
STATUTORY INSTRUMENTS

1993 No. 744

The Income Tax (Employments) Regulations 1993

PART II

GENERAL PROVISIONS RELATING TO EMPLOYERS

Multiple employers

3.—(1) Where an employer so elects, he shall be treated for all the purposes of these Regulations as if in respect of each group of his employees specified in the election he were a different employer, that is to say, as if each such group constituted all his employees and in particular, but without prejudice to the generality of the foregoing—

- (a) each such group shall be treated for those purposes as employed in a separate undertaking from that in which any other such group is employed, and
- (b) an employee ceasing to be employed in one such group and commencing employment in another such group shall be treated for those purposes as having ceased to be employed by the employer and having commenced an employment with a new employer.

(2) An election under this regulation must be made by notice to the inspector and any such notice shall contain—

- (a) such information as may be necessary to identify the groups of employees concerned, and
- (b) a certificate that the employer has no employees other than those in the groups so identified.

(3) Subject to paragraph (4), an election shall have effect for the year following that in which it is made and, unless revoked, shall also have effect for any subsequent year.

(4) Where an employer acquires the whole or a part of any trade, business, concern or undertaking of another employer and within 90 days of the acquisition elects under this regulation to be treated as a separate employer in respect of the group of employees employed in the acquired trade, business, concern or undertaking and his existing employees or, where an election is already in force in respect of them, each group of his existing employees, that election shall have effect for the year in which the acquisition takes place and any subsequent year.

(5) An election in force for any year may be revoked by notice to the inspector and any such revocation shall have effect for the year following that in which notice of it is given and any subsequent year, but shall not prejudice the making of a fresh election for that following or any subsequent year.

Intermediate employers

4.—(1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (in this regulation and in regulation 5 referred to as “the principal employer”) shall be deemed to be the employer for the purposes of these Regulations.

(2) The immediate employer shall furnish the principal employer with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of these Regulations.

- (3) If the employee's emoluments are actually paid to him by the immediate employer, then—
- (a) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted or repaid when the emoluments are paid to the employee, and shall deduct or repay the amount so notified to him accordingly; and
 - (b) the principal employer shall make a corresponding deduction or addition on making to the immediate employer the payment out of which those emoluments will be paid.

Troncs

5.—(1) This regulation applies where an organised arrangement exists for gratuities or service charges to be shared among two or more employees by any person (the organised arrangement being commonly known as a tronc and the person in question being commonly known and referred to in this regulation as a tronc-master).

- (2) Subject to paragraph (3), where this regulation applies—
- (a) every payment to an employee by way of the sharing out of gratuities or service charges by the tronc-master (including the retention by him of his own share if he is also an employee) shall be regarded for the purposes of these Regulations as a payment by him of emoluments; and
 - (b) to the extent of any such payment, the tronc-master shall be regarded as the employer for the purposes of these Regulations, notwithstanding regulation 4.
- (3) If in any particular case the Board are satisfied that the tronc-master has failed to observe or fulfil the requirements of these Regulations or any of them and they so direct, then—
- (a) any gratuities or service charges shared as mentioned in paragraph (1) and paid to the tronc-master through the principal employer shall be dealt with in accordance with regulation 4, and
 - (b) any share of gratuities or service charges not so dealt with shall either—
 - (i) be assessed under regulation 103 on the employee receiving the same, or
 - (ii) be taken into account under regulation 7(2)(b) by the inspector in his determination of a code,as the Board may direct.