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STATUTORY INSTRUMENTS

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**1992 No. 734**

**INCOME TAX**

**The Vocational Training (Public Financial Assistance and Disentitlement to Tax Relief) Regulations 1992**

<i>Made</i>	- - - -	<i>12th March 1992</i>
<i>Laid before the House of Commons</i>	- - - -	<i>12th March 1992</i>
<i>Coming into force</i>	- -	<i>6th April 1992</i>

The Treasury, in exercise of the powers conferred on them by section 32(1), (6) and (7) of the Finance Act 1991(1), hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Vocational Training (Public Financial Assistance and Disentitlement to Tax Relief) Regulations 1992 and shall come into force on 6th April 1992.

**Interpretation**

2. In these Regulations unless the context otherwise requires—

“the Board” means the Commissioners of Inland Revenue;

“section 32” means section 32 of the Finance Act 1991;

“training payment” means a payment made on or after 6th April 1992 by an individual to a training provider in respect of a qualifying course of vocational training in respect of an allowable expense;

“training provider” means a person who on or after 6th April 1992—

- (a) provides (or has at any time on or after 6th April 1992 provided) training courses which are (or were) qualifying courses of vocational training, or
- (b) receives fees such as are mentioned in subsection (9) of section 32 in respect of a qualifying course of vocational training.

### Public financial assistance

3.—(1) The descriptions of public financial assistance for the purposes of paragraph (d) of subsection (1) of section 32 are those specified in paragraph (2).

(2) The descriptions of public financial assistance specified in this paragraph are public financial assistance—

(a) in England and Wales—

(i) under arrangements made under section 2 of the Employment and Training Act 1973<sup>(2)</sup> in respect of payments made by the Secretary of State and known by the name of—

- (aa) Youth Training or YT,
- (bb) Employment Training or ET,
- (cc) Employment Action,
- (dd) Training Credits Scheme, or
- (ee) Career Development Loans,

(ii) under regulations made under section 1 of the Education Act 1962<sup>(3)</sup> in respect of mandatory awards paid by a local education authority<sup>(4)</sup>,

(iii) under section 2 of the Education Act 1962<sup>(4)</sup> in respect of discretionary awards paid by a local education authority,

(iv) under regulations made under section 100(1)(b) of the Education Act 1944<sup>(5)</sup> in respect of grants paid in connection with the provision of educational services<sup>(6)</sup>, and

(v) under regulations made under section 1 of, and Schedule 2 to, the Education (Student Loans) Act 1990<sup>(7)</sup> in respect of loans made to students<sup>(8)</sup>;

(b) in Scotland—

(i) under arrangements made under section 2 of the Employment and Training Act 1973 in respect of payments made by the Secretary of State and known by the name of—

- (aa) Employment Action, or
- (bb) Career Development Loans,

(ii) under arrangements made under section 2(3), (4), (5) and (6) of the Enterprise and New Towns (Scotland) Act 1990<sup>(9)</sup> in respect of payments made by Scottish Enterprise or Highlands and Islands Enterprise and known by the name of—

- (aa) Youth Training or YT,
- (bb) Employment Training or ET, or
- (cc) Training Credits Scheme,

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(2) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19).

(3) 1962 c. 12; sections 1 and 2 were substituted by Schedule 5 to the Education Act 1980 (c. 20) and section 1 was further amended by section 4 of the Education (Grants and Awards) Act 1984 (c. 11).

(4) The Regulations in force on the date these Regulations are made are the Education (Mandatory Awards) Regulations 1990 (S.I.1990/1628).

(4) The Regulations in force on the date these Regulations are made are the Education (Mandatory Awards) Regulations 1990 (S.I.1990/1628).

(5) 1944 c. 31; section 100(1)(b) was amended by section 213(3) of the Education Reform Act 1988 (c. 40).

(6) The Regulations in force on the date these Regulations are made are the Education (Further and Higher Education Institutions Access Funds) Regulations 1990 (S.I. 1990/1555).

(7) 1990 c. 6.

(8) The Regulations in force on the date these Regulations are made are the Education (Student Loans) Regulations 1990 (S.I. 1990/1401).

(9) 1990 c. 35.

- (iii) under regulations made under section 49 of the Education (Scotland) Act 1980<sup>(10)</sup> in respect of bursaries administered by Scottish Education Authorities<sup>(11)</sup>,
  - (iv) under regulations made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980<sup>(10)</sup> in respect of grants paid to education authorities or to the managers of educational establishments<sup>(12)</sup>,
  - (v) under regulations made under sections 73(f) and 74(1) of the Education (Scotland) Act 1980<sup>(10)</sup> in respect of student allowances for courses of higher education<sup>(13)</sup>, and
  - (vi) under regulations made under section 1 of, and Schedule 2 to, the Education (Student Loans) Act 1990 in respect of loans made to students;
- (c) in Northern Ireland—
- (i) under arrangements made under sections 1 and 3 of the Employment and Training Act (Northern Ireland) 1950<sup>(14)</sup> in respect of which a training allowance is paid,
  - (ii) under Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986<sup>(15)</sup> in respect of mandatory awards paid by Education and Library Boards,
  - (iii) under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986<sup>(16)</sup> in respect of discretionary awards paid by Education and Library Boards,
  - (iv) under Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986<sup>(16)</sup> in respect of access funds for students at Universities or Further Education Colleges, and
  - (v) under Article 3 of and Schedule 2 to the Education (Student Loans) (Northern Ireland) Order 1990<sup>(17)</sup> in respect of loans made to students; and
- (d) provided by an overseas government which corresponds to any description of public financial assistance specified in sub-paragraphs (a) to (c) above.

