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STATUTORY INSTRUMENTS

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**1993 No. 744**

**The Income Tax (Employments) Regulations 1993**

**PART IV**

**DEDUCTION AND REPAYMENT OF TAX**

*Deduction of tax where appropriate code not known*

**Employee for whom appropriate code not known**

**28.**—(1) Subject to paragraphs (4) and (5), if the employer makes any payment of emoluments—

- (a) to an employee in respect of whom he has not received a code authorisation from the inspector (and in respect of whom no code authorisation is deemed under regulation 8 to have been issued by the inspector), and that payment is equivalent to emoluments at a rate exceeding the minimum rate specified in paragraph (2), or
- (b) to a new employee with other employment, or to a new employee to whom neither regulation 29 nor 30 applies, at a rate exceeding £1 a week, or £4 a month,

the employer, on the occasion of any such payment, shall, subject to paragraph (3), forthwith render a return to the inspector giving the name and address of the employee, the employee's national insurance number, the date on which his employment commenced, and such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7.

(2) "The minimum rate" means—

- (a) subject to paragraph (b) below, such sum as represents one fifty-second part of the relief for the time being allowable under section 257(1) of the Taxes Act, rounded to the nearest 50 pence, or
- (b) in the case of an employee who is paid monthly or at longer intervals, one twelfth part of the relief for the time being allowable under section 257(1) of the Taxes Act, rounded to the nearest £1.

(3) If the employer, having rendered the return mentioned in paragraph (1), makes any subsequent payment of emoluments to the employee, he shall not be required to render any further return in the same year pursuant to that paragraph.

(4) This regulation shall not apply where—

- (a) the employee has delivered two copies of a certificate received by him in accordance with regulation 23(3) to his employer immediately on commencing employment; or
- (b) subject to paragraph (5), the employee is resident outside the United Kingdom and the emoluments consist of a pension.

(5) If the employer pays a pension, not being a pension arising wholly from an employment carried on abroad, to a person who is resident outside the United Kingdom in respect of whom he has not received a code authorisation from the inspector, and the payment is equivalent to emoluments

at a rate exceeding the minimum rate, the employer shall, on the occasion of the first such payment, forthwith render a return to the inspector giving the name and address of the person entitled to the pension, the date on which the pension commenced, and such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7.

### **Employee taking up employment after full-time education**

**29.**—(1) This regulation applies to an employee within regulation 28(1)(a) who certifies, on a form provided by the Board, that he is taking up employment for the first time after a period of full-time education and that he has not made a claim as defined in regulation 81.

(2) If any payment made as described in regulation 28(1) is the first payment of emoluments made by the employer during the year to an employee to whom this regulation applies, and that payment is equivalent to emoluments at a rate exceeding the minimum rate, the employer, on making the payment, shall, on a deductions working sheet which he shall prepare for the purpose, enter cumulative emoluments and cumulative tax before the first payment as nil and deduct tax in accordance with regulation 14, applying the code specified by the Board as the appropriate code.

(3) On making any subsequent payment of emoluments to the employee where paragraph (2) applied to the first payment and where a code authorisation has not been issued in respect of the employee, the employer shall deduct or repay tax in accordance with regulation 14, continuing to apply the code specified by the Board as the appropriate code, and shall keep the records required by paragraphs (3) and (4) of regulation 38.

### **Employee taking up only or main employment**

**30.**—(1) This regulation applies to an employee within regulation 28(1)(a), who is not within regulation 29, and who certifies, on a form provided by the Board, that the employment is his only or main employment.

(2) If any payment made as described in regulation 28(1) is the first payment of emoluments made by the employer during the year to an employee to whom this regulation applies, and that payment is equivalent to emoluments at a rate exceeding the minimum rate, the employer, on making the payment, shall deduct tax and keep records on a deductions working sheet which he shall prepare for the purpose as if the payment were one to which regulation 17 applied, applying the code specified by the Board as the appropriate code.

(3) On making any subsequent payment of emoluments to the employee where paragraph (2) applied to the first payment and where a code authorisation has not been issued in respect of the employee, the employer shall deduct tax as if such subsequent payment were one to which regulation 17 applied, applying the code specified by the Board as the appropriate code, and shall keep the records required by that regulation.

(4) Where paragraph (2) applied to the first payment of emoluments made by the employer to the employee and the employer ceases to employ the employee before a code authorisation has been issued to him by the inspector, then, unless regulation 34 has become applicable, regulations 23 and 25 shall apply, subject to the modifications that—

- (a) the two copies of the certificate of the employer under regulation 23(3) shall not contain particulars of the cumulative emoluments and cumulative tax; and
- (b) the new employer, instead of deducting or repaying tax by reference to the cumulative emoluments and cumulative tax, shall deduct tax and keep records in accordance with paragraph (3) as if each payment of emoluments made by him were one to which regulation 17 applied.

