

1990 No. 79

INCOME TAX

**The Income Tax (Employments) (No. 19)
Regulations 1990**

| | |
|---|---------------------------|
| <i>Made</i> - - - - - | <i>22nd January 1990</i> |
| <i>Laid before the House of Commons</i> | <i>23rd January 1990</i> |
| <i>Coming into force</i> | |
| <i>For the purposes of regulations 3, 4 and 7</i> - - - | <i>13th February 1990</i> |
| <i>For all other purposes</i> - - - - - | <i>6th April 1990</i> |

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 203(2) of the Income and Corporation Taxes Act 1988(a) and section 98A(1) of the Taxes Management Act 1970(b), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income Tax (Employments) (No. 19) Regulations 1990 and shall come into force for the purposes of regulations 3, 4 and 7 on 13th February 1990 and for all other purposes on 6th April 1990.

Interpretation

2. In these Regulations "the Principal Regulations" means the Income Tax (Employments) Regulations 1973(c) and "Regulation" means a regulation of those Regulations.

Amendments to the Principal Regulations

3. The following Regulation shall be inserted after Regulation 2 -

"Multiple employers

2A.—(1) Where an employer so elects, he shall be treated for all the purposes of these Regulations as if in respect of each group of his employees specified in the election he were a different employer, that is to say, as if each such group constituted all his employees and in particular, but without prejudice to the generality of the foregoing—

- (a) each such group shall be treated for those purposes as employed in a separate undertaking from that in which any other such group is employed, and
- (b) an employee ceasing to be employed in one such group and commencing employment in another such group shall be treated for those purposes as having ceased to be employed by the employer and having commenced an employment with a new employer.

(a) 1988 c.1; section 203 was amended by section 35 of, and paragraph 4 of Schedule 3 to, and section 128 of 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(1) of the Taxes Management Act 1970 (c.9).

(b) 1970 c.9; section 98A was inserted by section 165(1) of the Finance Act 1989 (c.26).

(c) S.I. 1973/334.

(2) An election under this Regulation must be made by notice in writing to the Inspector and any such notice shall contain—

- (a) such information as may be necessary to identify the groups of employees concerned, and
- (b) a certificate that the employer has no employees other than those in the groups so identified.

(3) Subject to paragraph (4), an election shall have effect for the year following that in which it is made and, unless revoked, shall also have effect for any subsequent year.

(4) Where an employer acquires the whole or a part of any trade, business, concern or undertaking of another employer and within 90 days of the acquisition elects under this Regulation to be treated as a separate employer in respect of the group of employees employed in the acquired trade, business, concern or undertaking and his existing employees or, where an election is already in force in respect of them, each group of his existing employees, that election shall have effect for the year in which the acquisition takes place and any subsequent year.

(5) An election in force for any year may be revoked by notice in writing to the Inspector and any such revocation shall have effect for the year following that in which notice of it is given and any subsequent year but shall not prejudice the making of a fresh election for that following or any subsequent year.”

4.—(1) In Regulation 10(a)—

- (a) in paragraph (3) the words “ In Northern Ireland ” onwards shall be omitted;
- (b) in paragraph (4) the words “ or Special ” and “ or the County Court ” shall be omitted.

(2) In Regulations 11(1) and 12(1) the words “ or the County Court ” shall be omitted.

(3) In Regulation 26(b) in paragraph (5) the words “ in Northern Ireland or ” shall be omitted.

(4) In Regulation 48 in paragraph (3) the words “, or, in Northern Ireland, the County Court,” shall be omitted.

(5) The provisions of paragraphs (1) and (4) shall not affect any appeal under Regulation 10 or 48 brought before the day on which these Regulations come into force for the purposes of this regulation and the provisions of paragraph (3) shall not affect any matter in relation to which the Commissioners of Inland Revenue have made a direction before that date.

5. For Regulation 27 there shall be substituted—

“ 27.—(1) If within 14 days of the end of any income tax month the employer has paid no amount of tax to the Collector under Regulation 26 for that income tax month, and the Collector is unaware of the amount, if any, which the employer is liable so to pay, the Collector may give notice to the employer requiring him to render, within 14 days, a return in the prescribed form showing the amount of tax which the employer is liable to pay to the Collector under that Regulation in respect of the income tax month in question.

(2) Where a notice given by the Collector under paragraph (1) extends to two or more consecutive income tax months, the provisions of these Regulations shall have effect as if the said consecutive income tax months were one income tax month.

(3) A notice may be given by the Collector under paragraph (1) notwithstanding that an amount of tax has been paid to him by the employer under Regulation 26 for an income tax month, if the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this Regulation shall have effect accordingly.”

6. In Regulation 27A in paragraph (9) for the words “ returns statement and declaration required by Regulation 30 ” there shall be substituted the words “ return required by paragraph (1) of Regulation 30 ”.

(a) Regulation 10 was amended by S.I. 1981/44.

(b) Regulation 26 was amended by S.I. 1974/2102, 1982/66 and 1985/350.

7. In Regulation 29A in paragraph (4)(a) for the words "any such increase" onwards there shall be substituted the words—

"and, where that rate changes on an operative date within the meaning of the Taxes (Interest Rate) Regulations 1989(b) 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."

