
STATUTORY INSTRUMENTS

1986 No. 2211

INCOME TAX

**The Charitable Deductions (Approved Schemes)
Regulations 1986**

Made - - - - - 15th December 1986

Laid before the House of Commons 16th December 1986

Coming into Operation 8th January 1987

The Treasury, in exercise of the powers conferred on them by section 28 of the Finance Act 1986(a), hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Charitable Deductions (Approved Schemes) Regulations 1986, and shall come into operation on 8th January 1987.

Interpretation

2. In these Regulations unless the context otherwise requires:—

“approved agency” means a body approved as agent in accordance with Regulation 5;

“approved scheme” means a scheme approved in accordance with Regulation 3;

“employer” means a person paying emoluments;

“employee” means any person entitled to receive payments of emoluments;

“emoluments” means income to be taken into account in assessing liability to income tax under Schedule E, from payments of which income tax falls to be deducted by virtue of section 204 of the Taxes Act(b) and regulations under that section;

“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;

“scheme” includes a kind of scheme;

“year” means the period beginning on any 6th day of April and ending on the following 5th day of April.

Approval of schemes

3. The Board may grant approval of a scheme for the purposes of section 27 of the Finance Act 1986 if it is satisfied on an application by an approved agency that the scheme provides:—

- (a) for a contract between the approved agency and an employer to give effect to the scheme;
- (b) that any employee to whom the employer pays emoluments on or after 6th April 1987 may, subject to paragraph (e), request the employer, in such form as the Board may approve or prescribe, to withhold from such emoluments such sum as the employee may specify pursuant to the scheme to be paid (subject to the provisions of the scheme) either by way of gift to such charity or charities as the employee may specify or in exchange for vouchers which the employee may surrender by way of gift to the charity or charities of his choice;
- (c) that under the scheme the employer is constituted the agent of the approved agency in holding moneys withheld from employees pursuant to the scheme;
- (d) for any minimum sum which may be withheld pursuant to the scheme and for any limit which may be imposed on the number of charities which one employee may specify pursuant to the scheme;
- (e) that no employee may request the withholding of any sum that would result in the total sum withheld from any emoluments of his pursuant to approved schemes exceeding in any one year the limit for sums in any year of assessment provided by section 27 of the Finance Act 1986;
- (f) that no sum so withheld shall be due to the specified charity pursuant to a deed of covenant or, where the sum withheld is paid in exchange for vouchers, that the value of those vouchers shall not be due to the charity or charities to which they are surrendered pursuant to a deed of covenant;
- (g) that the employer is to be bound to pay over to the approved agency sums withheld from employees pursuant to the scheme in any income tax month within 14 days of the end of that income tax month;
- (h) that the approved agency will if so requested give written receipts to the employer in respect of sums paid over to it;
- (i) that in no circumstances will sums duly withheld and paid over to the approved agency be returnable to the employer or to any employee;
- (j) that the approved agency will, subject to any deduction in respect of its charges, pay sums paid to it by the employer pursuant to the scheme to the charities respectively specified by the employees or provide the employees with vouchers to be surrendered to the charities of their choice;
- (k) that the approved agency will if so requested by an employee at the end of any year give him a certificate of the amounts which the approved agency has paid to charities specified by him in respect of

sums withheld from his emoluments in that year and of the maximum time elapsing in any period specified by the employee between the receipt of such sums from the employer and the payment to the charities of amounts in respect of such sums;

- (l) that if for any reason it becomes impossible for the approved agency to pay any amount to a charity specified by an employee the approved agency shall pay that amount to such other charity as it may consider has objects similar to those of the charity specified by the employee, but so that it shall not in any circumstances appropriate that amount to its own funds; and that on so paying that amount to that other charity the approved agency will give notice to the employee that it has done so;
- (m) that where an employee has been provided with a voucher by which payment may be made to a charity and that voucher has not been presented to the approved agency by way of payment within a time prescribed by the approved agency the approved agency will pay the amount represented by that voucher to such other charity as it sees fit, but so that it shall not in any circumstances appropriate that amount to its own funds; and that on so paying that amount to that other charity the approved agency will give notice to the employee that it has done so;
- (n) for the method by which the approved agency's charges in relation to the operation of the scheme will be met and for the determining of the amount of such charges.

4. Applications by an approved agency in accordance with Regulation 3 shall be in such form as the Board may approve or prescribe.

Approval of agencies

5. The Board may grant approval as an agent for the purposes of section 27 of the Finance Act 1986 to any charity which the Board is satisfied is prepared and able to act as an approved agency in relation to approved schemes and to comply with the provisions of these Regulations.

6. Applications by a charity for approval as an agent in accordance with Regulation 5 shall be in such form as the Board may approve or prescribe.

Withdrawal of approval of agencies

7. If at any time the Board is of opinion that an approved agency has ceased to be a charity or has failed to act properly in relation to an approved scheme or has failed to comply with these Regulations, it may give notice of withdrawal of approval to the approved agency and thereupon, from such date as the Board may specify in its notice, the agency shall cease to be approved and all schemes which have been approved on its application shall cease to be approved and all contracts to give effect to such schemes shall determine. When the Board gives such notice it shall inform every employer who has a contract with the approved agency to give effect to an approved scheme that it has so given notice.

