the beginning of the year to the following 5th July amounted to less than one-quarter of the amount of the assessment, and that the tax paid by him during the first quarter of the period mentioned in paragraph (6) exceeds the tax which would have been payable if the assessment had been made in an amount equal to four times those emoluments, the inspector may direct that the instalment payable during the next quarter of that period shall be reduced by the amount of the excess.

(8) Paragraph (7) shall apply with the necessary modifications where the employee proves that his emoluments for the period from the beginning of the year to the following 5th October or 5th January amounted to less than one-half or three-quarters respectively of the amount of the assessment.

(9) After the end of the year the amount of the employee's emoluments for the year shall be ascertained, and if that amount is—

- (a) less than the amount assessed, the assessment shall be reduced accordingly and any tax overpaid shall be repaid;
- (b) greater than the amount assessed, a further assessment shall be made, and paragraphs (3), (4) and (5) shall apply to any such further assessment.

Direct collection involving deductions working sheets

104.—(1) The inspector may issue a deductions working sheet to the employee specifying—

- (a) the name of the employee,
- (b) the capacity in which the employee receives emoluments, and
- (c) the code appropriate to the employee's case, and

where the inspector does so the following provisions of this regulation shall apply.

(2) Whenever the employee receives any emoluments during the year for which the deductions working sheet was issued, he shall record on the deductions working sheet—

- (a) the amount of the emoluments;
- (b) the date on which he received the emoluments;
- (c) the cumulative emoluments in relation to that date;
- (d) the cumulative free emoluments or, as the case may be, the cumulative additional pay in relation to that date according to his code;
- (e) the corresponding cumulative tax;
- (f) the amount of tax, if any, deducted or repaid on making the payment of emoluments; and
- (g) where his code reflects additional pay—
 - (i) the tax due at the date on which he received the emoluments;
 - (ii) the overriding limit in relation to the payment; and
 - (iii) the amount of any tax not deducted as a consequence of the overriding limit.

(3) The employee shall pay the amount specified in paragraph (4) to the collector within 14 days after the end of every income tax quarter.

(4) The amount specified in this paragraph is the amount of the total net tax deducted corresponding to the cumulative emoluments at the last date during the income tax quarter in question on which the employee received emoluments, or in the case of the last income tax quarter of the year corresponding to the cumulative emoluments for the year, reduced by any amounts of tax paid to the collector in respect of previous income tax quarters of the same year.

(5) The collector may proceed in accordance with either paragraph (6) or paragraph (7) if, within 14 days after the end of any income tax quarter—

- (a) the employee has paid no amount of tax to the collector for that income tax quarter, and the collector is unaware of the amount, if any, which the employee is liable so to pay, or
- (b) an amount has been paid but the collector is not satisfied that it is the full amount which the employee is liable to pay to him for that income tax quarter.

(6) The collector may—

- (a) give notice to the employee requiring him to render, within 14 days, a return in such form as the Board may prescribe showing the amount of tax which the employee is liable to pay to the collector under paragraphs (3) and (4) above in respect of the income tax period in question; and

- (b) in such a case regulations 47 and 54 shall apply with the necessary modifications for the purposes of ascertaining, certifying and recovering the tax payable by the employee as if it were tax which the employee was liable to deduct from emoluments paid by him.
- (7) The collector may—
- (a) report the facts to the inspector; and
 - (b) in such a case the inspector may make an assessment on the employee under regulation 103, and for the purposes of regulation 103(6) the due dates of the several instalments of the tax payable under the assessment shall be determined as if the notice of assessment had been served 30 days before the beginning of the year of assessment.
- (8) No proceedings for the recovery of any instalment referred to in paragraph (7)(b) shall be commenced within less than 30 days after the service of the notice of assessment.
- (9) If the employee ceases to receive emoluments, he shall forthwith render a return to the inspector or, if so required, to the collector, in such form as the Board may prescribe, showing the particulars specified in paragraph (10).
- (10) The particulars specified in this paragraph are such particulars as the Board may require for the identification of—
- (a) the employee,
 - (b) the year to which the return relates,
 - (c) the last date on which the employee received any emoluments,
 - (d) the employee’s cumulative emoluments at the date referred to in sub-paragraph (c) above, and
 - (e) the corresponding total net tax deducted.
- (11) Not later than 44 days after the end of the year, and if neither paragraph (7) nor paragraph (9) has applied, the employee shall render a return to the inspector or, if so required, to the collector, in such form as the Board may prescribe, showing the particulars specified in paragraph (12).
- (12) The particulars specified in this paragraph are such particulars as the Board may require for the identification of—
- (a) the employee,
 - (b) the year to which the return relates,
 - (c) the employee’s cumulative emoluments at the end of that year, and
 - (d) the corresponding total net tax deducted.
- (13) Where paragraph (11) applies, paragraphs (8) to (11) of regulation 43 regarding the certification and recovery of tax remaining unpaid by an employer for any year shall apply with the necessary modifications in the case of any tax remaining unpaid by the employee.
- (14) If the employee receives emoluments in more than one capacity, no account shall be taken for the purposes of this regulation of the emoluments received by him in any capacity other than that mentioned on the deductions working sheet.
- (15) In this regulation “cumulative emoluments” means, in relation to any date, the sum of all emoluments received by the employee from the beginning of the year up to and including that date, irrespective of the person or persons from whom the emoluments were received.
- (16) Section 98A of the Management Act shall apply in relation to the provisions of paragraph (11) requiring a return to be made.

