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STATUTORY INSTRUMENTS

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**1993 No. 744**

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

**PART III**

**CODING**

**Deduction and repayment of tax under appropriate code**

6.—(1) Subject to the conditions specified in paragraph (2), every employer, on making any payment of emoluments to any employee during any year, shall deduct or repay tax in accordance with these Regulations by reference to the appropriate code.

(2) The conditions specified in this paragraph are that—

- (a) a code authorisation in respect of the employee has been issued to the employer by the inspector for that year, and
- (b) the appropriate code is specified in the code authorisation.

(3) The employer shall act in accordance with this regulation and shall deduct or repay tax by reference to the appropriate code, notwithstanding that that code, as determined by the inspector, may be the subject of an objection or appeal.

**Determination of appropriate code by inspector**

7.—(1) The appropriate code shall be determined by the inspector, who for that purpose may have regard to any of the matters specified in paragraph (2).

(2) The matters specified in this paragraph are—

- (a) subject to paragraph (3), the reliefs from income tax to which the employee is entitled for the year in which the code is determined, so far as his title to those reliefs has been established at the time of the determination,
- (b) any income of the employee (other than the emoluments in relation to which the appropriate code is being determined)—
  - (i) on which the tax will be reduced by any relief for the year for which the code is to have effect, or
  - (ii) which is otherwise chargeable under Schedule E,
- (c) any tax overpaid for any previous year which has not been repaid,
- (d) any tax remaining unpaid for any previous year which is not otherwise recovered,
- (e) any amount to be recovered as if it were unpaid tax under the provisions of section 30(1)(1) of the Management Act, being an amount of tax in respect of Schedule E repaid to the employee in excess of the amount properly due to him, which is not otherwise recovered, and

(f) such other adjustments as may be necessary to secure that, so far as possible, the tax in respect of the employee's emoluments for the year for which the code is to have effect shall be deducted from the emoluments paid during that year.

(3) Where the code is determined before the beginning of the year for which it is to have effect, the inspector shall disregard any relief such as is referred to in paragraph (2)(a) if he is not satisfied that the employee will be entitled to it for that year.

### **Code applicable where code authorisation is not issued or received**

8.—(1) Where, under regulation 7, the inspector determines that the appropriate code for any year is not different from the code for the preceding year, he shall not be obliged to issue a code authorisation to the employer.

(2) Subject to paragraphs (3) and (5), if for any year, the employer does not receive a code authorisation for an employee who was in his employment on the 5th April in the year preceding that year, a code authorisation shall be deemed to have been issued by the inspector specifying the code which was appropriate on that 5th April as the appropriate code, and the employer shall act in accordance with regulations 6(1) and 38(1).

(3) If for the year ending on 5th April 1994 the employer does not receive a code authorisation for an employee who was in his employment on 5th April 1993 and the code which was appropriate on that date is no longer valid, a code authorisation shall be deemed to have been issued by the inspector specifying as the appropriate code the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in paragraph (4), and the employer shall act in accordance with regulations 6(1) and 38(1).

(4) The rates referred to in this paragraph are the lower rate, the basic rate and the higher rate.

(5) In relation to codes for the year ending on 5th April 1995 and subsequent years, where, under regulation 13(4)(b) and (5), a code is deemed to have been determined by the inspector as the appropriate code for the following year, he shall not be obliged to issue a code authorisation to the employer for that year, but a code authorisation shall be deemed to have been issued by the inspector specifying that code as the appropriate code for that year, and the employer shall act in accordance with regulations 6(1) and 38(1).

### **Coding at the higher rate or where no tax is deductible**

9.—(1) The inspector may determine that tax shall be deducted at the higher rate from the whole of any emoluments if he has reason to believe that the employee will be chargeable at the higher rate on some part of his total income.

(2) The inspector may determine that no tax shall be deducted from any emoluments if—

- (a) the emoluments will be included in an assessment under Schedule D, or
- (b) the inspector is not satisfied that the emoluments will be chargeable to tax, or
- (c) the inspector has reason to believe that the employee will be entitled to a deduction under section 193(1) of the Taxes Act.

(3) Where paragraph (1) or (2) applies, the inspector shall be deemed to have determined the appropriate code, and all the provisions of these Regulations which relate to objections and appeals against the inspector's determination, or to deduction of tax by reference to the appropriate code, or to the specification of the appropriate code in any code authorisation, return or certificate, shall, with the necessary modifications, have effect accordingly.

## Notice of coding

10.—(1) Subject to paragraph (2), the inspector, after he has determined the appropriate code for any year, shall give notice of his determination to the employee if the code so determined is different from the code for the preceding year.

