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STATUTORY INSTRUMENTS

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**1993 No. 744**

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

PART VI

SPECIAL PROVISIONS

CHAPTER I

*COUNCILLORS' ATTENDANCE ALLOWANCES*

**Interpretation of Chapter I**

**56.** In this Chapter unless the context otherwise requires—

“attendance allowance” means a payment by way of attendance allowance within section 173(1) of the Local Government Act 1972(1), regulations made under section 18 of the Local Government and Housing Act 1989(2) or regulation 4(1) of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1981(3);

“council” and “joint committee” shall be construed in accordance with section 148(1) of the Local Government Act (Northern Ireland) 1972(4);

“councillor” means any person who is entitled to receive a payment by way of attendance allowance by virtue of section 173(1) of the Local Government Act 1972 or regulations made under section 18 of the Local Government and Housing Act 1989 and any member of a council entitled to receive a payment by way of attendance allowance by virtue of regulation 4(1) of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1981;

“employer” includes the local authority, council, joint authority or joint committee paying the attendance allowance;

“local authority” in England and Wales has the meaning assigned to it by section 270(1) of the Local Government Act 1972 and in Scotland has the meaning assigned to it by section 235(1) of the Local Government (Scotland) Act 1973(5).

**Councillor’s option to have tax deducted at basic rate**

**57.—**(1) This regulation applies where a councillor is entitled to receive an attendance allowance.

(2) Where a councillor is aggrieved by the inspector’s determination under regulation 7 or 9, he may, by notice to the inspector, opt to have income tax deducted from the attendance allowance at the basic rate in force at the time of payment of the attendance allowance.

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- (1) 1972 c. 70; section 173(1) was amended by section 24(1) of the Local Government, Planning and Land Act 1980 (c. 65) and by paragraph 26 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42).
- (2) 1989 c. 42; the Regulations in force on the date these Regulations are made are the Local Authorities (Members' Allowances) Regulations 1991 (S.I.1991/351) and the Local Authorities Etc. (Allowances) (Scotland) Regulations 1991 (S.I. 1991/397 (S.39)).
- (3) S.R. (N.I.) 1981 No. 354.
- (4) 1972 c. 9 (N.I.).
- (5) 1973 c. 65.

(3) On receipt of any such notice the inspector shall give notice to the employer of the exercise of the option.

(4) On receipt of a notice given by the inspector to the employer under paragraph (3), and subject to paragraph (5), the employer, on making any payment of an attendance allowance to the councillor, shall deduct income tax at the basic rate in force at the time of that payment.

(5) Where a councillor has exercised his option under paragraph (2) and the inspector considers that the councillor may be obliged to expend money wholly, exclusively and necessarily in the performance of his duties as a councillor, the inspector may direct the employer to disregard an appropriate amount of the councillor's attendance allowance in calculating the tax to be deducted when any payment of attendance allowance is made to the councillor.

(6) Where the inspector has given notice to the employer of the exercise by a councillor of the option in paragraph (2), the employer shall record, on a deductions working sheet, the particulars specified in paragraph (7) regarding every payment of attendance allowance which he makes to the councillor.

(7) The particulars specified in this paragraph are—

- (a) the date of the payment,
- (b) the amount of the attendance allowance,
- (c) where paragraph (5) applies, the net amount of the attendance allowance from which tax has been deducted, and
- (d) the amount of tax deducted from the attendance allowance.

#### **Application of Part V of these Regulations**

**58.** Part V of these Regulations shall apply to tax liable to be deducted under regulation 57(4).