
STATUTORY INSTRUMENTS

1994 No. 1212

INCOME TAX

**The Income Tax (Employments)
(Notional Payments) Regulations 1994**

<i>Made</i>	- - - -	<i>4th May 1994</i>
<i>Laid before the House of Commons</i>	- - - -	<i>4th May 1994</i>
<i>Coming into force</i>	- -	<i>25th May 1994</i>

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) (Notional Payments) Regulations 1994, shall come into force on 25th May 1994, and shall have effect with respect to notional payments made on or after that date.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“assessable” has the meaning given by section 203L(2) of the Taxes Act;

“the Board” means the Commissioners of Inland Revenue;

“cash voucher” means a cash voucher to which section 143(1) of the Taxes Act(2) applies;

“chargeable expense” has the same meaning as in section 141(1) of the Taxes Act(3);

“cheque voucher” has the meaning given by section 141(7) of the Taxes Act;

“credit-token” has the same meaning as in section 142 of the Taxes Act(4);

“employee” and “employer” have the meanings given by section 203L(1) of the Taxes Act;

(1) 1988 c. 1; section 203 was extended by sections 203F(4)(c), 203G(2)(b), 203H(3), 203I(2), 203J(1), (3) and (4) and 203L(3) and (4) of the Income and Corporation Taxes Act 1988. Section 203F was inserted by section 127, section 203G by section 128, section 203H by section 129, section 203I by section 130, and sections 203J to 203L by section 131, of the Finance Act 1994 (c. 9).

(2) Section 143(1) was amended by section 89(9) of the Finance Act 1994.

(3) Section 141(1) was amended by section 89(2) of the Finance Act 1994.

(4) Section 142 was amended by sections 46(2) and 48(1) of the Finance Act 1988 (c. 39) and by section 89(5) to (7) of the Finance Act 1994.

- “income tax period” has the meaning given by regulation 2(1) of the principal Regulations;
- “non-cash voucher” means a non-cash voucher to which section 141(1) of the Taxes Act applies;
- “notional payment” has the meaning given by subsection (2)(a) of section 203J;
- “the principal Regulations” means the Income Tax (Employments) Regulations 1993(5);
- “section 203F”, “section 203G”, “section 203H”, “section 203I” and “section 203J” mean respectively section 203F, section 203G, section 203H, section 203I and section 203J of the Taxes Act;
- “the Taxes Act” means the Income and Corporation Taxes Act 1988.

Exclusion of property from section 203F

- 3.—**(1) For the purposes of subsection (2) of section 203F the property described in paragraph (2) below is property of a description excluded from the scope of that section.
- (2) The property described is any shares, or any right over or interest in any shares, forming part of the ordinary share capital of—
- (a) an employer which is a company (“the employer company”), or
 - (b) a company which has control of the employer company, or
 - (c) a company which either is, or has control of, a company which is a member of a consortium owning either the employer company or a company having control of the employer company.
- (3) For the purposes of paragraph (2) above—
- (a) “company” has the meaning given by section 832(1) of the Taxes Act;
 - (b) “control” has the meaning given by section 840 of the Taxes Act;
 - (c) “ordinary share capital” has the meaning given by section 832(1) of the Taxes Act;
 - (d) “share” includes stock;
 - (e) a company is a member of a consortium owning another company if it is one of a number of companies which between them beneficially own not less than three-quarters of the other company’s ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.

Exclusion of use of credit-token from section 203H

- 4.—**(1) The use of a credit-token described in paragraph (2) below is a description of use excluded from the scope of section 203H.
- (2) The use described is the use by an employee of a credit-token to obtain money in circumstances where the money—
- (a) is used to defray expenses, and
 - (b) would not, if it had been paid directly to him by his employer, have been chargeable to income tax under Schedule E except by virtue of section 153 of the Taxes Act(6).

(5) S.I. 1993/744; a relevant amending instrument is S.I. 1993/2276.

(6) Section 153 was amended by section 53(2)(b) of the Finance Act 1989 (c. 26).

Exclusion of cash vouchers from section 203I

5.—(1) The provision of a cash voucher in either of the descriptions of circumstances specified in paragraphs (2) and (3) below is a provision of a cash voucher excluded from the scope of section 203I.

