
STATUTORY INSTRUMENTS

1991 No. 1080

INCOME TAX

The Income Tax (Employments) (No. 21) Regulations 1991

<i>Made</i>	- - - -	<i>25th April 1991</i>
<i>Laid before the House of Commons</i>	- - - -	<i>26th April 1991</i>
<i>Coming into force</i>	- -	<i>19th May 1991</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 203 of the Income and Corporation Taxes Act 1988⁽¹⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Employments) (No.21) Regulations 1991 and shall come into force on 19th May 1991.

Interpretation

2. In these Regulations “the principal Regulations” means the Income Tax (Employments) Regulations 1973⁽²⁾ and “Regulation” means a regulation of those Regulations.

Amendments to the Principal Regulations

3. In Regulation 2(1)⁽³⁾—

(a) after the definition of “income tax month” there shall be inserted—

““income tax period” means income tax quarter while Regulation 26A has effect, but otherwise means income tax month;

“income tax quarter” means the period beginning on the 6th day of April and ending on the 5th day of July, or beginning on the 6th day of July and ending on the 5th day of October, or beginning on the 6th day of October and ending on the 5th day of January or beginning on the 6th day of January and ending on the 5th day of April;”

(1) 1988 c. 1; section 203 was amended by sections 35 and 128 of, and paragraph 4 of Schedule 3 to, the Finance Act 1988 (c. 39), and by sections 45(3) and 187(1) of, and Part IV of Schedule 17 to, the Finance Act 1989 (c. 26), and extended by section 98A of the Taxes Management Act 1970 (c. 9) as inserted by section 165(1) of the Finance Act 1989.

(2) S.I. 1973/334.

(3) Regulation 2 was amended by S.I. 1974/2102, 1976/381, 1981/44, 1982/66 and 1986/2212.

- (b) in the definition of “year” after the word “assessment” there shall be inserted “and “current year” shall be construed accordingly”.

4. For Regulation 26 there shall be substituted—

“Payment of tax monthly by employer

26.—(1) Subject to Regulations 26A and 27A(8), the employer shall pay the amount specified in paragraph (2) to the Collector within 14 days of the end of every income tax month.

(2) The amount specified in this paragraph is—

- (a) all amounts of tax which the employer was liable under these Regulations to deduct from emoluments paid by him in that income tax month, and
- (b) all amounts of tax by which deductions in that income tax month were reduced in accordance with Regulation 24(3)(b), being amounts in respect of which a reduction was claimed in an earlier income tax month in accordance with sub-paragraph (c) below,

reduced by—

- (c) any amounts calculated as due to be repaid in that income tax month, but whose repayment was precluded during that income tax month by Regulation 24(3), and
- (d) any amounts which he was liable to repay in that income tax month (excepting any amounts for which a reduction was claimed in any previous income tax month, or which are being recovered from the Commissioners of Inland Revenue under Regulation 26B(5)).

Payment of tax quarterly by employer

26A .—

(1) Subject to Regulation 27A(8), the employer shall pay the amount specified in paragraph (2) to the Collector within 14 days of the end of every income tax quarter where—

- (a) the employer has reasonable grounds for believing that the conditions specified in paragraph (3) applies and so chooses, or
- (b) Regulation 21 applies.

(2) The amount specified in this paragraph is—

- (a) all amounts of tax which the employer was liable under these Regulations to deduct from emoluments paid by him in that income tax quarter, and
- (b) all amounts of tax by which deductions in that income tax quarter were reduced in accordance with Regulation 24(3)(b), being amounts in respect of which a reduction was claimed in an earlier income tax quarter in accordance with sub-paragraph (c) below,

reduced by—

- (c) any amounts calculated as due to be repaid in that income tax quarter, but whose repayment was precluded during that income tax quarter by Regulation 24(3), and
- (d) any amounts which he was liable to repay in that income tax quarter (excepting any amounts for which a reduction was claimed in any previous income tax quarter, or which are being recovered from the Commissioners of Inland Revenue under Regulation 26B(5)).

