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STATUTORY INSTRUMENTS

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**1993 No. 744**

**The Income Tax (Employments) Regulations 1993**

**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.