8. In Regulation 30(c)—

(a) in paragraph (1)—

(i) for the words "14 days" there shall be substituted the words "44 days";

(ii) for the words "in respect of each employee showing" there shall be substituted the words "showing in respect of each employee, in respect of whom he was required at any time during the year to prepare or maintain a deductions working sheet in accordance with these Regulations,";

(b) in paragraph (2)—

(i) for the words "returns shall be accompanied by" there shall be substituted the words "return required by paragraph (1) shall include";

(ii) for the words "together with" there shall be substituted the words "and shall also include";

(iii) for the words "deducted or repaid by him" there shall be substituted the words "deductible or repayable under these Regulations";

(c) in paragraph (5)—

(i) for the words "under this Regulation" there shall be substituted the words "under this paragraph";

(ii) the words "in respect of every employee in respect of whom the employer was required at any time during the year to prepare or maintain a deductions working sheet in accordance with these Regulations, and" shall be omitted;

(d) in paragraph (7)—

(i) for the words "under this Regulation" there shall be substituted the words "under paragraph (1)" and for the words "in accordance with this Regulation except that" there shall be substituted "in accordance with this paragraph";

(ii) in sub-paragraph (a) for the words "the return for each employee shall show only" there shall be substituted the words "showing in respect of each employee";

(iii) in sub-paragraph (b) for the words "instead of the statement, declaration and certificate required by paragraph (2) of this Regulation the said return shall be accompanied by" there shall be substituted the word "including" and for the words "for whom a return" there shall be substituted the words "in respect of whom the additional return";

(e) the following paragraph shall be added at the end—

"(8) Section 98A of the Taxes Management Act 1970 shall apply in relation to the provisions of paragraph (1) of this Regulation requiring a return to be made."

9. In Regulation 31—

(a) for the words "30 days" there shall be substituted the words "61 days";

(b) for paragraph (d) there shall be substituted—

"(d) any emoluments which the employee is treated by subsection (1) of section 141 of the Income and Corporation Taxes Act 1988(d) as having received in that year by reason of the provision of a non-cash voucher by the employer;

(da) any emoluments which the employee is treated by subsection (1) of section 142 of that Act as having received in that year by reason of the provision of a credit-token by the employer;

(a) Regulation 29A was inserted by S.I. 1988/637 and paragraph (4) was amended by S.I. 1989/1289.

(b) S.I. 1989/1297.

(c) Regulation 30 was amended by S.I. 1974/2102, 1981/44, 1982/66 and 1984/1858.

(d) 1988 c.1.

(db) any living accommodation which has been provided for the employee or for members of his family or household by the employer and of the amount of any emoluments of which the employee is treated by virtue of section 145 or 146 of that Act, or by virtue of those sections together, as being in receipt in respect of that accommodation;”;

- (c) for the words “director’s or higher paid employment within the meaning of section 69 of the Finance Act 1976” there shall be substituted the words “employment to which Chapter II of Part V of the Income and Corporation Taxes Act 1988 applies”.

10. In Regulation 51—

- (a) in paragraph (6) for the words “14 days” there shall be substituted the words “44 days”;
- (b) the following paragraph shall be added at the end—
“(9) Section 98A of the Taxes Management Act 1970 shall apply in relation to the provisions of paragraph (6) of this Regulation requiring a return to be made.”

*A J G Isaac
L J H Beighton*

22nd January 1990

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Employments) Regulations 1973 (“the PAYE Regulations”) in various respects. Apart from regulations 3, 4 and 7, which come into force on 13th February 1990, they come into force on 6th April 1990.

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

Regulation 3 introduces a new Regulation 2A in the PAYE Regulations. This enables employers to elect to set up separate PAYE schemes for different groups of employees. An election will be effective for the tax year after that in which it is made and for subsequent years unless revoked. Where an employer makes an election within 90 days of acquiring an undertaking from another employer, the election has effect for the tax year in which it is made and subsequent years.

Regulation 4 makes amendments to the PAYE Regulations consequent on the introduction of General Commissioners in Northern Ireland and the abolition of the right of election for the hearing of appeals in the County Court there.

Regulation 5 substitutes a new Regulation 27 of the PAYE Regulations in which the requirement for an employer to provide the Collector with the information necessary to calculate the employer’s liability is replaced by a requirement to notify liability for a specified period.

Regulation 6 makes an amendment to Regulation 27A of the PAYE Regulations which is consequent on the amendments to Regulation 30 of those Regulations made by regulation 8.

Regulation 7 makes an amendment to Regulation 29A of the PAYE Regulations (additional to that made by the Income Tax (Employments) (No. 18) Regulations 1989 (S.I. 1989/1289)) consequent on the coming into force of section 178 of the Finance Act 1989 and the Taxes (Interest Rate) Regulations 1989, which together provide a mechanism for the calculation of the prescribed interest rate referred to in that Regulation.

Regulation 8 amends Regulation 30 of the PAYE Regulations by—

- (a) extending the date for submission of the employer's end of year return from 19th April to 19th May in each year;**
- (b) providing that a single return is made in respect of all employees (or of all employees in the same group), that the statement, declaration and certificate accompanying the return are part of it and that the certificate shows the total net tax deductible from all employees included in the return; and**
- (c) applying the penalty provisions of section 98A of the Taxes Management Act 1970 to late and incorrect employers' end of year returns.**

Regulation 9 amends Regulation 31 of the PAYE Regulations by—

- (a) extending the date of submission of the further returns required by that Regulation from 6th May to 6th June in each year;**
- (b) requiring particulars of non-cash vouchers, credit-tokens and living accommodation provided for employees or members of their families to be shown on returns of employees' benefits;**
- (c) removing a reference to obsolete legislation relating to medical insurance benefits; and**
- (d) altering the reference to "director's or higher-paid employment" in line with changes made by section 53 of the Finance Act 1989.**

Regulation 10 amends Regulation 51 of the PAYE Regulations by extending the date for submission of an employee's end of year return under the alternative direct collection procedure from 19th April to 19th May and applying the penalty provisions of section 98A of the Taxes Management Act 1970 to late and incorrect employees' end of year returns.