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STATUTORY INSTRUMENTS

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**1996 No. 1312**

**INCOME TAX**

**The Income Tax (Employments)  
(Amendment No. 3) Regulations 1996**

<i>Made</i>	- - - -	<i>14th May 1996</i>
<i>Laid before the House of Commons</i>	- - - -	<i>15th May 1996</i>
<i>Coming into force</i>	- -	<i>5th June 1996</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) and sections 59A(10) and 59B(8) of the Taxes Management Act 1970(2), hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Income Tax (Employments) (Amendment No. 3) Regulations 1996 and shall come into force on 5th June 1996.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Income Tax (Employments) Regulations 1993(3) and “regulation” means a regulation of those Regulations.

**Amendments to the principal Regulations**

3. In regulation 5(4)—

(a) for paragraph (3)(b) there shall be substituted—

“(b) any share of gratuities or service charges not falling within sub-paragraph (a) above shall be dealt with in accordance with paragraph (4A).”;

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(1) 1988 c. 1; section 203 was amended by section 128 of, and paragraph 4 of Schedule 3 to, the Finance Act 1988 (c. 39), section 45(3) of, and Part IV of Schedule 17 to, the Finance Act 1989 (c. 26), and paragraph 38 of Schedule 19, and Part V (23) of Schedule 26, to the Finance Act 1994 (c. 9).

(2) 1970 c. 9. Section 59A was inserted by section 192 of the Finance Act 1994, modified as respects the year of assessment 1996—97 by paragraph 2 of Schedule 21 to the Finance Act 1995 (c. 4), and amended by section 108 of the Finance Act 1995 and section 126(1) of, and paragraph 2 of Schedule 18 to, the Finance Act 1996 (c. 8). Section 59B was inserted by section 193 of the Finance Act 1994 and amended by section 115(6) of the Finance Act 1995, and sections 122(2), 125(4), 126(2) and 127 of the Finance Act 1996.

(3) S.I. 1993/744, amended by S.I. 1993/2276, 1994/775 and 1212, 1995/216, 447, 853, 1223 and 1284, and 1996/804 and 980.

(4) Amended by S.I. 1994/775.

(b) after paragraph (4) there shall be inserted—

“(4A) Where this paragraph applies the inspector or other officer of the Board may—

- (a) take into account under regulation 7(2)(b) the share of gratuities or service charges referred to in paragraph (3)(b) in his determination of a code, and
- (b) where he has not already done so, give notice to the employee under section 8 of the Management Act(5) requiring a return to be made and delivered under that section.”

4. In regulation 7(2)(e) the words “in respect of Schedule E” shall be omitted.

5. In regulation 9(2), for sub-paragraph (a) and the word “or” immediately following it there shall be substituted—

“(a) the emoluments will be taken into account as Schedule D income in any assessment, or”.

6. In regulation 11(3), for the words from “in accordance with” to the end there shall be substituted “for the division in which the place of employment is situated”.

7. In regulation 46AA(3)(6), for the word “requirement” there shall be substituted “notice”.

8.—(1) In regulation 49, for paragraph (8) there shall be substituted—

“(8) An appeal against a determination under this regulation that is to be brought before the General Commissioners shall be brought before the General Commissioners for the division in which the determination was made.”

(2) Paragraph (1) shall have effect in relation to any appeal made on or after the date of coming into force of these Regulations against a determination in respect of the year 1996—97 or any subsequent year of assessment.

9. In regulation 53(1) after the words “subsequent year” there shall be inserted “not later than the year ended 5th April 1996”.

10. After regulation 53 there shall be inserted—

**“Interest on tax overpaid by employer—1996—97 and subsequent years**

**53A.**—(1) Where tax in respect of the year ended 5th April 1997 or any subsequent year is repaid to an employer after the end of the year in respect of which the tax was paid, the tax repaid shall carry interest at the prescribed rate—

- (a) from the 14th day after the end of the year in respect of which the tax was paid or, if later,
- (b) from the date on which the payment of tax for that year was made.

(2) In paragraph (1) “the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989(7) for the purposes of section 824 of the Taxes Act(8); and where that rate changes on an operative date within the meaning given by regulation 2 of the Taxes

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(5) Section 8 was amended by section 178(1) of the Finance Act 1994, section 104(1) to (3) of the Finance Act 1995, and section 121(1) to (3) of, and Part V(6) of Schedule 41 to, the Finance Act 1996.

(6) Inserted by S.I. 1995/1284.

(7) Section 178 was amended by section 17(10) of the Social Security Act 1990 (c. 27), paragraph 107 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c. 6), paragraph 19(4) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12) and paragraph 5 of Schedule 11 to the Finance (No. 2) Act 1992 (c. 48).

(8) Section 824 of the Income and Corporation Taxes Act 1988 was amended by paragraph 7 of Schedule 13 to the Finance Act 1988, sections 110(5), 111(4), 158(2)(b) and 179(1)(a)(vii) of, and Parts IV, VIII and X of Schedule 17 to, the Finance Act 1989, paragraph 14(52) of Schedule 10 to the Taxation of Chargeable Gains Act 1992, and paragraph 41 of Schedule 19, and Part V (23) of Schedule 26, to the Finance Act 1994.

(Interest Rate) Regulations 1989<sup>(9)</sup> by virtue of those Regulations, the change shall have effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.”

11. In regulation 63(5) for the words from “in accordance with” to the end there shall be substituted “by the General Commissioners for the division in which the reservist’s place of residence is situated”.

12. In regulations 68(1) and 88(1) for the word “After” in each place where it occurs there shall be substituted “Not later than 56 days after”.

