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STATUTORY INSTRUMENTS

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**1993 No. 744**

**The Income Tax (Employments) Regulations 1993**

**PART IV**

**DEDUCTION AND REPAYMENT OF TAX**

*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;
  - “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

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

emoluments paid to the employee for the year but not included in the cumulative emoluments, shall be made to him by the inspector.