
STATUTORY INSTRUMENTS

1992 No. 746

INCOME TAX

The Vocational Training (Tax Relief) Regulations 1992

<i>Made</i>	- - - -	<i>9th March 1992</i>
<i>Laid before the House of Commons</i>	- - - -	<i>13th March 1992</i>
<i>Coming into force</i>	- -	<i>6th April 1992</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 32(3) and 33(1) and (5) of the Finance Act 1991⁽¹⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Vocational Training (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 Financial Act 1991;

“the Taxes Act” means the Income and Corporation Taxes Act 1988⁽²⁾;

“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;

“the Treasury Regulations” means the Vocational Training (Public Financial Assistance and Disentitlement to Tax Relief) Regulations 1992⁽³⁾;

(1) 1991 c. 31.
(2) 1988 c. 1.
(3) S.I.1992/734.

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

Cases and conditions for relief at source

3.—(1) This regulation specifies the cases in which, and the conditions subject to which, relief under subsection (2) of section 32 shall be given at source, that is to say, in accordance with subsections (4) and (5) of that section.

(2) Subject to the conditions specified in paragraph (3), relief shall be given at source in any case where the training provider is resident in the United Kingdom.

(3) The conditions specified in this paragraph are—

- (a) that the training provider—
 - (i) has provided the information specified in paragraph (2) of the notice of entitlement to relief at source specified in regulation 4, and
 - (ii) has no reason to believe, at the time the training payment is made, that any of the information contained in the notice of entitlement is untrue, and
- (b) that the individual making the training payment—
 - (i) has given a notice of entitlement to relief at source to the training provider, providing the information and certificate specified in paragraphs (3) and (4) of regulation 4, and
 - (ii) is resident in the United Kingdom at the time of making the training payment or is at that time performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act as performed in the United Kingdom.

Notice of entitlement to relief at source

4.—(1) A notice of entitlement to relief at source shall provide—

- (a) the information specified in paragraph (2) given by the training provider, and
 - (b) the information specified in paragraph (3) and the certificate in the terms specified in paragraph (4) given by the individual making the training payment.
- (2) The information specified in this paragraph is—
- (a) the full name of the training provider,
 - (b) the title and level of the qualifying course of vocational training being undertaken by the individual making the training payment,
 - (c) the date the training payment was made,
 - (d) the amount of that training payment, and
 - (e) the amount deducted and retained out of that training payment by the individual in accordance with subsection (4) of section 32.
- (3) The information specified in this paragraph is—
- (a) the surname, first name, initials and title of the individual making the training payment,
 - (b) his address including postcode,
 - (c) whether he is in paid employment,
 - (d) whether he is self-employed,
 - (e) whether he presently pays income tax,
 - (f) if he has one, his national insurance number,
 - (g) if he is employed, the name and address of his employer, and

- (h) if he is self-employed, his business name and address.
- (4) The certificate specified in this paragraph is a certificate by the individual who has made the training payment that—
 - (a) to the best of his knowledge and belief all information provided in the notice is true,
 - (b) he was resident in the United Kingdom at the time of making the training payment, or was at that time performing duties which were treated by virtue of section 132(4)(a) of the Taxes Act as performed in the United Kingdom,
 - (c) the training payment was made in connection with his own training,
 - (d) at the time the training payment was made, he had not received in relation to the course, and was not entitled to receive in relation to it, any public financial assistance of a description specified in the Treasury Regulations,
 - (e) he has not received and, to the best of his knowledge and belief, is not entitled to claim, any other relief or deduction in respect of the training payment under any other provision of the Income Tax Acts, and
 - (f) he has deducted and retained out of the training payment an amount equal to income tax on it at the basic rate for the year in which it was made.
- (5) The certificate specified in paragraph (4) shall be signed and dated by the individual making the training payment.

Refunds of training payments and awards of prizes

- 5.—(1) This regulation applies 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 to the individual by the training provider by virtue merely of the qualifying course of vocational training being undertaken, completed or completed successfully by the individual.
- (2) Where this regulation applies the training provider shall, within 90 days of paying that sum, repay to the Board any amount which he had recovered from the Board on a claim under subsection (5)(b) of section 32 in respect of any sum mentioned in paragraph (1) above.