(2) The description of circumstances specified in this paragraph is where—

- (a) the cash voucher provided for the employee is used to defray expenses, and
- (b) the amount for which the voucher is capable of being exchanged would not, if it had been paid directly to the employee by his employer, have been chargeable to income tax under Schedule E except by virtue of section 153 of the Taxes Act.

(3) The description of circumstances specified in this paragraph is where the cash voucher is exchanged for an amount of money which—

- (a) is used to defray expenses, and
- (b) would not, if it had been paid directly to the employee by his employer, have been chargeable to income tax under Schedule E except by virtue of section 153 of the Taxes Act.

Notional payments—non-cash vouchers—time of payment

6.—(1) Paragraphs (2)

and (3) below make provision with respect to the time when a notional payment treated as made by virtue of subsection (1) of section 203G (non-cash vouchers) is made.

(2) Where the non-cash voucher received by the employee is a cheque voucher, the notional payment is made at the time when the voucher is handed over in exchange for money, goods or services.

(3) Where the non-cash voucher received by the employee is a voucher other than a cheque voucher, the notional payment is made at the time when the chargeable expense is incurred or, if later, at the time when the voucher is received by the employee.

(4) For the purposes of paragraph (2) above, a voucher which is posted shall be treated as handed over at the time of posting.

Notional payments—deduction of income tax

7.—(1) Paragraph (2) below prescribes the time at which an employer shall deduct income tax in accordance with subsection (1) of section 203J in respect of a notional payment made by him of assessable income of an employee.

(2) The time prescribed is any occasion on or after the time when the notional payment is made and falling within the same income tax period, on which the employer actually makes a payment of, or on account of, assessable income of that employee.

Notional payments—accounting for income tax where inability to deduct

8.—(1) Paragraph (2) below prescribes the time at which an employer shall account to the Board in accordance with subsection (3) of section 203J for an amount of income tax in respect of a notional payment made by him of assessable income of an employee.

(2) The time prescribed is within 14 days of the end of the income tax period in which the notional payment was made.

Amendments to the principal Regulations—deduction of income tax from notional payments and returns

9. In regulations 14(2)(b) and 15(b) of the principal Regulations for the words “the deduction shall” in each place where they occur there shall be substituted the words “except where the deduction is of tax falling to be deducted in respect of a notional payment within the meaning given by section 203J(2) of the Taxes Act it shall”.

10. In regulation 46(2) of the principal Regulations⁽⁷⁾—

- (a) the words “particulars of” shall be omitted after the words “paragraph are”;
- (b) in sub-paragraph (a)—
 - (i) the words “, particulars of” shall be inserted after the words “paragraph (4)”;
 - (ii) the word “and” immediately following paragraph (iv) shall be omitted and after that paragraph there shall be inserted—
 - “(iva) the amount of income tax in respect of any notional payment where that amount is treated by section 144A of the Taxes Act⁽⁸⁾ as income of the employee arising in that year, and”;
- (c) in sub-paragraph (b) the words “particulars of” shall be inserted before the words “any emoluments”.

11. In regulation 46(3) of the principal Regulations—

- (a) the words “particulars of” shall be omitted after the words “paragraph are”;
- (b) in sub-paragraph (a) the words “, particulars of” shall be inserted after the words “paragraph (4)”;
- (c) in sub-paragraph (b) the words “particulars of” shall be inserted before the words “any benefits”.

12. For regulation 46(4) of the principal Regulations there shall be substituted—

- “(4) The payments and benefits referred to in this paragraph are—
- (a) (i) payments falling within paragraph 1(1)(a) or (b) of Schedule 11A to the Taxes Act⁽⁹⁾, and
 - (ii) benefits falling within paragraph 1(1)(c) of that Schedule, where the total value to the employee found under paragraph 24(2) of that Schedule does not exceed the qualifying limit for the time being specified in paragraph 24(9) of that Schedule and having effect in relation to that employee;
 - (b) notional payments treated as made by virtue of any of sections 203F to 203H of the Taxes Act in respect of which the employer is under an obligation to deduct or, as the case may be, account for income tax in accordance with section 203J(1) or (3) of that Act.”.

Application of the principal Regulations to income tax accounted for where inability to deduct

13.—(1) The provisions of the principal Regulations specified in paragraph (2) below shall apply to amounts accounted for in respect of notional payments in accordance with subsection (3) of section 203J as they apply in relation to deductions from actual payments, with the modifications specified in paragraphs (3) to (8) below.

