

1988 No. 1013

INCOME TAX

**The Personal Pension Schemes (Relief at Source)
Regulations 1988**

<i>Made - - - -</i>	<i>9th June 1988</i>
<i>Laid before the House of Commons</i>	<i>9th June 1988</i>
<i>Coming into force</i>	<i>1st July 1988</i>

ARRANGEMENT OF REGULATIONS

1. Citation and commencement.
2. Interpretation.
3. Prescribed cases and conditions: introductory.
4. Prescribed cases.
- 5-7. Prescribed conditions.
8. Claims: introductory.
9. Interim claims.
10. Annual claims.
11. Claims: supplementary provisions.
12. Recovery on withdrawal of approval of schemes or of arrangements.
13. Recovery of amounts by assessment.
14. Information.
15. Inspection of records.

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 639 of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Pension Schemes (Relief at Source) Regulations 1988 and shall come into force on 1st July 1988.

(a) 1988 c.1.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“arrangements” means approved personal pension arrangements within the meaning of section 630;

“the Board” means the Commissioners of Inland Revenue;

“net contribution” means a contribution from which an individual deducts an amount equal to income tax at the basic rate by virtue of section 639(3) and (4);

“net relevant Schedule E earnings” means “relevant Schedule E earnings” computed in accordance with section 646;

“relevant Schedule E earnings” means “relevant earnings” within the meaning of section 644 but with the omission of subsection 2(c) and (d) of that section;

“relevant superannuation scheme” means a scheme or arrangement as defined in section 645(3);

“retirement annuity contract or trust scheme” means a retirement annuity contract or trust scheme approved by the Board under Chapter III of Part XIV of the Act;

“scheme” means an approved personal pension scheme within the meaning of section 630;

“section” means a section of the Income and Corporation Taxes Act 1988;

“tax month” means a period beginning on the 6th day of any month and ending with the 5th day of the following month;

“year of assessment” means a year beginning with 6th April in any year and ending with 5th April in the following year.

(2) The Table below indexes other definitions in these Regulations—

<i>Term defined</i>	<i>Regulation</i>
annual claim	8
interim claim	8

Prescribed cases and conditions: introductory

3. Regulation 4 prescribes the cases in which, and regulations 5 to 7 the conditions subject to which, relief under section 639 shall be given in accordance with subsections (3) and (4) of that section.

Prescribed cases

4. The prescribed cases are cases where under arrangements an individual is paying contributions in respect of net relevant Schedule E earnings.

Prescribed conditions

5.—(1) The condition prescribed in this regulation is that an individual shall furnish in writing to the scheme administrator before, or within, the time specified in paragraph (3) the particulars specified in paragraph (2).

(2) The particulars specified in this paragraph are—

(a) his full name and address;

(b) his date of birth;

(c) his national insurance number;

(d) the full name and address of his employer who has paid, or will pay, net relevant Schedule E earnings to him;

(e) an estimate of his net relevant Schedule E earnings for the year of assessment in which he will first pay a net contribution;

(f) the full name and address of any employer of his, other than the employer referred to in sub-paragraph (d), who has paid net relevant Schedule E earnings to him.

(3) The time specified in this paragraph is—

- (a) in relation to the particulars specified in paragraph (2)(a), (b), (c) and (d), before the time at which the individual first pays a net contribution,
- (b) in relation to the particulars specified in paragraph 2(e), within 30 days after the date on which the individual—
 - (i) first pays a net contribution,
 - (ii) pays a net contribution of such an amount that, except where section 641 or 642 applies, the total net contributions paid by him in the year of assessment exceeds the maximum amount permitted under section 640 on the assumption that his net relevant Schedule E earnings for that year of assessment are not in excess of the estimate referred to in paragraph 2(e) and last furnished to the scheme administrator under this paragraph; and
- (c) in relation to the particulars specified in paragraph 2(f), within 30 days after the date on which the individual first pays a net contribution in respect of net relevant Schedule E earnings paid to him by an employer of his other than the employer referred to in paragraph (2)(d).

6.—(1) The condition prescribed in this regulation is that an individual shall furnish to the scheme administrator before, or within, the time specified in paragraph (3) the certificates specified in paragraph (2).