Claims by training providers — introductory

- 6.—(1) A claim made by a training provider under subsection (5)(b) of section 32 for the purpose of recovering amounts from the Board shall be made in accordance with this regulation and regulations 8 to 11.
- (2) Subject to paragraph (3) a claim shall be made to the Board in respect of a period of one year and is referred to in these Regulations as an “annual claim”.
- (3) A claim may also be made to the Board in the manner prescribed by regulations 8, 9 and 10 for a period shorter than a year and is referred to in these Regulations as an “interim claim”.
- (4) A claim shall be in such form and contain such particulars as the Board may prescribe, shall include a declaration that the records required to be kept by regulation 13 are being kept and shall be signed by the person making it or, where the person is not an individual, by an authorised officer of that person.
- (5) Forms prescribed for interim claims may also make provision for the supplementary statement under regulation 9.
- (6) Forms prescribed for annual claims may require a report to be given by an approved auditor.
- (7) In this regulation “approved auditor” means any person who—

- (a) is eligible for appointment as a company auditor under the terms of section 25 of the Companies Act 1989(4), or
- (b) is a member of the Chartered Institute of Public Finance and Accountancy and competent to undertake audit tasks under the rules of that body, or
- (c) is appointed by the Audit Commission for the purpose of auditing the local authority accounts relating to the training provider, and an approved auditor may be a member of the staff of the training provider or an employee of the local authority mentioned in subparagraph (c) above; but a person who is a member of the governing body of the training provider, or who is a proprietor or a director of the training provider, or who is involved in any way with the administration of relief under section 32 may not be an approved auditor.

Payments by the Board under claims

7.—(1) The Board shall not be under an obligation to make payment to a training provider of any amount claimed—

- (a) earlier than on the 20th day of the month following that in which the claim is received, where the claim is received by the 20th day of the month, or
- (b) earlier than on the 20th day of the month next following that in which the claim is received, where the claim is received after the 20th day of the month.

(2) The Board shall not be under an obligation to make payment to a training provider of any amount under an interim claim after 5th October in any year unless the annual claim for the preceding year has been received if an interim claim has been made for that preceding year.

(3) No payment in respect of sums recoverable under a claim shall be made to a training provider before 20th May 1992.

Interim claims in advance

8.—(1) An interim claim for a period allowed by paragraph (2) may be made not later than the date specified in paragraph (6) and is referred to in these Regulations as an “interim claim in advance”.

(2) The period for which an interim claim in advance may be made is a period of one month beginning on the 6th day of a month and ending on the 5th day of the following month.

(3) No interim claim in advance may be made for the month ending 5th October or any subsequent month until the annual return referred to in regulation 11 has been duly made for the preceding year and received by the Board if an interim claim has been made for that preceding year.

(4) An interim claim in advance shall be based on an estimate of the amount deductible by individuals in respect of training payments to be made in that month, and the estimate shall be certified by an authorised officer of the training provider that to the best of his knowledge and belief the particulars given of the estimate are correct.

(5) The Board shall pay to the training provider—

- (a) a sum equal to the estimated amount if they are satisfied with the estimate, or
- (b) any lesser amount established to their satisfaction if they are not so satisfied,

on the date specified in paragraph (6) or, where it is not a working day, the next working day.

(6) The date specified in this paragraph is the 20th day of the month.

Supplementary statements and claims

9.—(1) When a payment has been made to a training provider under regulation 8(5) on an interim claim in advance, the training provider shall deliver a supplementary statement under this regulation to the Board within 4 months after the end of the period for which the claim was made.

(2) The supplementary statement shall be a statement correcting (or confirming) the estimate of the amount deductible given in accordance with regulation 8(4), and—

- (a) shall be for the same period as the interim claim in advance, and
- (b) may not be based on an estimate but shall show the payments actually made during the period covered by the statement.

(3) If the supplementary statement shows that the amount deductible was less than the payment made under regulation 8(5), then the training provider shall repay the amount of the difference to the Board with the statement.

(4) If the supplementary statement shows that the amount deductible was greater than the payment made under regulation 8(5), then the supplementary statement shall constitute an interim claim; and the Board shall pay to the training provider—

- (a) the amount of the difference if they are satisfied that the amount claimed was deductible during the period covered by the statement, or
- (b) any lesser amount established to their satisfaction if they are not so satisfied.

(5) If in respect of an interim claim on which a payment has been made under regulation 8(5) a training provider fails to deliver a supplementary statement within the time required by this regulation—

- (a) the Board shall make no further payment in respect of any interim claim in advance until the supplementary statement has been received; and
- (b) the amount of that payment shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the training provider which has become final and conclusive.

Interim claims in arrear

10.—(1) An interim claim for a period allowed by paragraph (2) may be made and is referred to in these Regulations as an “interim claim in arrear”.

(2) The period for which an interim claim in arrear may be made is one which—

- (a) is a period of one month or a number of months beginning on the 6th day of a month and ending on the 5th day of the relevant following month;
- (b) falls within the same year; and
- (c) does not include any part of a period in respect of which a payment was made under regulation 8(5) (unless the payment in respect of that period or that part was recovered under regulation 9(5)).