(3) The condition specified in this paragraph is that the averagemonthly total amount to be paid to the Collector under—

- (a) Regulation 26,
- (b) the Social Security Act 1975(4) and the Social Security (Contributions) Regulations1979(5) or, as the case may be, the Social Security (NorthernIreland) Act 1975(6) and the Social Security (Contributions) Regulations(Northern Ireland) 1979(7), and
- (c) section 559 of the Income and Corporation Taxes Act 1988 andthe Income Tax (Sub-Contractors in the Construction Industry)Regulations 1975(8),

will be less than £400 for income tax months falling within the current year.

Payment of tax by employer — further provisions

26B.—(1) The Collector shall give a receipt to the employer for the totalamount paid under Regulation 26 or 26A if so requested; but if a receiptis given for the total amount of tax and any earnings-relatedcontributions paid at the same time, then no separate receipt for taxonly need be given.

(2) If the amount specified in Regulation 26(2) or 26A(2) which theemployer is liable to pay to the Collector exceeds the amount actuallydeducted by him from emoluments paid during the relevant income taxperiod, the Collector, on being satisfied by the employer that he tookreasonable care to comply with these Regulations and that theunder-deduction was due to an error made in good faith, may direct thatthe amount of the excess shall be recovered from the employee, and,where the Collector so directs, the employer shall not be liable to paythe amount of that excess to the Collector.

(3) If the amount specified in Regulation 26(2) or 26A(2) which theemployer is liable to pay to the Collector exceeds the amount actuallydeducted by him from emoluments paid during the relevant income taxperiod, the Commissioners of Inland Revenue, if they are of the opinionthat an employee has received his emoluments knowing that the employerhas wilfully failed to deduct the amount of tax which he was liable todeduct under these Regulations from those emoluments, may direct thatthe amount of the excess shall be recovered from the employee, and,where the Commissioners so direct, the employer shall not be liable to paythe amount of that excess to the Collector.

(4) If a difference arises between the employer and the employee—

- (a) as to whether the employer has deducted tax, or
- (b) as to whether, having regard to Regulation 23, the employer isdeemed to have deducted tax, or
- (c) as to the amount of the tax that has been deducted, or
- (d) as to the amount of the tax that is deemed, having regard toRegulation 23, to have been deducted

from emoluments paid to the employee, the matter shall, for the purpose of ascertaining the amount of any tax to be recovered from the employee under paragraph (2) or (3), be determined by—

- (i) such General Commissioners as the Commissioners of Inland Revenue, having regard to all the circumstances, shall direct or

(4) 1975 c. 14.

(5) S.I. 1979/591

(6) 1975 c. 15.

(7) S.R. 1979 No. 186.

(8) S.I. 1975/1960; a relevant amending instrument is S.I.1991/1081..

(ii) in the case of a non-resident employee, the Special Commissioners, and the determination of those Commissioners shall be final.

(5) If the total of the amounts which the employer was liable to repay during any income tax period exceeds the total of the amounts which he was liable to deduct during that income tax period, the employer shall be entitled to deduct the excess from any subsequent payment which he is liable to make to the Collector under Regulation 26 or 26A or to recover that excess from the Commissioners of Inland Revenue; but that excess shall not include any amount for which a reduction was made in a payment under Regulation 26 or 26A in a previous income tax period, or any amount which is otherwise being recovered from the Commissioners of Inland Revenue.

(6) If he has not made any repayment of tax withheld under paragraph (3) of Regulation 24 within 42 days after the relevant event specified in sub-paragraph (a) of that paragraph, the employer shall pay the tax not repaid to the Collector forthwith, and paragraph (1) of this Regulation shall apply to the amount paid.”

5. In Regulation 27(9)—

- (a) for the word “month” wherever it appears there shall be substituted the word “period”;
- (b) in paragraphs (1) and (3) after “Regulation 26” there shall be inserted “or 26A”;
- (c) in paragraph (1) for the word “that Regulation” there shall be substituted the words “those Regulations”;
- (d) in paragraph (2) for the word “months” wherever it appears there shall be substituted the word “periods”.

6. In Regulation 27A(10)—

- (a) for the word “month” wherever it appears there shall be substituted the word “period”;
- (b) after “Regulation 26” wherever appearing there shall be inserted “or 26A”;
- (c) in paragraph (5) for the word “months” wherever it appears there shall be substituted the word “periods”.

7. In Regulation 28(11)—

- (a) in paragraph (1) after “Regulation 26” there shall be inserted “or 26A”;
- (b) for the word “month” wherever it appears there shall be substituted the word “period”.