(2) The certificates specified in this paragraph are certificates which show—

- (a) that, except where subsection (4) or subsection (5) of section 645 applies, the individual is not participating in a relevant superannuation scheme;
- (b) whether or not the individual is paying contributions under other arrangements or under a retirement annuity contract or trust scheme;
- (c) that the total contributions which the individual—
 - (i) is paying under any arrangements or scheme referred to in sub-paragraph (b), and
 - (ii) will pay under the arrangements to which the certificate relatesdo not together exceed the total of the maximum amount permitted under section 640 and so much of any relief given under section 639(1) as is given by virtue of section 642;
- (d) that the relevant Schedule E earnings in respect of which the individual will pay, or has paid, a net contribution do not fall within section 644(5).

(3) The time specified in this paragraph is—

- (a) in relation to the certificate specified in paragraph (2)(a)—
 - (i) before the time specified in regulation 5(3)(a),
 - (ii) within 60 days after the date specified in regulation 5(3)(c),
 - (iii) within 30 days after the expiry of a period of five years from the date on which the individual last furnished a certificate under this sub-paragraph;
- (b) in relation to the certificates specified in paragraph 2(b) and (c), before the time specified in regulation 5(3)(a); and
- (c) in relation to the certificate specified in paragraph (2)(d)—
 - (i) before the time specified in regulation 5(3)(a),
 - (ii) within 60 days after the date specified in regulation 5(3)(c).

7.—(1) The condition prescribed in this regulation is that on every occasion on which an individual furnishes particulars or a certificate (or both) in accordance with regulation 5 or 6 he shall furnish the declarations specified in paragraph (2).

(2) The declarations specified in this paragraph are declarations signed by the individual to the effect that—

- (a) in relation to—
 - (i) the particulars specified in regulation 5(2), they are to the best of the knowledge and belief of the individual correct and complete;
 - (ii) a certificate specified in regulation 6(2), it is to the best of the knowledge and belief of the individual correct;

- (b) the individual will within 30 days give notice in writing to the scheme administrator if—
- (i) he ceases to be employed by an employer who has paid net relevant Schedule E earnings to him,
 - (ii) except where subsection (4) or subsection (5) of section 645 applies, he participates in a relevant superannuation scheme.

Claims: introductory

8.—(1) Amounts recoverable by a scheme administrator under section 639(4)(b) shall be recovered on a claim made to the Board for the purpose of these Regulations.

(2) Subject to paragraph (3), a claim shall be for a year of assessment (“annual claim”).

(3) A claim may also be made in accordance with regulation 9 for a tax month (“interim claim”).

(4) Notwithstanding the provisions of any other enactment, the Board shall not be under an obligation to make any payment under regulation 9 or 10 earlier than the end of the month following the month in which the claim is received.

Interim claims

9.—(1) Subject to paragraph (3), an interim claim for a tax month may be made by a scheme administrator within 6 months after the end of the tax month for which it is made.

(2) A claim under this regulation may not be based on an estimate but may only be made to recover an amount deducted in respect of contributions paid in the tax month.

(3) An interim claim may not be made for the tax month ending 5th October or any subsequent month until the annual claim for the preceding year of assessment has been made by the scheme administrator and received by the Board.

(4) If the amount claimed is established to the Board’s satisfaction they shall pay the amount to the claimant; if they are not so satisfied they shall pay to the claimant any lesser amount established to their satisfaction.

(5) Where a scheme administrator discovers that an amount paid to him under paragraph (4) was excessive he shall bring into account in the interim claim made by him next after the discovery (in this regulation referred to as “the subsequent claim”) the amount of the excess; and if that amount exceeds the amount deducted in respect of the tax month for which the subsequent claim is made—

- (a) the scheme administrator shall repay the amount of the excess to the Board with the claim; and
- (b) if he fails so to do that amount shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the scheme administrator which has become final and conclusive.

Annual claims

10.—(1) An annual claim for a year of assessment may, subject to paragraph (2), be made at any time within 6 years after the end of the year of assessment.

(2) Where in relation to any year of assessment a scheme administrator has received and not repaid in full any amount on an interim claim he shall within 6 months after the end of the year of assessment make an annual claim.

(3) A claim under this regulation—

- (a) may not be based on an estimate but may only be made to recover an amount deducted in respect of contributions paid in the year of assessment, and
- (b) shall bring into account payments made in respect of the year of assessment; and for the purpose of this regulation “aggregate interim payments” means the aggregate of payments made (and not repaid) on interim claims.

