
STATUTORY INSTRUMENTS

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.

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(1) or, in Northern Ireland, the Social Security Administration (Northern Ireland) Act 1992(2), 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;

“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;

(1) 1992 c. 5.
(2) 1992 c. 8.

“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.