
STATUTORY INSTRUMENTS

1993 No. 744

The Income Tax (Employments) Regulations 1993

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(1).

(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(2) 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.

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.

(1) 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.

(2) 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.

(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⁽³⁾ 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.

(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

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

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.