
STATUTORY INSTRUMENTS

1995 No. 1284

INCOME TAX

**The Income Tax (Employments)
(Amendment No. 4) Regulations 1995**

<i>Made</i>	- - - -	<i>12th May 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>12th May 1995</i>
<i>Coming into force</i>	- -	<i>6th April 1996</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 and commencement

1. These Regulations may be cited as the Income Tax (Employments) (Amendment No. 4) Regulations 1995 and shall come into force on 6th April 1996.

Interpretation

2. In these Regulations “the principal Regulations” means the Income Tax (Employments) Regulations 1993(2) and “regulation” means a regulation of those Regulations.

Amendments to the principal Regulations

3. In regulation 39(1), after the word “shall” there shall be inserted the words “, not later than 56 days after the end of the year,”.

4. For regulation 46(3) there shall be substituted—

(1) 1988 c. 1; section 203 was amended by section 128 of, and paragraph 4 of Schedule 3 to, the Finance Act 1988 (c. 39), by section 45(3) of, and Part IV of Schedule 17 to, the Finance Act 1989 (c. 26), and (prospectively) by paragraph 38 of Schedule 19 and Part V(23) of Schedule 26 to the Finance Act 1994 (c. 9).

(2) S.I.1993/744; relevant amending instruments are S.I. 1993/2276 and S.I. 1994/775 and 1212.

(3) Regulation 46 was amended by regulations 8 to 10 of S.I. 1993/2276 and by regulations 10 to 12 of S.I. 1994/1212. Regulation 4 of S.I. 1994/775 inserted a new regulation 46A in the principal Regulations.

“Return of other additional emoluments

46.—(1) Subject to paragraph (7), the employer shall render a return or returns to the inspector or other officer of the Board, not later than 92 days after the end of the year, in such form as the Board may prescribe or approve, containing in respect of each employee—

- (a) the particulars specified in paragraph (2);
 - (b) in the case of an employee who is employed in employment to which Chapter II of Part V of the Taxes Act applies, the additional particulars specified in paragraph (3);
 - (c) in the case of emoluments relating to business entertainment within the meaning of section 577(5) of the Taxes Act, the additional particulars specified in paragraph (4);
 - (d) in the case of benefits provided for the employee such as give rise to any charge to tax under sections 141(4), 142(5), 143(6), 144A(7), 145, 146(8) and 154 to 165(9) of the Taxes Act (in this regulation referred to as “the relevant sections”), the additional particulars specified in paragraph (5).
- (2) The particulars specified in this paragraph are—
- (a) except as regards any emoluments falling within sub-paragraph (b) of this paragraph, particulars of—
 - (i) any emoluments which the employee receives from the employer or the relevant person otherwise than in money;
 - (ii) any payments made on behalf of the employee and not repaid;
 - (iii) any emoluments which the employee is treated by section 141(1) of the Taxes Act as having received in that year by reason of the provision of a non-cash voucher by the employer or the relevant person;
 - (iv) any emoluments which the employee is treated by section 142(1) of the Taxes Act as having received in that year by reason of the provision of a credit-token by the employer or the relevant person;

-
- (4) Section 141 was amended by sections 46(1) and 47(1) of the Finance Act 1988, paragraph 46 of Schedule 18 to the Companies Act 1989 (c. 40), section 89(1) to (3) of, and Part V(6) of Schedule 26 to, the Finance Act 1994, and sections 91(2) and 93(1) of the Finance Act 1995 (c. 4).
 - (5) Section 142 was amended by sections 46(2) and 48(1) of the Finance Act 1988 and section 89(4) to (7) of the Finance Act 1994, and sections 91(2) and 93(2) of the Finance Act 1995.
 - (6) Section 143 was amended by section 89(8) to (11) of the Finance Act 1994.
 - (7) Section 144A was inserted by section 132 of the Finance Act 1994.
 - (8) Section 146 was amended by section 179(5) of the Finance Act 1989.
 - (9) Section 154 was amended by section 53(2)(b) of the Finance Act 1989, section 21(2) of the Finance Act 1990 (c. 29), section 30(1) of the Finance Act 1991 (c. 31), and paragraph 2 of Schedule 4 to the Finance Act 1993 (c. 34). Section 155 was amended by sections 46(3) and 49(1) of the Finance Act 1988, paragraph 3 of Schedule 4 to the Finance Act 1993, and section 93(3) of the Finance Act 1995. Section 155A was inserted by section 21(1) of the Finance Act 1990. Section 156 was amended by section 91(2) of the Finance Act 1995. Section 157 was amended by section 53(2)(b) of the Finance Act 1989 and paragraph 2 of Schedule 3 to the Finance Act 1993. Section 157A was inserted by section 43(1) of the Finance Act 1995. Section 158 was amended by section 53(2)(b) of the Finance Act 1989, section 53 of the Finance (No. 2) Act 1992 (c. 48), paragraph 6 of Schedule 3 to the Finance Act 1993, section 87 of the Finance Act 1994 and section 43(2) of the Finance Act 1995. Sections 159AA and 159AB were inserted by paragraph 4 of Schedule 4 to the Finance Act 1993, and section 159AC was inserted by section 74(1) of that Act. Section 159A was inserted by section 30(2) of the Finance Act 1991 and amended by section 74(2) of, and paragraph 5 of Schedule 4 to, the Finance Act 1993. Section 160 was amended by sections 53(2)(b) and (c) and 179(1)(g) of the Finance Act 1991, section 88(1) and (2) of, and Part V(5) of Schedule 26 to, the Finance Act 1994, and section 45 of, and Part VIII(3) of Schedule 29, to the Finance Act 1995. Section 161 was amended by section 88(3) of the Finance Act 1994. Section 162 was amended by paragraph 3 of Schedule 13 to the Finance Act 1988, section 53(2)(b), (d) and (e) of the Finance Act 1989, and paragraph 14(11) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12). Section 163 was amended by section 53(2)(b) of the Finance Act 1989.