⁽⁷⁾ Regulation 46 was amended by regulations 8 to 10 of [S.I. 1993/2276](#).

⁽⁸⁾ Section 144A was inserted by section 132 of the Finance Act 1994.

⁽⁹⁾ Schedule 11A was inserted by paragraph 2 of Schedule 5 to the Finance Act 1993 (c. 34).

(2) The provisions specified are—

- (a) all provisions in Parts I, III, IV and V,
- (b) regulations 99 to 105 in Part VIII, and
- (c) regulation 109 in Part IX.

(3) In regulation 2(1) in the definition of “total net tax deducted” after the words “repaid to the employee” there shall be added the words “, and the total tax accounted for in accordance with section 203J(3) of the Taxes Act”.

(4) Regulations 14(2)(b) and 15(b) shall be omitted.

(5) In regulation 40(2)(b) in the definition of “A” after the words “income tax month” there shall be added the words “, and all amounts of tax for which he was liable to account under section 203J(3) of the Taxes Act in respect of notional payments made by him in that month”.

(6) In regulation 41(2)(b) in the definition of “A” after the words “income tax quarter” there shall be added the words “, and all amounts of tax for which he was liable to account under section 203J(3) of the Taxes Act in respect of notional payments made by him in that quarter”.

(7) Regulation 42(2) and (3), and regulation 49(3) and (5)(b), shall be omitted.

(8) In regulation 55(2)(a) after the words “deduction of tax from” there shall be inserted the words “, or the accounting of tax in respect of,”.

4th May 1994

L J H Beighton
S C T Matheson
Two of the Commissioners of Inland Revenue

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EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 203B and 203C of the Income and Corporation Taxes Act 1988 (inserted by sections 125 and 126 of the Finance Act 1994) (“the 1988 Act”) extend the scope of PAYE to certain emoluments paid by a person other than the person for whom the employee works. Sections 203F to 203L of the 1988 Act (inserted by sections 127 to 131 of the Finance Act 1994) extend the scope of PAYE to certain emoluments provided in non-cash form for employees. In each such case the emoluments are treated as if they were cash emoluments paid to the employee by the employer (“a notional payment”).

These Regulations make provision in relation to notional payments. First they exclude certain emoluments from being treated as notional payments. Secondly they make provision with respect to the time when certain notional payments are made, and the time when income tax in respect of a notional payment is to be deducted or, as the case may be, accounted for. Finally they make amendments to, and apply with modifications, provisions of the Income Tax (Employments) Regulations 1993 (“the principal Regulations”) in relation to notional payments.

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

Regulation 3 excludes shares in an employer company or in a company controlling an employer company from the scope of section 203F of the 1988 Act (provision of tradeable assets to employees).

Regulations 4 and 5 exclude certain credit-tokens and cash vouchers provided for employees from the scope of sections 203H and 203I respectively of the 1988 Act.

Regulation 6 makes provision for the time when a notional payment arising from the provision of a non-cash voucher is treated as made.

Regulation 7 prescribes the time when an employer is required to deduct income tax in respect of a notional payment from any payment or payments of emoluments he actually makes to an employee.

Regulation 8 prescribes the time when an employer is required to account to the Board for income tax in respect of a notional payment in circumstances where, by reason of an insufficiency of payments of emoluments actually made, he is unable to deduct income tax in respect of the notional payment.

Regulation 9 amends regulations 14 and 15 of the principal Regulations so as to provide that the amount of income tax in respect of a notional payment which falls to be deducted from a payment of emoluments actually made is not subject to the “overriding limit” defined in the principal Regulations.

Regulations 10 to 12 amend regulation 46 of the principal Regulations. In addition to making changes of a drafting nature, the amendments provide that there shall be included in a return under regulation 46 particulars of the amount of income tax in respect of a notional payment where that amount is treated by section 144A of the Taxes Act (inserted by section 132 of the Finance Act 1994) as assessable income of the employee. The amendments also provide that certain notional payments provided in non-cash form for employees on which the employer is liable to account for PAYE and which would otherwise fall to be included in a return under regulation 46 do not need to be so included.

Regulation 13 applies, which modifications, specified provisions of the principal Regulations to amounts of income tax in respect of notional payments which fall to be accounted for to the Board because of an insufficiency of payments of emoluments actually made.

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