
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 7

SPECIAL CASES

CHAPTER 2

RESERVE FORCES' PAY

Interpretation of Chapter 2

122.—(1) In this Chapter—

“the Ministry” means the Ministry of Defence;

“reserve forces” means the forces specified in paragraph (2);

“reserve pay” means relevant payments made by the Ministry to members of the reserve forces;

“reservist” means any person in receipt of reserve pay, but does not include 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) the Royal Naval Reserve (including Queen Alexandra’s Royal Naval Nursing Service Reserve),
- (b) the Royal Marines Reserve,
- (c) the Territorial Army,
- (d) the Royal Auxiliary Air Force,
- (e) the University Air Squadron, and
- (f) Officers, Adult Instructors and Adult Warrant Officers of the Sea Cadet Corps, Army Cadet Force, Air Training Corps or Combined Cadet Force.

Application of other Parts

123.—(1) Parts 2 (codes) and 3 (deduction and repayment of tax) do not apply to reserve pay.

(2) The rest of these Regulations apply as if the Inland Revenue had issued the basic rate code in respect of reserve pay.

Deduction of tax

124.—(1) On making any payment of reserve pay to a reservist during a tax year, the Ministry must deduct income tax at the basic rate in force when the payment is made.

(2) But the Ministry must not deduct income tax if—

- (a) it has received notice from the Inland Revenue of a determination for that tax year under this Chapter that tax is not to be deducted from reserve pay, and

- (b) it has not received notice of any amendment of that determination.
- (3) This regulation applies even if an objection or appeal has been made under this Chapter.

Determination by Inland Revenue

125.—(1) The Inland Revenue may make a determination that tax is not to be deducted from reserve pay if the Inland Revenue are satisfied that the reservist will not be liable to income tax on the full amount of the reserve pay in a tax year.

- (2) For the purpose of making a determination, it must be assumed—
 - (a) that any reliefs from income tax to which the reservist is entitled are allowable primarily against the reservist's PAYE income from other sources, and
 - (b) unless the reservist objects, that the balance (if any) of such reliefs is next allowable against the reservist's income other than PAYE income.
- (3) The Inland Revenue may make a determination before, or at any time during, the tax year.
- (4) On making a determination the Inland Revenue must notify the reservist and the Ministry.

Objection against deduction of tax

126.—(1) A reservist who objects to tax being deducted in accordance with regulation 124 (deduction at basic rate) must state the grounds of objection.

- (2) On receiving the notice of objection, the Inland Revenue must make a determination whether income tax at the basic rate is to be deducted from the reserve pay.
- (3) Regulation 125(2) (assumptions) applies for the purpose of making the determination.
- (4) The Inland Revenue must notify the reservist of the determination.
- (5) The Inland Revenue may amend the determination by agreement with the reservist.
- (6) If the Inland Revenue and the reservist do not reach agreement, the reservist may appeal against the determination by giving notice to the Inland Revenue.
- (7) An appeal under paragraph (6) may be made to the General or Special Commissioners.

Appeal to Commissioners

127.—(1) On appeal, the Commissioners must determine whether income tax at the basic rate is to be deducted from the reserve pay.

- (2) Regulation 125(2) (assumptions) applies for the purpose of making the determination.
- (3) If, on appeal, the Commissioners determine that tax is not to be deducted from the reserve pay, the Inland Revenue must give notice of the determination to the Ministry.
- (4) For the purposes of paragraph 3(1)(a) of Schedule 3 to TMA(1) (rules for assigning proceedings to General Commissioners), the relevant place for the appeal is the place where the reservist lives.

Amended determinations

128.—(1) This regulation applies if a determination by the Inland Revenue or the Commissioners under regulation 125, 126 or 127 is found to be inappropriate because the actual circumstances are different from the circumstances by reference to which it was made.

(1) Schedule 3 was substituted by paragraph 10 of Schedule 22 to the Finance Act 1996 (c. 8) and paragraph 3 of Schedule 3 was amended by paragraph 142 of Schedule 6 to ITEPA.

(2) The Inland Revenue must amend the determination.

(3) The Inland Revenue must give notice of the amended determination to the reservist and the Ministry.

(4) Regulations 126 and 127 apply in relation to an amended determination as they apply in relation to a determination under regulation 126(2).

Certificate of tax deducted

129.—(1) On making any payment of reserve pay from which tax is deducted, the Ministry may, and if the reservist so requires must, give the reservist a certificate showing the following particulars.

(2) The particulars are—

- (a) the reservist's name,
- (b) the reservist's national insurance number, if known,
- (c) the date of the payment,
- (d) the amount of the payment, and
- (e) the amount of tax deducted.

Repayment to reservist during tax year

130.—(1) The Ministry must not repay tax in respect of reserve pay to a reservist.

(2) If a reservist applies for a repayment of tax deducted from reserve pay, the Inland Revenue may make such repayment at any time during the tax year as may be appropriate.

(3) In deciding what is appropriate the Inland Revenue must have regard to—

- (a) the reserve pay of the reservist for the period from the beginning of the tax year up to and including the date of the application,
- (b) the amount of tax deducted from the reserve pay as evidenced by certificates of pay and tax supplied under regulation 129,
- (c) any reliefs from income tax to which the reservist is entitled, and
- (d) the reservist's other PAYE income for the tax year and, unless the reservist objects, the reservist's income for the tax year from all other sources, and liability to tax on that income, as estimated by the Inland Revenue.

Particulars that Ministry must record

131.—(1) The Ministry must record, in a deductions working sheet, the following particulars about every payment of reserve pay made to a reservist.

(2) The particulars are—

- (a) the reservist's name,
- (b) the reservist's national insurance number, if known,
- (c) the tax year to which the deductions working sheet relates,
- (d) the date of the payment,
- (e) the amount of the payment, and
- (f) the amount of tax (if any) deducted on making the payment.

End of year certificate

132.—(1) The Ministry must give an end of year certificate to a reservist in respect of whom the Ministry was required to prepare or maintain a deductions working sheet.

(2) The certificate must be given before 1st June following the end of the tax year to which it relates.

(3) The certificate must show—

- (a) the tax year to which it relates,
- (b) the reservist's name,
- (c) the reservist's national insurance number, if known,
- (d) the total amount of reserve pay paid by the Ministry to the reservist during the tax year,
- (e) the total tax deducted from the reserve pay,
- (f) the force in which the reservist was serving, and
- (g) the reservist's service number.

Other PAYE income of reservist

133. Nothing in this Chapter affects the application of these Regulations to any other PAYE income of a reservist.