(3) No interim claim in arrear may be made for the month ending 5th October or any subsequent month under the annual return referred to in regulation 11 has been duly made for the preceding year and received by the Board if an interim claim has been made for that preceding year.

(4) A claim under this regulation may not be based on an estimate but may only be made to recover the amount deducted in respect of the training payments actually made during the period covered by the claim.

(5) If the Board are satisfied that the amount claimed was deductible in the period for which the claim is made they shall pay the amount to the training provider and, if they are not so satisfied, they shall pay any lesser amount which they are satisfied was deductible.

Annual claims

- 11.**—(1) An annual claim in respect of a period of one year shall be made—
- (a) within six months after the end of that year if an interim claim has been made, or
 - (b) within six years after the end of that year if no interim claim has been made.
- (2) A claim under this regulation—
- (a) may not be based on an estimate but may only be made to recover the amount deducted in respect of the training payments made in the year, and
 - (b) shall bring into account payments made for the year, and for the purpose of this regulation “aggregate interim payments” means the aggregate of payments made (and not repaid) on interim claims.
- (3) If the Board are satisfied that the amount claimed was deductible in the period for which the claim is made they shall pay the amount to the training provider and, if they are not so satisfied, they shall pay any lesser amount which they are satisfied was deductible.
- (4) Where the aggregate interim payments shown by an annual claim exceed the amount deducted for the year—
- (a) the training provider shall repay the amount of the excess to the Board with the claim, and
 - (b) if he fails to do so, that amount shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the training provider which has become final and conclusive.
- (5) If a training provider to whom payments are made fails to make an annual claim within the time limited by this regulation, the Board may issue a notice to him showing the aggregate interim payments made to him for the year and stating that the Board are not satisfied that the amount due to him for that year exceeds the lower amount stated in the notice.
- (6) If an annual claim for the year 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 interim payments and the lower amount stated in the notice shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the training provider which has become final and conclusive.
- (7) No payment or repayment made or other thing done on or in relation to an interim claim or a notice under paragraph (5) shall prejudice the decision on an annual claim.
- (8) Where an annual claim has been made and the training provider who made it subsequently discovers that an error or mistake has been made in the claim, he may make a supplementary annual claim at any time within six years after the end of the year for which it is made.

Inspection of records kept

12. The Board may by notice require any person who on or after 6th April 1992 provides (or has at any time on or after 6th April 1992 provided) training courses which are (or were) qualifying courses of vocational training, within 14 days of the notice, to make available for inspection by an officer of the Board authorised for that purpose all documents (including books and other records) in his possession or under his control containing information relating to any qualifying course of vocational training which he has provided or is providing.

Keeping of records by training providers

13. A training provider shall at all times keep sufficient records in respect of qualifying courses of vocational training which he has provided, or is providing, to enable the requirements of this regulation to be satisfied; and in particular, but without prejudice to the generality of the foregoing,

a copy of every notice of entitlement to relief at source shall be preserved by the training provider so as to be available for inspection under this regulation for a period of three years after the end of the year in which the relevant payment was made.

Provision of information to the Board

14. The Board may by notice require any training provider to furnish within 14 days of the notice such information about any qualifying course of vocational training provided by him as may be reasonably required by them for the purposes of these Regulations.

9th March 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, made under sections 32(3) and 33 of the Finance Act 1991, specify the cases in which, and the conditions subject to which, tax relief for payments in respect of qualifying courses of vocational training is to be given by deduction from such payments of amounts equal to income tax at the basic rate on them (“relief at source”). The Regulations also provide the machinery by which the training providers receiving the payments from which amounts have been deducted can recover those amounts from the Board by making claims; and provide for the inspection of records kept by training providers and for training providers to furnish information.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 specifies the cases in which, and the conditions subject to which, relief is to be given at source.

Regulation 4 specifies the contents of a notice of entitlement to relief at source to be given by the training provider and by the individual making the payment.

Regulation 5 provides that refunds of payments on which relief has been given at source are to be of the net amount only and that any amounts recovered from the Board in respect of such payments are to be repaid. This regulation also provides that any amounts recovered from the Board in respect of prizes and awards are also to be repaid.

Regulation 6 provides that a training provider who has received payments from which amounts have been deducted under the scheme for relief at source may make interim claims as well as an annual claim to recover those amounts from the Board, and regulation 7 makes provision for the relevant dates for the Board to make payments under those claims.

Regulations 8, 9 and 10 provide for interim claims, and for supplementary statements to be provided where interim claims are submitted in advance.

Regulation 11 provides for an annual claim to be made after the end of the tax year to which it relates, and provides for the recovery by the Board of excessive repayments.

Regulation 12 provides for the inspection by the Board of records kept; regulation 13 provides for training providers to keep records; and regulation 14 specifies the information which training providers are to furnish to the Board.