### **Circumstances of disentitlement**

4.—(1) In the circumstances prescribed by paragraph (2) an individual who has made a training payment shall cease to be and be treated as not having been entitled to relief under subsection (2) of section 32 in respect of the training payment, or of the appropriate part of that training payment.

(2) The circumstances prescribed by this paragraph are where—

- (a) the training payment or any part of it is refunded by the training provider, or
- (b) any prize, award or other payment is given by the training provider to the individual by virtue merely of the qualifying course of vocational training being undertaken, completed or completed successfully by the individual.

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<sup>(10)</sup> 1980 c. 44.

<sup>(11)</sup> The Regulations in force on the date these Regulations are made are the Education Authority Bursaries (Scotland) Regulations 1988 (S.I. 1988/1042).

<sup>(12)</sup> 1980 c. 44.

<sup>(13)</sup> The Regulations in force on the date these Regulations are made are the Education (Access Funds) (Scotland) Regulations 1990 (S.I. 1990/1534).

<sup>(14)</sup> 1980 c. 44.

<sup>(15)</sup> The Regulations in force on the date these Regulations are made are the Students Allowances (Scotland) Regulations (S.I. 1991/1552).

<sup>(16)</sup> 1950 c. 29 (N.I.).

<sup>(17)</sup> S.I. 1986/594 (N.I.3).

<sup>(18)</sup> S.I. 1986/594 (N.I.3).

<sup>(19)</sup> S.I. 1986/594 (N.I.3).

<sup>(20)</sup> S.I. 1990/1506 (N.I.11).

### **Recovery of tax from training provider**

5.—(1) This regulation applies where an individual, who by virtue of regulation 4 has ceased to be and is treated as not having been entitled to relief in respect of the training payment or any part of it, has made a training payment to a training provider.

(2) Where this regulation applies, and in the circumstances prescribed by paragraph (3), the training provider shall account to the Board for tax relief which has been given on the basis that the individual was so entitled to relief.

(3) The circumstances prescribed by this paragraph are where—

- (a) the training provider has recovered from the Board an amount equal to any amount deducted and retained by the individual from the training payment in accordance with subsection (4) of section 32, and
- (b) that amount has not been repaid to the Board.

### **Adaptation of section 30 of the Taxes Management Act 1970**

6.—(1) In order to secure the performance of the obligation imposed by regulation 5, section 30 of the Taxes Management Act 1970(18) shall be adapted so that it applies to the tax for which the training provider is to account to the Board in accordance with that regulation as it applies to tax which has been repaid to a person which ought not to have been repaid to him.

(2) For the purposes of the adaptation required by paragraph (1), any reference in the said section 30 to the repayment of an amount of tax to any person which ought not to have been repaid to him shall be construed as including a reference to tax for which the training provider is to account to the Board in accordance with regulation 5.

*Thomas Sackville  
Irvine Patnick*

Two of the Lords Commissioners of Her  
Majesty's Treasury

12th March 1992

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(18) 1970 c. 9; section 30 was substituted by section 149 of the Finance Act 1982 (c. 39) and the section as substituted was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1), section 105 of the Finance Act 1990 (c. 29) and (prospectively) by section 88(1) of the Finance (No. 2) Act 1987 (c. 51) and paragraph 10(3) of Schedule 29 to the Income and Corporation Taxes Act 1988.

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## EXPLANATORY NOTE

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

These Regulations, made under section 32 of the Finance Act 1991, (“section 32”) contain provisions supplementary to those in section 32 which make provision for tax relief for payments in respect of qualifying courses of vocational training to be given by deduction from such payments of amounts equal to income tax at the basic rate on them (“relief at source”). They specify the types of public financial assistance that will preclude the giving of relief under section 32(2). They also make provision for an individual making a payment in respect of a course of vocational training to have his entitlement to tax relief on that payment removed in certain circumstances, for the circumstances in which tax for which relief has been given at source may be recovered from the training provider to whom the payment was made, and for the adaptation of section 30 of the Taxes Management Act 1970 in order to secure that recovery by way of assessment.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 specifies the types of public financial assistance that will preclude the giving of relief under section 32(2).

Regulation 4 provides that a person making a payment in respect of a qualifying course of vocational training will have his entitlement to tax relief for that payment removed or diminished if the payment, or any part of it, is refunded to him, or if he receives a prize, award or other payment merely for undertaking or completing the course.

Regulation 5 provides for the recovery of that tax relief from the training provider to whom the payment was made in circumstances where the training provider has recovered the relief from the Commissioners of Inland Revenue and not reimbursed them following removal of entitlement to relief for that payment.

Regulation 6 adapts the provisions of section 30 of the Taxes Management Act 1970 providing for the recovery of overpayments of tax by way of assessment under Case VI of Schedule D so that they apply in the same way to the recovery of tax relief under regulation 5.