8. In Regulation 29(12)—

- (a) in paragraphs (1) and (2)(b) after “Regulation 26” there shall be inserted “or 26A”;
- (b) in paragraph (2)(b) for the word “months” there shall be substituted the word “periods”;
- (c) in paragraph (3) for the words “Regulation 26(3) or (4)” there shall be substituted the words “Regulation 26B(2) or (3)”;
- (d) in paragraph (4) for “Regulation 26(4)” there shall be substituted “Regulation 26B(3)”.

9. In Regulation 29A(13)—

- (a) in paragraphs (1)(a) and (6) after “Regulation 26” there shall be inserted “or 26A”;
- (b) in paragraph (2) for the words “income tax months” there shall be substituted the words “income tax periods”;

(9) Regulation 27 was substituted by S.I. 1990/79.

(10) Regulation 27A was substituted by S.I. 1985/350 and amended by S.I. 1990/79.

(11) Regulation 28 was amended by S.I. 1984/1858 and 1985/350.

(12) Regulation 29 was amended by S.I. 1985/350 and 1988/637.

(13) Regulation 29A was inserted by S.I. 1988/637 and amended by S.I. 1989/1289 and 1990/79.

(c) in paragraph (2) for the words“that month or months” there shall be substituted the words“that period or periods”.

10. In Regulation 32(**14**)for the words“income tax months” wherever they appear there shall be substituted the words“income tax periods”.

11. In Regulation 34(**14**)—

(a) in paragraph (2)(b)(i) for the words“paragraph (7) of Regulation 26” there shall be substituted“paragraph (6) of Regulation 26B”;

(b) in paragraph (2)(b)(ii) for the words“paragraph (6) of Regulation 26” there shall be substituted“paragraph (5) of Regulation 26B”.

12. In Regulation 51(**15**)—

(a) in paragraphs (3) and (4) before the words“quarter” and“quarters” wherever they appear there shall be inserted the words“income tax”;

(b) in paragraph (7) the words“; and the expression” onwards shall be omitted.

A. J. G. Issac
T. J. Painter

25th April 1991

Two of the Commissioners of Inland Revenue

(14) Regulation 32 was amended by S.I. [1981/44](#) and [1988/637](#).

(14) Regulation 32 was amended by S.I. [1981/44](#) and [1988/637](#).

(15) Regulation 51 was amended by S.I. [1981/44](#), [1984/1858](#) and [1990/79](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Employments) Regulations 1973 (“the PAYE Regulations”) to allow certain employers to pay deductions under Pay As You Earn (“PAYE”) to the Inland Revenue quarterly rather than monthly. The amended rules will apply to employers whose average monthly payments of PAYE, National Insurance Contributions (“NIC”) and the statutory deduction imposed by section 559 of the Income and Corporation Taxes Act 1988 on payments to sub-contractors (“the statutory deduction”) are expected to be less than £400 in total, and will apply to payments on and after 19th May 1991.

Regulation 1 provides for citation and commencement and regulation 2 contains definitions.

The remainder of these Regulations make amendments to the PAYE Regulations.

Regulation 3 provides for further definitions to be inserted in Regulation 2(1) of the PAYE Regulations.

Regulation 4 substitutes three new Regulations in the PAYE Regulations (Regulations 26, 26A and 26B) in place of the previous Regulation 26. The new Regulation 26 contains the basic rule that an employer shall pay deductions under PAYE to the Inland Revenue monthly. The new Regulation 26A provides that an employer who expects that his average monthly payments of PAYE, NIC and the statutory deduction will be less than £400 in total may pay deductions under PAYE quarterly and not monthly. Regulation 26B contains further provisions relating to the payment of tax by an employer, and these apply whether deductions under PAYE are being paid monthly or quarterly.

Regulations 5, 6, 7, 8, 9, 10 and 11 amend Regulations 27, 27A, 28, 29, 29A, 32 and 34 of the PAYE Regulations respectively to ensure that these PAYE Regulations apply to employers paying quarterly as well as to employers paying monthly.

Regulation 12 amends Regulation 51 of the PAYE Regulations. The amendments made are consequential upon the introduction of the new definitions in Regulation 2(1) of the PAYE Regulations.