(2) Notice under paragraph (1) need not be given where the change in the code is due to an alteration or alterations in the rates of any of the personal reliefs allowable under sections 257 to 257F(2) or 259 of the Taxes Act or in the tax tables, but the other matters referred to in regulation 7 are not different from those for the preceding year.

## Objections and appeals against coding

11.—(1) The employee may give notice of objection to the inspector stating the ground of his objection if he is aggrieved by the inspector's determination.

(2) On receipt of the notice of objection the inspector may amend his determination by agreement with the employee, and in default of such agreement the employee, on giving notice to the inspector, may appeal against the determination.

(3) Subject to paragraph (4), the appeal shall be heard by the General Commissioners in accordance with the like rules as are contained in paragraph 3 of Schedule 3 to the Management Act(3).

(4) The like provisions as are contained in section 44(2) of the Management Act(4) shall apply to the appeal as they apply to appeals against assessments.

(5) On appeal, the General Commissioners shall determine the appropriate code, having regard to the same matters as the inspector may have regard to when the appropriate code is determined by him.

(6) The like provisions as are contained in section 56 of the Management Act(5) shall apply to the determination by the General Commissioners.

(7) Subject to paragraph (6) and regulation 12, the determination of the General Commissioners shall be final.

## Amendments of coding

12.—(1) If a code is found not to be appropriate because the actual circumstances are different from the circumstances by reference to which it was determined by the inspector or the General Commissioners, the inspector may, and if so required by the employee shall, amend the previous determination by reference to the actual circumstances.

(2) Subject to paragraph (3), the inspector, after he has amended the determination of the code, shall give notice of the amended determination to the employee not later than the date on which the notice under regulation 13(1) or the code authorisation, as the case may be, is issued to the employer.

(3) Notice under paragraph (2) need not be given where the change in the code is due to an alteration or alterations in the rates of any of the personal reliefs allowable under sections 257 to 257F or 259 of the Taxes Act or in the tax tables, but the other matters referred to in regulation 7 have not changed.

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(2) Sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988, and the sections as substituted were amended by sections 33 and 57(4) of the Finance Act 1989, section 17(2) of, and Part IV of Schedule 19 to, the Finance Act 1990, section 33(4) of the Finance Act 1991 (c. 31) and paragraphs 2 to 4 of Schedule 5 to the Finance (No. 2) Act 1992 (c. 48); section 259 was amended by section 30 of, and paragraph 5 of Schedule 3 to, the Finance Act 1988 and by paragraph 5 of Schedule 5 to the Finance (No. 2) Act 1992.

(3) Paragraph (3) of Schedule 3 was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988.

(4) Section 44(2) was substituted by section 133(2) of the Finance Act 1988.

(5) Section 56 was amended by section 45(3) of the Finance (No. 2) Act 1975 (c. 45), paragraph 6 of Schedule 22 to the Finance Act 1984 (c. 43) and section 156(3) of the Finance Act 1989.

(4) The provisions of regulation 11 regarding objections and appeals shall apply in relation to the amended determination as they apply in relation to the original determination.

#### **Notice to employer of amended coding**

**13.**—(1) Where a determination of the inspector or the General Commissioners is amended after a code authorisation has been issued or is deemed under these Regulations to have been issued, the inspector shall give notice to the employer specifying the code appropriate to the employee's case under the amended determination.

(2) On making any payment of emoluments to the employee after the receipt of the notice mentioned in paragraph (1), the employer shall deduct or repay tax by reference to that code.

(3) In relation to the year ending on 5th April 1994, where there is a change in the rates of any of the personal reliefs allowable under sections 257 to 257F of the Taxes Act, the inspector may give notice requiring the employer to amend specified codes as directed, with effect from the date specified in the notice.

(4) In relation to codes for the year ending on 5th April 1995 and subsequent years, where there is a change in the rates of any of the personal reliefs allowable under sections 257 to 257F of the Taxes Act—

- (a) if the change relates to the current year, the inspector may give notice requiring the employer, with effect from the date specified in the notice, to amend specified codes as directed;
- (b) if the change relates to the following year, the inspector may give notice requiring the employer to carry forward to the following year and adjust as directed specified codes for the current year.

(5) A code amended by virtue of paragraph (3), or amended by virtue of paragraph (4)(a) in respect of the current year, shall be the appropriate code for that year, and a code carried forward to the following year and adjusted by virtue of paragraph (4)(b) shall be deemed to have been determined by the inspector as the appropriate code for that year, and in any of such cases all the provisions of these Regulations which relate to objections and appeals against the inspector's determination, or to deduction of tax by reference to the appropriate code or to the specification of the appropriate code in any code authorisation, return or certificate, shall, with the necessary modifications, have effect accordingly.