(4) Where the aggregate of the interim payments shown by an annual claim exceeds the amount deducted for the year of assessment—

- (a) the scheme administrator shall repay the amount of the excess to the Board with the claim; and
- (b) if he fails so to do, that amount shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the scheme administrator which has become final and conclusive.

(5) If a scheme administrator fails to make an annual claim under paragraph (2) within the time limited by that paragraph, the Board may issue a notice to the scheme administrator showing the aggregate interim payments for the year, and stating that the Board are not satisfied that the amount due to the scheme administrator for the year of assessment exceeds the lower amount stated in the notice.

(6) If an annual claim is not delivered to the Board within 14 days after the issue of a notice under paragraph (5), the amount of the difference between the aggregate amount and the amount stated in the notice shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the scheme administrator which has become final and conclusive.

(7) Where an annual claim has been made and the scheme administrator subsequently discovers that an error or mistake has been made in the claim the scheme administrator may make a supplementary claim within the time limited by paragraph (1).

Claims: supplementary provisions

11.—(1) Section 42 of the Taxes Management Act 1970(a) (procedure for making claims) shall not apply to a claim under these Regulations.

(2) No appeal shall lie from the Board's decision on an interim claim.

(3) An appeal shall be to the Special Commissioners from the Board's decision on an annual claim, and the appeal shall be brought by giving written notice to the Board within 30 days of receipt of written notice of the decision.

(4) No payment made or other thing done on or in relation to an interim claim shall prejudice the decision on an annual claim.

(5) The like provisions as are contained in Part V of the Taxes Management Act 1970(b) (appeals and other proceedings) shall apply to an appeal under paragraph (3), and on an appeal the Special Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.

(6) All such assessments, payments and repayments shall be made as are necessary to give effect to the Board's decision on an annual claim, or to any variation of that decision on appeal.

(7) Claims under these Regulations—

- (a) shall contain such information and be in such form as the Board may prescribe (and forms prescribed for annual claims may require a report to be given by the scheme administrator's auditor);
- (b) shall contain declarations to the effect that—
 - (i) sufficient records in respect of the scheme are maintained so as to enable the requirements of these Regulations to be satisfied, and
 - (ii) the information contained in the claim (including the declaration referred to in paragraph (i)) is correct; and
- (c) shall be signed by the scheme administrator or by an authorised representative in the service of the scheme administrator.

(a) 1970 c.9.

(b) Relevant amendments were made to section 45 by the Finance Act 1984 (c.43), section 127 and Schedule 22, paragraph 2, and by section 128(6), and Schedule 23, Part XIII; to section 48 by the Finance (No. 2) Act 1975 (c.45), section 45(4); to section 50 by the Finance (No. 2) Act 1975, section 67(2); to section 53 by the Finance Act 1972 (c.41), section 129(1); to section 56 by the Finance (No. 2) Act 1975, section 45(3). Section 56A was inserted by the Finance Act 1984 (c.43), section 127 and Schedule 22, paragraph 7; and section 57B by the Finance Act 1984, section 127 and Schedule 22, paragraph 4.

Recovery on withdrawal of approval of schemes or of arrangements

12. Where a scheme administrator gives to the Board information in accordance with regulation 14(2) he shall at the time that he gives the information—

- (a) pay to the Board the amount (if any) referred to in regulation 14(3)(d); and
- (b) if he fails so to do, that amount shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the scheme administrator which has become final and conclusive.

Recovery of amounts by assessment

13.—(1) The like provisions as are contained in section 30 of the Taxes Management Act 1970(a) (recovery of overpayment of tax, etc.) shall apply in relation to the payment by the Board of an amount—

- (a) paid under these Regulations to which a scheme administrator was not entitled, or
- (b) recoverable from a scheme administrator under regulation 9(5), regulation 10(4) or (6) or regulation 12,

as if it had been income tax repaid to the scheme administrator to which he was not entitled.

(2) An assessment made by virtue of this regulation shall be made by the Board and, subject to the provisions of these Regulations, the like provisions as are contained in the Taxes Management Act 1970 shall apply as if the assessment were an assessment to tax for the year of assessment in respect of which the amount was paid or is recoverable.

Information

14.—(1) The Board may by notice in writing require any person who is, or who at any time has been,—

- (a) a scheme administrator to whom net contributions have been paid, or
- (b) an individual who has paid such contributions,

to give to them within such time (not being less than 14 days) as may be provided in the notice such information and in such form as may be prescribed in the notice.

