
 STATUTORY INSTRUMENTS

1975 No. 91
INCOME TAX
The Income Tax (Reserve and Auxiliary Forces)
Regulations 1975

Made - - - - - 28th January 1975

Laid before the House of Commons 4th February 1975

Coming into Operation - - - 6th April 1975

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 204 of the Income and Corporation Taxes Act 1970^(a) hereby make the following Regulations:—

1. These Regulations may be cited as the Income Tax (Reserve and Auxiliary Forces) Regulations 1975 and shall come into operation on 6th April 1975. These Regulations are supplemental to the Income Tax (Employments) Regulations 1973^(b) as amended by the Income Tax (Employments) (No. 2) Regulations 1974^(c) (hereinafter referred to as “the Principal Regulations”).

Interpretation

2.—(1) The Interpretation Act 1889^(d) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(2) In these Regulations, unless the context otherwise requires, words and expressions to which meanings are assigned by the Principal Regulations, or in which other words or expressions are stated in the Principal Regulations to be included, are to be interpreted in accordance with the Principal Regulations.

(3) Subject to the immediately preceding paragraph, and without prejudice to the generality thereof, in these Regulations, except where the context otherwise requires—

“the Ministry” means the Ministry of Defence;

“reserve and auxiliary forces” includes the forces listed in the Schedule to these Regulations but does not include the Ulster Defence Regiment;

“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.

3. Any notice which is authorised or required to be given under these Regulations may be sent by post.

4. Parts II, III and VI of the Principal Regulations shall not apply to reserve pay:

Provided that nothing in this Regulation shall affect the application of the Principal Regulations to any other emoluments of a reservist.

(a) 1970 c. 10.

(b) S.I. 1973/334 (1973 I, p. 1147).

(c) S.I. 1974/2102 (1974 III, p. 8189).

(d) 1889 c. 63.

Deduction of tax

5. 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 unless it has received notice from the Inspector of a determination for that year under any of the following provisions of these Regulations that tax shall not be deducted from reserve pay and it has not received notice of any amendment of that determination.

Determinations, objections and appeals

6. The Inspector may determine either prior to or at any time during any year 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, and, if he so determines, he shall give notice of that determination to the reservist and to the Ministry.

7.—(1) If a reservist from whose reserve pay tax has been deducted in accordance with Regulation 5 of these Regulations is aggrieved by that deduction, he may give notice of objection to the Inspector stating the grounds of his objection.

(2) On receipt of the notice of objection the Inspector shall determine 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) Regulation 5 of these Regulations shall apply on the making of any payment of reserve pay notwithstanding that an objection or appeal has been made under this Regulation.

(5) An appeal under paragraph (3) of this Regulation may be made to the General or Special Commissioners:

Provided that in Northern Ireland the appeal shall be heard by the Special Commissioners unless the reservist, by notice in writing to the Inspector given not later than the notice of appeal, elects to have the appeal brought before the County Court.

(6) An appeal to the General Commissioners shall be heard in accordance with the rules in paragraph 3 of Schedule 3 to the Taxes Management Act 1970(a) (rules for assigning proceedings to Commissioners):

Provided that section 44(2) of that Act (agreement between the parties as to Commissioners) shall apply as it applies to appeals against assessments.

(7) The General or Special Commissioners or the County Court shall on appeal 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 6 of these Regulations that income tax at the basic rate shall not be deducted from reserve pay, and subject to the provisions of Regulation 8 of these Regulations their or its determination shall be final.

(8) If the General or Special Commissioners or the County Court on appeal determine that tax shall not be deducted from the reserve pay, the Inspector shall give notice of that determination to the Ministry.

Amended determinations

8.—(1) If a determination by the Inspector or the General or Special Commissioners or the County Court under Regulation 6 or 7 of these Regulations 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 and shall give notice to the reservist and the Ministry of his amendment of that determination.

(2) The provisions of Regulation 7 of these Regulations shall apply in relation to an amendment of a determination as they apply in relation to a determination under paragraph (2) of that Regulation.

Ministry records

9. The Ministry shall record, either on a deduction card or in such other form as may be authorised by the Commissioners of Inland Revenue, the following particulars regarding every payment of reserve pay made to a reservist, namely—

- (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.

Repayment to reservist during the year

10. No tax in respect of reserve pay shall be repaid to a reservist by the Ministry, but the Inspector, on application being made to him by the reservist, may make such repayment to the reservist as may be appropriate at any time during the year having regard to—

- (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 11 of these Regulations; 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.

Certificates of tax deducted

11. The Ministry may, and when required to do so shall, give the reservist a certificate in a form authorised by the Commissioners of Inland Revenue showing in respect of any payment of reserve pay made during the year from which tax is deducted—

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

12.—(1) After the end of the year the Ministry shall give the reservist a certificate in the form prescribed or authorised by the Commissioners of Inland Revenue 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 prescribed by the Commissioners of Inland Revenue, that it has been authorised by them in substitution therefor.

(2) A certificate shall be given under this Regulation to every reservist who 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, unless he has been given a certificate under Regulation 11 of these Regulations in respect of each payment of reserve pay during that year.

Application of Parts IV and VII of the Principal Regulations

13. Part IV of the Principal Regulations (payment and recovery of tax, etc.) shall apply with any necessary modifications as if the tax liable to be deducted under Regulation 5 of these Regulations were liable to be deducted under the Principal Regulations, and Part VII of the Principal Regulations (assessment and direct collection) shall apply with any necessary modifications to reserve pay.

By Order of the Commissioners of Inland Revenue,

J. H. Gracey,
Secretary.

28th January 1975.

SCHEDULE

LIST OF FORCES (REGULATION 2(3))

1. Royal Naval Reserve.
2. Royal Marines Reserve.
3. Royal Fleet Reserve.
4. Royal Naval Special Reserve (Special List).
5. Women's Royal Naval Reserve.
6. Women's Royal Naval Supplementary Reserve.
7. Queen Alexandra's Royal Naval Nursing Service Reserve.
8. Voluntary Aid detachment (Naval Reserve).
9. Regular Army Reserve of Officers.
10. Army Reserves, including Regular Reserves and Army General Reserve.
11. Territorial and Army Volunteer Reserve.
12. Officer cadets of University Officers Training Corps.
13. Royal Air Force Reserve of Officers.
14. Royal Air Force Volunteer Reserve (including University Air Squadron members).
15. Class E of the Royal Air Force Reserve.
16. Women's Royal Air Force Reserve of Officers.
17. Women's Royal Air Force Volunteer Reserve.
18. Royal Auxiliary Air Force.
19. Women's Royal Auxiliary Air Force.
20. Princess Mary's Royal Air Force Nursing Service Reserve.
21. Officers, Adult Instructors and Adult Warrant Officers of the Sea Cadet Corps, Army Cadet Forces, Air Training Corps and Combined Cadet Force.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations modify the Regulations relating to Income Tax under Pay As You Earn in respect of reserve pay received by members of the reserve and auxiliary forces. They provide, where appropriate, for the deduction from such pay of income tax at the basic rate in force at the time of payment.

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