Recovery of tax from employee

105.—(1) Any tax which is payable to the collector by any employee may be recovered in the manner provided by the Income Tax Acts.

(2) Any tax which is payable to the collector under—

(a) regulation 101(2), or

(b) any further assessment made under regulation 103(9),

shall be payable within 14 days of the date on which the collector first makes application for its payment.

Attribution of repayments

106.—(1) A repayment for any year to which section 824(5) of the Taxes Act⁽⁴²⁾ applies shall, for the purposes of that subsection, be attributed in accordance with paragraphs (2) to (4).

(2) If there is no adjusted overpayment for the previous year, the whole of the repayment shall be attributed to the year for which the repayment is due.

(3) Subject to paragraph (4), if there is an adjusted overpayment for the previous year and the repayment—

(a) does not exceed that adjusted overpayment, the repayment shall be wholly attributed to the previous year;

(b) exceeds that adjusted overpayment, the excess shall be attributed to the year for which the repayment is due, and the balance to the previous year.

(4) If there is an adjusted overpayment for a year earlier than the previous year, paragraph (3) shall apply to so much of the repayment as is, under that paragraph, attributed to the previous year, as though that amount were a repayment due for the previous year, and so on successively until no further attribution is possible under this regulation.

Adjustment of overpayments and underpayments

107.—(1) In determining, for the purposes specified in paragraph (2), whether for any year there is an adjusted overpayment, and if so its amount, any overpayment or underpayment shall be adjusted, if necessary, in accordance with paragraphs (3) to (7).

(2) The purposes specified in this paragraph are purposes of attributing a repayment (in this regulation referred to as “the relevant repayment”) in accordance with regulation 106.

(3) Any tax paid to the collector in respect of an underpayment for any year shall be treated as tax paid for that year and added to the overpayment or deducted from the underpayment for that year.

(4) Paragraphs (5) to (7) apply to a repayment of an overpayment made prior to the relevant repayment if it was a repayment—

(a) for the same year for which the relevant repayment is due, or

(b) for an earlier year which, if paragraphs (5) to (7) applied to it, would affect the attribution of the relevant repayment under regulation 106.

(5) Where this paragraph applies and the repayment was one to which section 824(5) of the Taxes Act applied, any amount attributable to any year under this regulation and regulation 106 shall be deducted from the overpayment or added to the underpayment for that year and any subsequent year for which an adjustment was made under regulation 101(4)(c) in respect of the tax which was repaid.

⁽⁴²⁾ Section 824(5) was amended by section 158(2) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

(6) Where this paragraph applies and the repayment was one to which section 824(5) of the Taxes Act did not apply, it shall be attributed, for the purposes of this regulation, by reference to the circumstances at the time it was made, to such years and in such amounts as the provisions of this regulation and regulation 106 would have required had it been a repayment to which that subsection applied, and any amount so attributed to any year shall be deducted from the overpayment or added to the underpayment for that year and any subsequent year for which an adjustment was made under regulation 101(4)(c) in respect of the tax which was repaid.

(7) If there is more than one repayment to which paragraph (4) applies—

- (a) the repayment made first shall be attributed in accordance with paragraph (5) or (6) (as appropriate); and
- (b) each repayment made subsequently shall be so attributed successively, starting with the second repayment made, and taking into account any adjustment of any overpayment or underpayment resulting from the attribution under this regulation of any repayment made prior to it.

Definitions for the purposes of regulations 106 and 107

108. In regulations 106 and 107—

“adjusted overpayment” means an overpayment adjusted (if necessary) in accordance with regulation 107;

“overpayment” means the difference, calculated in accordance with regulation 101, between the total net tax deducted from an employee’s emoluments during any year and the tax payable under an assessment for that year;

“previous year” means, in relation to any year, the last year before that year for which any tax overpaid or remaining unpaid has been included in an adjustment made under regulation 101(4)(c) to the total net tax deducted for that year;

“underpayment” means the excess, calculated in accordance with regulation 101, of the tax payable under an assessment for any year over the total net tax deducted from an employee’s emoluments during that year.

PART IX SUPPLEMENTAL

Service by post

109. Any notice or deductions working sheet which is authorised or required to be given, served or issued under these Regulations may be sent by post.