(2) If the Board by notice under section 650 withdraw their approval of a scheme, or of arrangements made in accordance with it and under which net contributions have been paid, the scheme administrator shall within 30 days give to the Board in relation to that scheme, or to those arrangements, the information prescribed in paragraph (3).

(3) The information prescribed in this paragraph is—

- (a) the full name, address, national insurance number, and where known tax office reference of each individual who has paid net contributions after the date specified in the notice in relation to the scheme, or to the arrangements, as the case may be, (in this regulation referred to as “the relevant contributions”);
- (b) the amount of the relief obtained under section 639(1) by means of the relevant contributions;
- (c) the amount of such relief actually due; and
- (d) the difference between the relief referred to in sub-paragraph (b) and that referred to in sub-paragraph (c).

(4) If an individual who has paid net contributions fails to comply with the requirements of regulations 5 to 7, the scheme administrator to whom such contributions have been made shall within 30 days give to the Board the information prescribed in paragraph (5).

(5) The information prescribed in this paragraph is—

- (a) the full name, address, national insurance number, and where known tax office reference of the individual;
- (b) the amount of relief obtained by him under section 639(1) by means of such contributions;
- (c) the amount of such relief actually due; and

(a) Section 30 was substituted by the Finance Act 1982 (c.39), section 149(1).

- (d) the difference between the relief referred to in sub-paragraph (b) and that referred to in sub-paragraph (c).

Inspection of records

15.—(1) Every scheme administrator to whom net contributions have been paid shall, whenever required so to do, make available for inspection by a person authorised by the Board for that purpose all books, documents and other records (including all particulars, certificates and declarations furnished under regulations 5 to 7) in his possession or under his control relating to—

- (a) such contributions paid to him,
- (b) the scheme and the arrangements made in accordance with it and under which the contributions were paid, and
- (c) the individual who paid the contributions.

(2) Where records are maintained by computer the scheme administrator shall provide the person making the inspection with all facilities necessary to obtain information from them.

(3) Subject to paragraph (4), all books, documents and records referred to in paragraph (1), shall be preserved by the scheme administrator so as to be available for inspection under this regulation for a period of six years following the termination of the scheme, or of arrangements made in accordance with it, to which they relate.

(4) All particulars, certificates and declarations furnished under regulations 5 to 7 shall be so preserved for a period of six years following the date on which the individual to whom they relate ceased to make net contributions.

A. J. G. Isaac
T. J. Painter

9th June 1988

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement section 639 of the Income and Corporation Taxes Act 1988 ("section 639") which provides for relief by deduction from contributions made under approved pension arrangements ("arrangements") made in accordance with an approved personal pension scheme ("scheme") in such cases and subject to such conditions as the Commissioners of the Inland Revenue ("the Board") may prescribe in regulations.

Section 639(3) provides that an individual who is entitled to relief under section 639(1) in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate. Section 639(4) provides that the administrator of a scheme shall accept the amount paid after deduction in discharge of an individual's liability to the same extent as if the deduction had not been made, and may recover an amount equal to the deduction from the Commissioners of Inland Revenue ("the Board").

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

Regulation 3 introduces regulations 4 to 7 which prescribe the cases in which, and the conditions subject to which, relief shall be given in accordance with section 639(3) and (4).

Regulation 8 introduces regulations 9 and 10 which, respectively, provide a system of interim and annual claims by which scheme administrators may recover from the Board amounts equal to those deducted under section 639(3). Regulation 11 contains supplementary provisions including a right of appeal against decisions on annual claims.

Regulation 12 provides that when, following the withdrawal of approval of a scheme or of arrangements, the scheme administrator gives information to the Board he shall at the same time pay to them the difference between the amount (if any) of relief obtained under section 639(1) by means of contributions paid net and the amount of such relief actually due.

Regulation 13 provides for the recovery by assessment from administrators of schemes of amounts paid to them by the Board to which they were not entitled, which are recoverable in default or which are recoverable following the withdrawal of approval of a scheme or of arrangements.

Regulation 14 provides that the Board may require a present, or former, administrator of a scheme, or an individual who has paid net contributions, to give information to them. In addition, the regulation provides that if the Board withdraw their approval of a scheme or of arrangements, or if an individual who has paid net contributions fails to comply with regulations 5 to 7, the administrator of the scheme shall give information to them.

Regulation 15 provides for the inspection by a person authorised by the Board of books, documents and records.

£1.60 net

ISBN 0 11 087013 1