Appeals

8.—(1) Any person aggrieved by the Board's refusal to grant him approval as an agent in accordance with Regulation 5 or by the Board's withdrawal of such approval in accordance with Regulation 7 may, by notice in writing given to the Board within 30 days from the date on which he is notified of the Board's refusal or withdrawal of approval, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall hear and determine the matter in like manner as an appeal.

(2) Any approved agency aggrieved by the Board's refusal to grant approval of a scheme in accordance with Regulation 3, may, by notice in writing given to the Board within 30 days from the date on which it is notified of the Board's refusal, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall hear and determine the matter in like manner as an appeal.

Information, returns and records

9.—(1) Every approved agency shall, within 30 days of entering into a contract with an employer giving effect to an approved scheme, inform the Board, in such form as the Board may approve or prescribe, of the date of the contract and of the name and address of the employer.

(2) Where a contract giving effect to an approved scheme is terminated the approved agency shall, within 30 days, inform the Board of such termination.

(3) Where an approved agency has not within 90 days of receiving sums paid to it by an employer pursuant to an approved scheme paid the appropriate amounts to the charities specified by the employees, the approved agency shall, if the Board so require, furnish the Board with a statement of the reasons why it has not done so.

10. On the ending of each year every approved agency shall, within 30 days of the end of such year or within such further time as the Board may allow, furnish a return to the Board, in such form as the Board may approve or prescribe, of the sums received from each employer with whom it has at any time within the year had a subsisting contract to give effect to an approved scheme, of the numbers of employees from whose emoluments such sums have been withheld, of the number of vouchers issued pursuant to any contract and the total values of such vouchers, of the amounts paid by it to each charity in relation to such approved schemes, and of its charges in relation to the operation of schemes.

11.—(1) Every approved agency shall retain:—

- (a) records of approved schemes,
- (b) records of contracts with employers until 3 years from the termination of each contract, and
- (c) for not less than 3 years, records of sums received from employers, records of amounts paid to all charities specified by employees, and records of vouchers for charities issued by it to employees pursuant to approved schemes.

(2) Every approved agency, when so required by notice served on it by the Board, shall within 30 days of such service produce for inspection by an officer of the Board all records required to be retained by it by paragraph (1) of this Regulation.

12.—(1) Every employer who has entered into a contract with an approved agency pursuant to an approved scheme shall retain:—

- (a) a copy of such contract until 3 years from the termination of the contract,
- (b) all forms of request to deduct given by employees pursuant to the approved scheme until 3 years from the revocation or lapse of such request and,
- (c) for not less than 3 years, records of all sums withheld from such employees pursuant to the approved scheme and evidence of all payments made to the approved agency pursuant to the approved scheme.

(2) Every employer who has entered into a contract with an approved agency pursuant to an approved scheme, when so required by notice served on him by the Board, shall within 30 days of such service produce for inspection by an officer of the Board all documents and records required to be retained by him pursuant to paragraph (1) of this Regulation.

Termination of contracts

13. If at any time an employer who has contracted to give effect to a scheme has without reasonable excuse failed in a significant respect to give effect to the scheme in accordance with his contract the approved agency shall forthwith give notice to the employer of termination of the contract.

Employee leaving employment

14. Where an employee who has requested his employer to withhold any sum pursuant to an approved scheme leaves his employment, the employer shall provide the employee with a statement, in such form as the Board may approve or prescribe, of the total amount so withheld from the employee's emoluments from that employment in the year in which the employee so leaves his employment.

Service by post

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

Tony Durant,
Michael Neubert,
Two of the Lords Commissioners
of Her Majesty's Treasury.

15th December 1986.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which come into operation on 8th January 1987, prescribe the circumstances in which the Board of Inland Revenue may grant approval of schemes for the purposes of the relief from tax of sums withheld by employers from payments made to those taxed under the PAYE scheme who have requested that those sums be paid to a charity or charities in accordance with an approved scheme (Regulation 3). They further prescribe the circumstances in which the Board may grant approval of agents to whom employers will pay the sums withheld (Regulation 5).

They also prescribe the circumstances in which the Board may withdraw the approval of agents (Regulation 7) and make provision for appeal to the Special Commissioners against the Board's refusal to grant approval of schemes or agents and against the Board's withdrawal of approval of agents (Regulation 8).

They prescribe circumstances in which agents shall furnish the Board with particulars of contracts entered into with employers to give effect to approved schemes, with information as to the termination of such contracts, and as to the reasons for delayed payments by agents to charities (Regulation 9). They prescribe the information which an agent is to furnish in an annual return to the Board (Regulation 10) and require the retention of documents by agents and employers and prescribe a period of 30 days for making available such documents for the Board's inspection (Regulations 11 and 12).

They provide for the termination of a contract between an employer and an agent where the employer has failed without reasonable excuse to carry out his part in a significant respect (Regulation 13). They make provision for the employer to give an employee when leaving his employment a statement of the amount withheld in the year in accordance with an approved scheme (Regulation 14).