13. For regulation 99 there shall be substituted—

**“Assessment**

99. Nothing in these Regulations shall prevent an assessment (whether made under section 9 of the Management Act<sup>(10)</sup> or otherwise) being made in respect of income assessable to income tax for any year.”

14. In regulation 101<sup>(11)</sup>—

- (a) in paragraph (4)(d) the words “in respect of Schedule E” shall be omitted;
- (b) for paragraph (7) there shall be substituted—

“(7) In this regulation—

- (a) references to an assessment are references to an assessment other than an assessment under section 9 of the Management Act;
- (b) references to “tax payable under the assessment” are references to the amount of tax shown in the assessment as payable without regard to any amount shown in the notice of assessment as a deduction from, or a credit against, the amount of tax payable.”

15. After regulation 101 there shall be inserted—

**“Recovery of overpayments and recovery of underpayments—self-assessments**

101A.—(1) For the purpose of determining in respect of the year ended 5th April 1997 or any subsequent year—

- (a) the amount of any such excess as is mentioned in section 59A(1) of the Management Act, or
- (b) the amount of the difference mentioned in section 59B(1) of that Act,

any necessary adjustments in respect of the matters prescribed by paragraph (2) shall be made to the amount of tax deducted at source in accordance with these Regulations in that year.

(2) The matters prescribed are—

- (a) the aggregate amount of any repayments of tax deducted at source made to the employee;
- (b) the like matters as are specified in paragraph (4) of regulation 101, having regard to paragraphs (5) and (6) of that regulation.

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<sup>(9)</sup> S.I. 1989/1297.

<sup>(10)</sup> Section 9 was substituted by section 179 of the Finance Act 1994 and amended by section 104(4) of, and Part VIII (14) of Schedule 29 to, the Finance Act 1995, and by sections 121(4) and 122(1) of the Finance Act 1996.

<sup>(11)</sup> Amended by S.I. 1995/447.

(3) Where the amount of the difference mentioned in section 59B(1) of the Management Act is payable by the employee as mentioned in that section, the inspector or other officer of the Board may—

- (a) require the employee to pay that amount to the collector, or
- (b) take that amount into account in determining the appropriate code for a subsequent year.

(4) In paragraph (2)(a) the reference to repayments of tax is a reference to any repayments made in the year in which the tax was deducted at source, or after the end of that year but before the employee's return containing his self-assessment is made under section 8 or 8A(12) of the Management Act.”

**16.—**(1) In regulation 102, paragraph (2)(a) shall be omitted.

(2) Paragraph (1) shall have effect so far as concerns any action taken by the inspector under regulation 102 on or after the date of coming into force of these Regulations for the year 1996—97 or any subsequent year.

**17.—**(1) In regulation 104—

- (a) in paragraph (7)(b) for the words from “make an assessment” to the end there shall be substituted “by notice under section 8 of the Management Act require the employee to make and deliver a return under that section for the year”;
- (b) paragraph (8) shall be omitted;
- (c) in paragraph (11) for the words “if neither paragraph (7) nor paragraph (9) has applied” there shall be substituted “unless he has been required under section 8 of the Management Act to make and deliver a return or he has rendered a return under paragraph (9)”.

(2) Paragraph (1) shall have effect in any case where a deductions working sheet is issued by the inspector under paragraph (1) of regulation 104 on or after the date of coming into force of these Regulations for the year 1996—97 or any subsequent year.

**18.—**(1) In regulation 105, paragraph (2) shall be omitted.

(2) Paragraph (1) shall have effect with respect to any tax that becomes payable to the collector by any employee on or after the date of coming into force of these Regulations for the year 1996—97 or any subsequent year.

### **Revocations and savings**

**19.—**(1) Regulation 100 is revoked except so far as concerns any appeal made on or after the date of coming into force of these Regulations against an assessment for the year 1995—96 or any earlier year.

(2) Regulation 103 is revoked except so far as concerns any assessment made on or after the date of coming into force of these Regulations for the year 1995—96 or any earlier year.

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(12) Section 8A was amended by section 178(2) of the Finance Act 1994, section 104(1) of the Finance Act 1995 and section 121(1) to (3) of, and Part V(6) of Schedule 41 to, the Finance Act 1996.

14th May 1996

*S C T Matheson*  
*C W Corlett*  
Two of the Commissioners of Inland Revenue

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Income Tax (Employments) Regulations 1993 (S.I.1993/744) (“the principal Regulations”). In addition to an amendment of a drafting nature, the amendments make a number of changes, including the revocation of two regulations, in connection with the operation of PAYE following the introduction of self assessment for the year 1996/97 and subsequent years of assessment. Other Regulations amending the principal Regulations in connection with self assessment are S.I. 1995/1284 and 1996/804.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulations 3 to 5, 13 to 18, and 19(2) remove or replace (as appropriate) references in the principal Regulations to assessments under Schedule E for the year 1996/97 and subsequent years of assessment, reflecting the fact that, under self assessment, there is one calculation of tax liability based on income from all sources and capital gains.

Regulations 6, 8, 11 and 19(1) make changes to the principal Regulations reflecting the new rules (in paragraph 10 of Schedule 22 to the Finance Act 1996) for assigning appeal proceedings under self-assessment to divisions of General Commissioners.

Regulation 7 makes a drafting amendment to regulation 46AA(3) of the principal Regulations.

Regulations 9 and 10 change the rules for repayment with interest of tax overpaid by an employer for the year 1996/97 and subsequent years of assessment, so that interest is paid by reference to an earlier date.

Regulation 12 secures that the date for the provision of end of year certificates in respect of taxable social security benefits and payments to reserve forces is the same as the date for the provision of the end of year certificate in respect of an employee’s emoluments (P60).

Regulation 19 revokes with savings regulations 100 and 103 of the principal Regulations.