- (v) the amount of income tax in respect of any notional payment where that amount is treated by section 144A of the Taxes Act as income of the employee arising in that year;
 - (vi) any living accommodation which has been provided for the employee or for members of his family or household by the employer or the relevant person, and particulars of the amount of any emoluments of which the employee is treated by virtue of section 145 or 146 of the Taxes Act, or by virtue of those sections together, as being in receipt in respect of that accommodation;
 - (b) particulars of any emoluments consisting of the amount by which the total value to the employee found under paragraph 24(2) of Schedule 11A to the Taxes Act⁽¹⁰⁾ exceeds the qualifying limit for the time being specified in paragraph 24(9) of that Schedule and having effect in relation to that employee.
- (3) The particulars specified in this paragraph are—
- (a) except as regards any emoluments falling within paragraph (2)(b), particulars of—
 - (i) any payments made by the employer or the relevant person to the employee by reason of his employment in respect of expenses;
 - (ii) any sums put by the employer or the relevant person at the disposal of the employee by reason of his employment and paid away by him;
 - (b) particulars of any benefits provided by the employer or the relevant person for the employee (or for any other person) by reason of his employment such as give rise to any charge to tax under sections 154 to 165 of the Taxes Act, not being benefits which constitute emoluments within paragraph (2)(b).
- (4) The particulars specified in this paragraph are particulars showing whether the amount of the emoluments has been or will be disallowed as a deduction or inclusion as mentioned in section 577(1)(a) of the Taxes Act in any tax computation relating to the trade, business, profession or vocation of the employer.
- (5) The particulars specified in this paragraph are particulars of the amounts which may be chargeable to tax by virtue of the relevant sections.
- (6) In determining for the purposes of paragraph (5) the amounts which may be chargeable to tax by virtue of the relevant sections, the employer—
- (a) shall not make—
 - (i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by the relevant sections; or
 - (ii) any deduction authorised by sections 141(3), 142(2), 145(3) or 156(8) of the Taxes Act; but
 - (b) subject to that, shall make all such deductions and other adjustments as may be authorised or required by the relevant sections.
- (7) The employer shall not be required to include in a return under paragraph (1) particulars of—
- (a) payments falling within paragraph 1(1)(a) or (b) of Schedule 11A to the Taxes Act, or 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

⁽¹⁰⁾ Schedule 11A was inserted by paragraph 2 of Schedule 5 to the Finance Act 1993 (c. 34).

exceed the qualifying limit for the time being specified in paragraph 24(9) of that Schedule and having effect in relation to that employee; or

- (b) notional payments treated as made by virtue of any of sections 203F to 203H of the Taxes Act(11) 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(11).

(8) In paragraphs (2) and (3) references to the “the relevant person” are references to any person making payments or providing benefits to an employee as mentioned in those paragraphs where the making or provision of the payments or benefits by that person has been arranged by the employer; and in this paragraph “arranged” includes guaranteed and in any way facilitated.

Other additional emoluments— information to be provided to employee by employer

46AA.—(1) Not later than 92 days after the end of the year, the employer shall give the statement specified in paragraph (4) to every current employee in respect of whom a return under regulation 46(1) falls to be rendered by him for that year, or in respect of whom information is furnished by him to the inspector or other officer of the Board under the FPCS arrangement for that year.

