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STATUTORY INSTRUMENTS

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**1993 No. 744**

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

PART VI

SPECIAL PROVISIONS

*CHAPTER II*

*RESERVE AND AUXILIARY FORCES*

**Interpretation of Chapter II**

**59.**—(1) In this Chapter unless the context otherwise requires—

“the Ministry” means—

- (a) in relation to emoluments paid to members of the Merchant Navy Reserve, the Department of Transport, and,
- (b) in all other cases, the Ministry of Defence;

“reserve and auxiliary forces” includes the forces specified in paragraph (2);

“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.

(2) The forces specified in this paragraph are—

- (a) Royal Naval Reserve,
- (b) Royal Marines Reserve,
- (c) Royal Fleet Reserve,
- (d) Royal Naval Special Reserve (Special List),
- (e) Women’s Royal Naval Reserve,
- (f) Women’s Royal Naval Supplementary Reserve,
- (g) Queen Alexandra’s Royal Naval Nursing Service Reserve,
- (h) Voluntary Aid detachment (Naval Reserve),
- (j) Regular Army Reserve of Officers,
- (k) Army Reserves, including Regular Reserves and Army General Reserve,
- (l) Territorial and Army Volunteer Reserve,
- (m) Officer cadets of University Officers Training Corps,
- (n) Royal Air Force Reserve of Officers,
- (o) Royal Air Force Volunteer Reserve (including University Air Squadron members),

- (p) Class E of the Royal Air Force Reserve,
- (q) Women's Royal Air Force Reserve of Officers,
- (r) Women's Royal Air Force Volunteer Reserve,
- (s) Royal Auxiliary Air Force,
- (t) Women's Royal Auxiliary Air Force,
- (u) Princess Mary's Royal Air Force Nursing Service Reserve,
- (v) Officers, Adult Instructors and Adult Warrant Officers of the Sea Cadet Corps, Army Cadet Forces, Air Training Corps and Combined Cadet Force, and
- (w) Merchant Navy Reserve.

### **Disapplication of Parts III and IV of these Regulations**

**60.** Parts III and IV of these Regulations shall not apply to reserve pay.

### **Deduction of tax**

**61.**—(1) Subject to paragraph (2), 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.

(2) The Ministry shall not deduct income tax if—

- (a) it has received notice from the inspector of a determination for that year under any of the following provisions of this Chapter that tax shall not be deducted from reserve pay, and
- (b) it has not received notice of any amendment of that determination.

(3) Regulation 8 shall not apply to any notice within paragraph (2).

(4) This regulation shall apply on the making of any payment of reserve pay notwithstanding that an objection or appeal has been made under regulation 63 or 64.

### **Determination by inspector**

**62.**—(1) The inspector may make a determination 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.

(2) The inspector may make the determination referred to in paragraph (1) either prior to or at any time during any year.

(3) If the inspector makes the determination referred to in paragraph (1), he shall give notice of that determination to the reservist and to the Ministry.

### **Objections and appeals**

**63.**—(1) A reservist from whose reserve pay tax has been deducted in accordance with regulation 61 may give notice of objection to the inspector stating the grounds of his objection if he is aggrieved by that deduction.

(2) On receipt of the notice of objection the inspector shall make a determination 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) An appeal under paragraph (3) may be made to the General or Special Commissioners.

(5) Subject to paragraph (6), an appeal to the General Commissioners shall be heard in accordance with the like rules as are contained in paragraph 3 of Schedule 3 to the Management Act.

(6) The like provisions as are contained in section 44(2) of the Management Act shall apply to the appeal as they apply to appeals against assessments.

(7) On appeal, the Commissioners shall 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 62 that income tax at the basic rate shall not be deducted from reserve pay.

(8) Subject to regulation 64, the determination of the Commissioners shall be final.

(9) If, on appeal, the Commissioners determine that tax shall not be deducted from the reserve pay, the inspector shall give notice of that determination to the Ministry.

#### **Amended determinations**

**64.**—(1) If a determination by the inspector or the Commissioners under regulation 62 or 63 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.

(2) The inspector shall give notice of his amendment of that determination to the reservist and to the Ministry.

(3) Regulation 63 shall apply in relation to an amendment of a determination as it applies in relation to a determination under regulation 63(2).

#### **Certificate of tax deducted**

**65.**—(1) The Ministry may, and when required to do so shall, give the reservist a certificate in a form authorised by the Board showing the particulars specified in paragraph (2) in respect of any payment of reserve pay made during the year from which tax is deducted.

(2) The particulars specified in this paragraph are—

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

#### **Repayment to reservist during the year**

**66.**—(1) The Ministry shall not repay tax in respect of reserve pay to a reservist.

(2) On application being made to him by the reservist, the inspector may make such repayment to the reservist as may be appropriate at any time during the year having regard to the matters specified in paragraph (3).

(3) The matters specified in this paragraph are—

- (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 65, 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.

### **Ministry records**

**67.**—(1) The Ministry shall record, on a deductions working sheet, the particulars specified in paragraph (2) regarding every payment of reserve pay made to a reservist.

(2) The particulars specified in this paragraph are—

- (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.

### **End of year certificate**

**68.**—(1) After the end of the year the Ministry shall give the certificate specified in paragraph (2) to a reservist to whom paragraph (3) applies.

(2) The certificate specified in this paragraph is a certificate in the form provided or authorised by the Board 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 provided by the Board, that it has been authorised by them in substitution for such a form.

(3) A reservist to whom this paragraph applies is a reservist who—

- (a) 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, and
- (b) has not been given a certificate under regulation 65 in respect of each payment of reserve pay during that year.

### **Application of Parts V and VIII of these Regulations**

**69.**—(1) Part V of these Regulations shall apply with any necessary modifications to tax liable to be deducted under regulation 61.

(2) Part VIII of these Regulations shall apply with any necessary modifications to reserve pay.

### **Other emoluments of reservist**

**70.** Nothing in this Chapter shall affect the application of these Regulations to any other emoluments of a reservist.