
STATUTORY INSTRUMENTS

1994 No. 236

INCOME TAX

**The Distraint by Collectors (Fees,
Costs and Charges) Regulations 1994**

<i>Made</i>	- - - -	<i>3rd February 1994</i>
<i>Laid before the House of Commons</i>	- - - -	<i>4th February 1994</i>
<i>Coming into force</i>	- -	<i>1st March 1994</i>

The Treasury, in exercise of the powers conferred on them by section 61(6) of the Taxes Management Act 1970⁽¹⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Distraint by Collectors (Fees, Costs and Charges) Regulations 1994 and shall come into force on 1st March 1994.

Interpretation

2. In these Regulations—

“close possession” means physical possession by the distrainor or a person acting on his behalf of the goods and chattels distrained;

“walking possession” means possession in accordance with an agreement between the distrainor and the distrainee whereby, in consideration of the distrainor not remaining in close possession, the distrainee undertakes not to dispose of the goods distrained or any part thereof, or permit their removal by any person not authorised by the distrainor to remove them.

Ascertainment of fees, costs and charges

3. The fees chargeable on or in connection with the levying of distress and the costs and charges recoverable where distress has been levied shall be those specified in the Schedule to these Regulations, but subject to any provision of that Schedule.

(1) 1970 c. 9; section 61(6) was added by section 152(6) of the Finance Act 1989 (c. 26).

Deduction of fees, costs and charges by the collector

4. The fees, costs and charges specified in the Schedule to these Regulations shall be deducted by the collector from the sums received on or in connection with the levying of distress or where distress has been levied.

Disputes as to fees, costs and charges

5.—(1) In the case of dispute as to any fees chargeable, or costs and charges recoverable under the Schedule to these Regulations, the amount of those fees, costs and charges shall be taxed.

(2) Such a taxation shall be carried out by the district judge of the county court for the district in which the distress is or is intended to be levied, and he may give such directions as to the costs of the taxation as he thinks fit.

(3) In the application of paragraph (2) to Northern Ireland, there shall be substituted for the words “by the district judge of the county court for the district in which the distress is or is intended to be levied” the words “by the Master (Taxing Office)”.

3rd February 1994

Tim Wood
Andrew Mackay
Two of the Lords Commissioners of Her
Majesty’s Treasury

SCHEDULE

Regulation 3

Action taken On or in connection with the levying of distress	Fees, Costs and Charges Fees
For making a visit to premises with a view to levying distress (whether the levy is made or not).	The reasonable fees incurred.
Levying distress where the total sum charged is £100 or less.	£12.50.
Levying distress where the total sum charged is more than £100.	12 ½ per cent. on the first £100 of the amount to be recovered; 4 per cent. on the next £400; 2 ½ per cent. on the next £1,500; 1 per cent on the next £8,000; ¼ per cent. on any additional sum.
Where distress has been levied	Costs and Charges
1. Taking possession Where close possession is taken. Where walking possession is taken.	£4.50 for the day of levy only. 45p per day, payable for the day the distress is levied and up to 14 days thereafter.
2. Removal and storage of goods	The reasonable costs and charges of removal and storage.
3. Appraisalment	The reasonable fees, charges and expenses of the person appraising.
4. Sale Where the sale is held on the auctioneer's premises, for the auctioneer's commission (to include all out-of-pocket expenses other than charges for removal and storage).	15 per cent. on the sum realised plus the reasonable cost of advertising, removal and storage.
Where the sale is held on the debtor's premises, for the auctioneer's commission.	7 ½ per cent. on the sum realised plus out-of-pocket expenses actually and reasonably incurred.
1. In any case where close possession is taken, an individual left in possession must provide his own board.	
2. For the purpose of calculating any percentage fees, costs and charges, a fraction of £1 is to be reckoned as £1, but any fraction of a penny in the total amount so calculated is to be disregarded.	
3. In addition to any amount authorised by this Schedule in respect of the supply of goods or services on which value added tax is chargeable there may be added a sum equivalent to value added tax at the appropriate rate on that amount.	

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 Order)

These Regulations are made under section 61(6) of the Taxes Management Act 1970, as added by section 152(6) of the Finance Act 1989, and come into force on 1st March 1994. They make provision for fees, costs and charges where a collector of taxes distrains upon the goods and chattels of a taxpayer who is in default.

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

Regulation 3 provides that the fees, costs and charges which arise on or in connection with the levying of distress, or where distress has been levied, shall be ascertained from the Schedule to the Regulations. Various different actions are specified in the Schedule, and the relevant charge is given.

Regulation 4 provides for fees, costs and charges to be deducted by the collector on or in connection with the levying of distress or where distress has been levied.

Regulation 5 provides for the district judge of the county court (or, in Northern Ireland, the Master (Taxing Office)) to tax fees, costs and charges that are disputed.