
STATUTORY INSTRUMENTS

1992 No. 3180

INCOME TAX

The Income Tax (Employments) (No. 23) Regulations 1992

Made - - - - *15th December 1992*
Laid before the House of
Commons - - - - *15th December 1992*
Coming into force - - *6th January 1993*

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, commencement and effect

1. These Regulations may be cited as the Income Tax (Employments) (No. 23) Regulations 1992, shall come into force on 6th January 1993, and shall have effect with respect to payments of emoluments made on or after 6th April 1993.

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) before the definition of “allowable charitable gifts” there shall be inserted—

““additional pay” means the appropriate amount required by a code authorisation to be added to the emoluments paid to an employee in order to determine the taxable emoluments;”;

(b) in the definition of “code” after the words “free emoluments” there shall be inserted the words “or additional pay”;

(c) after the definition of “Collector” there shall be inserted—

(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), and by section 45(3) 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, 1986/2212, 1991/1080 and 1992/1059.

- “cumulative additional pay”, in relation to any date, means the sum of the additional pay from the beginning of the year up to and including that date;”;
- (d) in the definition of “cumulative taxable emoluments” after the words “free emoluments” there shall be added the words “or, as the case may be, increased by the cumulative additional pay”;
- (e) after the definition of “Inspector” there shall be inserted—
- ““overriding limit” means the limit on the amount of tax to be deducted from a payment of emoluments where the tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date has been calculated by reference to additional pay, and that limit shall be an amount equal to 50 per cent. of the amount of the emoluments paid;”;
- (f) after the definition of “reliefs from income tax” there shall be inserted—
- ““tax not deducted” means tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date which as a consequence of the overriding limit has not been deducted;”;
- (g) in the definition of “taxable emoluments” after the words “free emoluments” there shall be added the words “or, as the case may be, increased by additional pay”.
4. In regulation 6(4)—
- (a) in paragraph (2) before the words “if for any year” there shall be inserted the words “, subject to paragraph (3) below,”;
- (b) after paragraph (2) there shall be added—
- “(3) If for the year ended 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) below, and the employer shall act in accordance with sub-paragraphs (a) and (b) of paragraph (1) of this Regulation.
- (4) The rates referred to in this paragraph are the lower rate, the basic rate and the higher rate.”.
5. In regulation 7(5) in paragraph (b) after the words “any relief” there shall be added the words “or which is otherwise chargeable under Schedule E”.
6. In regulation 8(6)—
- (a) paragraph (1A) shall be omitted;
- (b) in paragraph (3) “(1A)” shall be omitted.
7. In regulation 13(7)—
- (a) in paragraph (1) after the words “cumulative free emoluments” there shall be inserted the words “or, as the case may be, the cumulative additional pay,”;
- (b) in paragraph (2)—
- (i) after the words “said cumulative tax” there shall be inserted the words “together with any tax not deducted when the last preceding payment of emoluments was made”;

(4) Regulation 6 was substituted by S.I. 1981/44.

(5) Regulation 7 was amended by S.I. 1978/1196 and 1985/350.

(6) Regulation 8 was amended by S.I. 1974/2102, 1976/381, 1978/326, 1978/1196 and 1981/44.

(7) Regulation 13 was amended by S.I. 1976/381, 1978/326, 1981/44 and 1982/66.

- (ii) after the words “payment in question” there shall be added the words “, save that the deduction shall not exceed the overriding limit.”;
 - (c) in paragraphs (3) and (4) after the words “said cumulative tax” where they occur there shall be inserted the words “together with any tax not deducted when the last preceding payment of emoluments was made”;
 - (d) in paragraph (5) after the words “on making the payment in question” there shall be added the words “, save that the deduction shall not exceed the overriding limit.”;
 - (e) in paragraph (6)—
 - (i) for sub-paragraph (c) there shall be substituted—
 - “(c) the amount of tax, if any, deducted or repaid on making the payment.”;
 - (ii) sub-paragraphs (d) to (h) shall be omitted;
 - (f) after paragraph (6) there shall be inserted—
 - “(6A) The employer shall either—
 - (a) record on the deductions working sheet for that employee the following particulars regarding every payment of emoluments which he makes to the employee, namely—
 - (i) the cumulative emoluments in relation to the date of payment;
 - (ii) the cumulative free emoluments or, as the case may be, the cumulative additional pay, in relation to that date;
 - (iii) the cumulative taxable emoluments in relation to that date;
 - (iv) the corresponding cumulative tax;
 - (v) where additional pay has been added to the payment, the tax due at that date;
 - (vi) the overriding limit, if any, in relation to the payment;
 - (vii) the amount of any tax not deducted at that date as a consequence of the overriding limit; and
 - (viii) the amount of tax, if any, repayment of which is precluded by paragraph (3) of regulation 24; or
 - (b) keep such records as enable the production of those particulars.”;
 - (g) in paragraph (7) the words “or at a rate specified by him”, “or rate specified by the Inspector”, “or at a rate specified by the Inspector”, and “or that tax shall be deducted at a rate specified by the Inspector”, shall be omitted.
- 8.** For paragraph (3) of regulation 17(8) there shall be substituted—
- “(3) On making any such payment as aforesaid the employer shall—
 - (a) record on the deductions working sheet for that employee the date of the payment, the amount of the emoluments and the amount of tax, if any, deducted on making the payment, and
 - (b) either record on the deductions working sheet or keep such records as enable the production of the following particulars, namely—
 - (i) the free emoluments or, as the case may be, the additional pay for the appropriate code;

- (ii) the taxable emoluments; and
- (iii) where additional pay has been added, the tax due and the overriding limit.”.