(2) Where a person who was a current employee ceases to be an employee at any time within 92 days of the end of the year, the statement to be given by the employer to that person pursuant to paragraph (1) shall be duly given if it is sent or delivered to, or left at, that person’s usual or last known address.

(3) If a former employee in respect of whom a return under regulation 46(1) falls to be rendered by the employer for a year, or in respect of whom information is furnished to the inspector or other officer of the Board by the employer under the FPCS arrangement for a year, so requires by notice to the employer at any time up to three years after the end of the year, the employer shall give the statement specified in paragraph (4) to that former employee within 92 days of the end of the year or within 30 days of receiving the requirement, whichever is the later.

(4) The statement specified in this paragraph shall contain—

- (a) the particulars specified in paragraphs (2) to (5) of regulation 46 in so far as those particulars relate to the employee; and
- (b) where information is furnished under the FPCS arrangement in respect of the employee, particulars of either—
- (i) the amount of the taxable profit, if any, for that year in respect of car allowances and motor mileage allowances paid to the employee in that year for business travel, calculated by reference to the FPCS arrangement; or
 - (ii) the total amount of the car allowances and motor mileage allowances paid to the employee in that year for business travel, and the total amount of miles covered by the employee in that year in the course of business travel for which the motor mileage allowances were paid.

(11) Section 203F was inserted by section 127, section 203G by section 128, section 203H by section 129 and section 203J by section 131, of the Finance Act 1994.

(11) Section 203F was inserted by section 127, section 203G by section 128, section 203H by section 129 and section 203J by section 131, of the Finance Act 1994.

(5) A former employee who has received a statement from the employer under paragraph (3) in respect of a year may not require a further statement from the employer under that paragraph in respect of the same year.

(6) In this regulation—

“business travel” has the meaning given by section 168(5)(c) of the Taxes Act;

“current employee” means a person who was an employee on the 5th April in the year to which the return under regulation 46(1) relates;

“former employee” means a person who was an employee during a part of the year to which the return under regulation 46(1) relates but who was no longer an employee on the 5th April in that year;

“the FPCS arrangement” means the arrangement known as the Fixed Profit Car Scheme made between the employer and the inspector or other officer of the Board for furnishing information in respect of payments of car allowances and motor mileage allowances made to employees for business travel.

Other additional emoluments— information to be provided to employee by other persons

46AB.—(1) This regulation applies where—

(a) a person (in this regulation referred to as “the relevant person”) has, in any year, made any relevant payments to or on behalf of, or provided any relevant benefits to or in respect of, an employee of another, and

(b) the employer is not required to provide particulars of those payments or benefits in a return under regulation 46(1).

(2) The relevant person shall give the statement specified in paragraph (3) to the employee not later than 92 days after the end of the year.

(3) The statement specified in this paragraph is a statement containing such of the particulars specified in paragraphs (2), (3) and (5) of regulation 46 as relate to the relevant payments or relevant benefits.

(4) In this regulation—

“relevant benefits” means any benefits particulars of which, if the relevant person had been the employer of the employee in question, would have been required to be provided in a return under regulation 46(1);

“relevant payments” means any payments particulars of which, if the relevant person had been the employer of the employee in question, would have been required to be provided in a return under regulation 46(1).”

*A. M. W. Battishill
C. W. Corlett*

12th May 1995

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 amend the Income Tax (Employments) Regulations 1993 (“the principal Regulations”).

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

Regulation 3 amends regulation 39(1) of the principal Regulations so as to require that the certificate of deduction of tax specified in that provision shall be given by the employer to the employee not later than 56 days after the end of the year of assessment to which it relates.

Regulation 4 substitutes regulation 46 of the principal Regulations, which requires an employer to make a return containing particulars of benefits and other additional emoluments provided or paid to employees, and inserts two new regulations: regulations 46AA and 46AB.

The substituted regulation 46 now provides, in addition, for further particulars to be given in relation to business entertainment and benefits charged under certain provisions of the Income and Corporation Taxes Act 1988 which provide for the charging of cash equivalents to income tax in respect of those benefits (paragraphs (4) and (5) respectively), and for the employer to report items within the ambit of the substituted regulation where the items have been provided by a third party, but the employer has arranged or facilitated the provision (paragraph (8)).

Regulation 46AA provides for a current employee and if he so requires, a former employee, to be given a statement by his employer containing the particulars supplied in a return under regulation 46 in so far as those particulars relate to him, and certain particulars relating to car allowances and motor mileage allowances paid to the employee. Regulation 46AB provides that where any person (“the relevant person”) has paid or provided emoluments to an employee of another and the employer is not required, in his own return under regulation 46, to provide particulars of those emoluments, the relevant person shall give a statement to the employee containing particulars of the emoluments paid or provided by him.