### **Other new employees**

**31.—(1)** This regulation applies to an employee within regulation 28(1) who is not within regulation 29 or 30.

(2) Subject to paragraph (3), if any payment made as described in regulation 28(1) is the first payment of emoluments made by the employer during the year to an employee to whom this regulation applies, and the payment is at a rate exceeding £1 a week or £4 a month, the employer, on making the payment, shall, on a deductions working sheet which he shall prepare for the purpose, enter cumulative emoluments and cumulative tax before the first payment as nil and deduct tax in accordance with regulation 14, applying the code which effects deduction of tax at the basic rate as the appropriate code.

(3) If the payment is a payment of pension emoluments, then, subject to regulation 28(4) and (5), the employer, on making the payment, shall deduct tax and keep records on a deductions working sheet which he shall prepare for the purpose as if the payment were a payment to which regulation 30(2) applied, and for the purposes of paragraph (4) below, regulation 30(2) shall be treated as having applied to the payment.

(4) On making any subsequent payment of emoluments to the employee where paragraph (2) applied to the first payment and where a code authorisation has not been issued in respect of the employee, the employer shall deduct or repay tax in accordance with regulation 14, continuing to apply the code which effects deduction of tax at the basic rate as the appropriate code, and shall keep the records required by paragraphs (3) and (4) of regulation 38.

### **Initial procedure when payments made to employee for whom appropriate code not known**

**32.** Whenever in accordance with regulation 29, 30, or 31, the employer uses the code specified by the Board or the code which effects deduction of tax at the basic rate, a code authorisation shall, for the purposes of regulations 6, 8, 13(1), 23(1) and 27(1), be deemed to have been issued to the employer by the inspector specifying whichever of those codes applies as the appropriate code.

### **Subsequent procedure on issue of code authorisation**

**33.** On making any payment of emoluments to the employee after a code authorisation has been issued in respect of the employee, the employer shall—

- (a) deduct or repay tax by reference to the appropriate code in accordance with regulation 14, and
- (b) keep the records required by regulation 38 and for those purposes—
  - (i) any cumulative emoluments notified to the employer by the inspector shall be treated as if they represented emoluments paid by the employer; and
  - (ii) the total net tax deducted before the first payment made in accordance with this regulation shall be taken to be the sum of the total net tax deducted, if any, notified to the employer by the inspector and any tax which the employer was liable to deduct from the employee's emoluments under regulation 29, 30 or 31.

### **Subsequent procedure on presentation of copies of certificate**

**34.—(1)** This regulation applies where, after the employer has acted in accordance with regulation 29, 30 or 31—

- (a) the employee delivers the two copies of a certificate received by him in accordance with regulation 23(3) to the employer, and
- (b) a code authorisation has not been issued to the employer in respect of the employee.

(2) Where this regulation applies and the certificate relates to an employment in respect of which the last payment of emoluments was made in the year in which the employee delivers the copies, then, unless the employer has already ceased to employ the employee, paragraphs (1) to (7) of regulation 25 shall apply as if the employee had delivered the two copies immediately on commencing employment with the employer, 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, except that—

- (a) the employer shall not be obliged to prepare a further deductions working sheet if he has already prepared one;
- (b) the cumulative emoluments and total net tax deducted immediately before the payment of emoluments following the delivery of the copies shall be taken to be the sum of such cumulative emoluments and total net tax deducted as are shown on the copies, subject to paragraphs (1) to (7) of regulation 25, and such emoluments and tax as have been paid or deducted by the employer since the commencement of the employment;
- (c) regulation 25(6) shall not apply on the occasion of the payment of any emoluments to the employee by the employer after the employee has delivered the copies.

(3) Where this regulation applies and the certificate relates to an employment in respect of which the last payment of emoluments was made in the preceding year, and the employee delivers the copies—

- (a) within the first seven weeks of the year, then, subject to paragraph (4), and unless the employer has already ceased to employ the employee, the employer shall comply with regulation 25(2) and the cumulative emoluments and the total net tax deducted shall be such emoluments and tax as have been paid or deducted by the employer since the commencement of the employment or 6th April whichever was the later and the delivery of the 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;
- (b) after the end of the seventh week of the year, regulation 25 shall not apply.

(4) 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 8(4) as the appropriate code.