9. In regulation 18(9)—

- (a) in sub-paragraph (f) of paragraph (1) for the words “cumulative tax” there shall be substituted the words “total net tax deducted”;
- (b) for sub-paragraph (b) of paragraph (3) and the word “and” immediately following it there shall be substituted—
 - “(b) prepare a deductions working sheet in accordance with the particulars given on the copies of the certificate and record on the working sheet the cumulative emoluments shown on the copies of the certificate;
 - (ba) record on the deductions working sheet or keep such records as enable the production of the following particulars, namely—
 - (i) save where the code contained in the certificate reflects additional pay, the cumulative free emoluments, the cumulative taxable emoluments and the corresponding cumulative tax as at the week or month shown on the copies of the certificate;
 - (ii) where the code contained in the certificate reflects additional pay, the cumulative additional pay, the cumulative taxable emoluments and either the cumulative tax as at the week or month shown on the copies of the certificate or the total net tax deducted shown on the copies of the certificate, whichever is the less; and”;
- (c) in sub-paragraph (c) of paragraph (3) the words “, the cumulative free emoluments” shall be omitted;
- (d) after paragraph (5) there shall be inserted—

“(5A) Where in relation to the year ended 5th April 1994 the code contained in the certificate is no longer valid, the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in Regulation 6(4) shall be treated for the purposes of paragraph (5) above as if it was the code contained in the certificate.”.

10. In regulation 20(10)—

- (a) in sub-paragraph (a) of paragraph (1) after the words “paragraph (2)” where they firstly occur there shall be inserted the words “or (3)”;
- (b) in paragraph (ii) of sub-paragraph (c) of paragraph (5) for the words “cumulative tax” there shall be substituted the words “total net tax deducted” and for the words “any cumulative tax” there shall be substituted the words “the total net tax deducted, if any,”;
- (c) in sub-paragraph (a) of paragraph (6)—
 - (i) after the words “on commencing employment with the employer,” there shall be inserted the words “and the delivery of the two copies shall be treated as if it were the issue on that day of a code authorisation to the employer in respect of the employee specifying the code shown on the certificate as the appropriate code,”;
 - (ii) for the words “cumulative tax” wherever they occur in paragraph (ii) of sub-paragraph (a) there shall be substituted the words “total net tax deducted”;
 - (iii) after the words “said certificate” in paragraph (ii) of sub-paragraph (a) there shall be inserted the words “, subject to the provisions of paragraph (3) of Regulation 18,”;

(9) Regulation 18 was amended by S.I. 1981/44, 1982/66 and 1991/435.

(10) Regulation 20 was substituted by S.I. 1981/44 and amended by S.I. 1982/66.

- (d) in sub-paragraph (b) of paragraph (6) in paragraph (i) of that sub-paragraph—
- (i) for the words “cumulative tax” there shall be substituted the words “total net tax deducted”;
 - (ii) after the words “the appropriate code” there shall be added the words “except that where the certificate relates to the year ended 5th April 1993 and the code shown on the certificate is no longer valid, a code authorisation shall be deemed to have been issued on that day to the employer in respect of the employee specifying the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in Regulation 6(4) as the appropriate code”.

11. In paragraph (1) of regulation 24(**11**)—

- (a) after the words “corresponding cumulative tax” there shall be inserted the words “and any tax not deducted when the last preceding payment of emoluments was made”;
- (b) after “Regulation 13” there shall be inserted the words “and record or, as the case may be, keep such records as enable the production of the particulars specified in paragraph (6A) of that Regulation,”.

12. In paragraph (4) of regulation 30 after the words “tax deductible” there shall be inserted the words “or, where required either to be recorded on the deductions working sheet or to be capable of being produced from other records pursuant to sub-paragraph (ba) of paragraph (3) of Regulation 18, any tax deducted”.

13. In regulation 51(**12**)—

- (a) for paragraph (2) there shall be substituted—

“(2) Whenever the employee receives any emoluments during the year for which the deductions working sheet was issued, he shall record on the deductions working sheet—

 - (a) the amount of the emoluments;
 - (b) the date on which he received the emoluments;
 - (c) the cumulative emoluments in relation to that date;
 - (d) the cumulative free emoluments or, as the case may be, the cumulative additional pay in relation to that date according to his code;
 - (e) the corresponding cumulative tax;
 - (f) the amount of tax, if any, deducted or repaid on making the payment of emoluments; and
 - (g) where his code reflects additional pay—
 - (i) the tax due at the date on which he received the emoluments;
 - (ii) the overriding limit in relation to the payment; and
 - (iii) the amount of any tax not deducted as a consequence of the overriding limit.”;
- (b) in paragraph (3), (5) and (6) for the words “cumulative tax” wherever they occur there shall be substituted the words “total net tax deducted”.