Revocations

110. The Regulations specified in the Schedule to these Regulations are hereby revoked.

General savings

111. In relation to tax liable, under the Income Tax (Employments) Regulations 1973(43), the Income Tax (Councillors' Attendance Allowances) Regulations(44), the Income Tax (Reserve and

(43) S.I. 1973/334, amended by S.I. 1974/2102, 1975/728, 1976/381 and 950, 1977/700, 1978/326 and 1196, 1979/747, 1980/505, 1981/44, 1982/1 and 66, 1984/1858, 1985/350, 1986/2212, 1988/637, 1989/1289, 1990/79, 1991/435 and 1080 and 1992/1059 and 3180.

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Auxiliary Forces) Regulations 1975⁽⁴⁵⁾ and the Income Tax (Holiday Pay) Regulations 1981⁽⁴⁶⁾ (“the revoked Regulations”) to be deducted from emoluments paid before 6th April 1993, these Regulations shall have effect as if the tax had been liable to be deducted under these Regulations, and accordingly references to any provision of these Regulations shall, where the context so requires, be construed as references to the corresponding provision of the revoked Regulations.

L. J. H. Beighton
C. W. Corlett

16th March 1993

Two of the Commissioners of Inland Revenue

⁽⁴⁴⁾ S.I. 1974/340.

⁽⁴⁵⁾ S.I. 1975/91, amended by S.I. 1989/1905.

⁽⁴⁶⁾ S.I. 1981/1648.

SCHEDULE

Regulation 110

REVOCATIONS

Regulations revoked	References
The Income Tax (Employments) Regulations 1973.	S.I. 1973/334.
The Income Tax (Councillors' Attendance Allowances) Regulations 1974.	S.I. 1974/340.
The Income Tax (Employments) (No. 2) Regulations 1974.	S.I. 1974/2102.
The Income Tax (Reserve and Auxiliary Forces) Regulations 1975.	S.I. 1975/91.
The Income Tax (Employments) (No. 3) Regulations 1975.	S.I. 1975/728.
The Income Tax (Repayment Supplement) Regulations 1975.	S.I. 1975/1283.
The Income Tax (Employments) (No. 4) Regulations 1976.	S.I. 1976/381.
The Income Tax (Employments) (No. 5) Regulations 1976.	S.I. 1976/950.
The Income Tax (Employments) (No. 6) Regulations 1977.	S.I. 1977/700.
The Income Tax (Employments) (No. 7) Regulations 1978.	S.I. 1978/326.
The Income Tax (Employments) (No. 8) Regulations 1978.	S.I. 1978/1196.
The Income Tax (Employments) (No. 9) Regulations 1979.	S.I. 1979/747.
The Income Tax (Employments) (No. 10) Regulations 1980.	S.I. 1980/505.
The Income Tax (Employments) (No. 11) Regulations 1981.	S.I. 1981/44.
The Income Tax (Holiday Pay) Regulations 1981.	S.I. 1981/1648.
The Income Tax (Employments) (No. 12) Regulations 1982.	S.I. 1982/1.
The Income Tax (Employments) (No. 13) Regulations 1982.	S.I. 1982/66.
The Income Tax (Employments) (No. 14) Regulations 1984.	S.I. 1984/1858.
The Income Tax (Employments) (No. 15) Regulations 1985.	S.I. 1985/350.

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Regulations revoked	References
The Income Tax (Employments) (No. 16) Regulations 1986.	S.I. 1986/2212.
The Income Tax (Employments) (No. 17) Regulations 1988.	S.I. 1988/637.
The Income Tax (Employments) (No. 18) Regulations 1989.	S.I. 1989/1289.
The Income Tax (Reserve and Auxiliary Forces) (Amendment) Regulations 1989.	S.I. 1989/1905.
The Income Tax (Employments) (No. 19) Regulations 1990.	S.I. 1990/79.
The Income Tax (Employments) (No. 20) Regulations 1991.	S.I. 1991/435.
The Income Tax (Employments) (No. 21) Regulations 1991.	S.I. 1991/1080.
The Income Tax (Employments) (No. 22) Regulations 1992.	S.I. 1992/1059.
The Income Tax (Employments) (No. 23) Regulations 1992.	S.I. 1992/3180.
The Income Tax (Employments) (No. 24) Regulations 1993.	S.I. 1993/725.
The Income Tax (Employments) (No. 25) Regulations 1993.	S.I. 1993/726.
The Income Tax (Employments) (No. 26) Regulations 1993.	S.I. 1993/727.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Regulations relating to income tax subject to Pay As You Earn. The principal Regulations consolidated are the Income Tax (Employments) Regulations 1973 (S.I.1973/334) (as amended); but these Regulations also consolidate the Income Tax (Councillors' Attendance Allowances) Regulations 1974 (S.I.1974/340), the Income Tax (Reserve and Auxiliary Forces) Regulations 1975 (S.I.1975/91) (as amended), the Income Tax (Repayment Supplement) Regulations 1975 (S.I.1975/1283) and the Income Tax (Holiday Pay) Regulations 1981 (S.I.1981/1648).