14. In regulation 55—

- (a) for sub-paragraph (a) of paragraph (3) and the word “and” immediately following it there shall be substituted—

(11) Regulation 24 was amended by S.I. 1982/66 and S.I. 1992/1059.

(12) Regulation 51 was amended by S.I. 1981/44, 1984/1858, 1990/79 and 1991/1080.

- “(a) prepare a deductions working sheet in the form provided or in a form authorised by the Commissioners of Inland Revenue and in accordance with the particulars given on the copies of the certificate, the two copies of which were delivered by the claimant;
 - (aa) record on the working sheet the cumulative emoluments shown on the certificate;
 - (ab) either record on the working sheet or keep such records as enable the production of the following particulars, namely—
 - (i) save where the code contained in the certificate reflects additional pay, the cumulative free emoluments, the cumulative taxable emoluments and the corresponding cumulative tax as at the week or month shown on the copies of the certificate;
 - (ii) where the code contained in the certificate reflects additional pay, the cumulative additional pay, the cumulative taxable emoluments and either the cumulative tax as at the week or month shown on the copies of the certificate or the total net tax deducted shown on the copies of the certificate, whichever is the less; and”;
 - (b) in paragraph (6) for the words “cumulative tax” there shall be substituted the words “total net tax deducted”;
 - (c) after paragraph (6) there shall be inserted—

“(6A) The code shown on the certificate shall be treated as the appropriate code for the purposes of these Regulations, except that where the certificate relates to the year ended 5th April 1993 and the code shown on the certificate is no longer valid, the appropriate code shall be deemed to be the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in Regulation 6(4).”.
- 15.** In regulation 57 for the words “cumulative tax” there shall be substituted the words “total net tax deducted”.
- 16.** In regulation 59 in sub-paragraph (f) of paragraph (3) for the words “cumulative tax” there shall be substituted the words “total net tax deducted”.
- 17.** In paragraph (3) of regulation 60 in paragraph (iv) of sub-paragraph (b) of that paragraph for the words “cumulative tax” there shall be substituted the words “total net tax deducted”.
- 18.** In regulation 63—
- (a) in sub-paragraph (a) of paragraph (1) after the words “cumulative free emoluments” there shall be inserted the words “or, as the case may be, the cumulative additional pay,”;
 - (b) after sub-paragraph (a) of paragraph (1) there shall be inserted—

“(aa) ascertain the total net tax deductible at the relevant date, save that where the code reflects additional pay, the total net tax deductible shall not exceed the overriding limit;”;
 - (c) in sub-paragraph (b) of paragraph (1) for the words “cumulative tax” where they first occur there shall be substituted the words “total net tax deducted”, and for the words “cumulative tax” where they next occur there shall be substituted the words “total net tax deductible”;
 - (d) in sub-paragraph (c) of paragraph (1) for the words “cumulative tax” where they first occur there shall be substituted the words “total net tax deductible”, and for the words “cumulative tax” where they next occur there shall be substituted the words “total net tax deducted”;
 - (e) after paragraph (1) there shall be inserted—

“(1A) In paragraph (1) the “total net tax deductible” means the total tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date.”.

15th December 1992

T. J. Painter
L. J. H. Beighton
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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Employments) Regulations 1973 (“the PAYE Regulations”) so as to introduce, with respect to payments of emoluments made on or after 6th April 1993, a new system of coding designed to enable income tax on benefits in kind to be collected through the PAYE system rather than having to be assessed on the employee at the end of the tax year. Under the system an employee is given a code (a ‘K’ code) which instructs his employer to increase the employee’s taxable pay by a certain amount which reflects the amount by which his benefits in kind exceed his personal allowances. Tax is then deducted under the PAYE system by reference to the resulting total. The system contains an overriding limit on the amount of tax which may be deducted from a payment of emoluments so as to ensure that the tax liability does not exceed 50 per cent. of the employee’s pay. The new system of ‘K’ codes also replaces ‘F’ codes which are currently used where state retirement pensions exceed personal allowances.

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

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

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

Regulation 4 amends regulation 6 of the PAYE Regulations and caters for the situation where the employer does not receive a code authorisation for the tax year 1993/94 in respect of an employee who is a pensioner and, owing to the replacement from the beginning of that year of the F code by the new K code, the rule in regulation 6 that the previous year’s code applies in such a case is ineffective.

Regulation 5 amends regulation 7 of the PAYE Regulations (determination of appropriate code) to reflect the new system of “K” codes.

Regulation 6 amends regulation 8 of the PAYE Regulations by deleting paragraph (1A) as a consequence of the replacement of F codes by the new K codes.

Regulations 7 to 18 amend regulations 13, 17, 18, 20, 24, 30, 51, 55, 57, 59, 60 and 63 respectively of the PAYE Regulations so as to ensure that the latter Regulations apply to the new system of K codes.