
STATUTORY INSTRUMENTS

1995 No. 447

INCOME TAX

**The Income Tax (Employments)
(Amendment No. 2) Regulations 1995**

<i>Made</i>	- - - -	<i>22nd February 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>27th February 1995</i>
<i>Coming into force</i>	- -	<i>6th April 1995</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 203(2) 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. 2) Regulations 1995 and shall come into force on 6th April 1995.

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 42—

(a) in paragraph (2)—

- (i) after the word “If” there shall be inserted the words “it appears to the collector that”;
- (ii) for the words “the underdeduction” there shall be substituted the words “the failure to deduct the amount which the collector considers should have been but was not deducted (“the excess amount”)”;
- (iii) for the words “the amount of the excess” and “the amount of that excess” there shall be substituted in each case the words “the excess amount”;

(1) 1988 c. 1; section 203(2) was amended by section 128(1) of the Finance Act 1988 (c. 39) 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, amended by S.I. 1993/2276, 1994/775 and 1212 and 1995/216.

- (b) in paragraph (3)—
 - (i) for the words “If the amount” there shall be substituted the words “If it appears to the Board that the amount”;
 - (ii) for the words “the Board, if they” there shall be substituted the words “and the Board”;
 - (iii) for the words “may direct that the amount of the excess” there shall be substituted the words “they may direct that the amount which they consider to constitute the excess (“the excess amount”)”;
 - (iv) for the words “the amount of that excess” there shall be substituted the words “the excess amount”;
 - (c) paragraph (5) shall be omitted.
4. In regulation 48—
- (a) in paragraph (1) the words “, despite demand being made,” shall be omitted;
 - (b) in paragraph (6) for the words from “the amount so unpaid” to the end there shall be substituted the words
“the amount so unpaid—
 - (a) shall be deemed to be an amount of tax which the employer was liable to pay for that income tax period in accordance with regulation 40 or 41, and
 - (b) may be certified by the collector.”;
 - (c) paragraph (8) shall be omitted.
5. In regulation 49(5)—
- (a) for sub-paragraph (b) there shall be substituted—
 - “(b) the Board are of the opinion that an employee in respect of whose emoluments the determination was made has received his emoluments knowing that the employer has wilfully failed to deduct the amount of tax which he was liable to deduct under these Regulations from those emoluments,”;
 - (b) the words “(without prejudice to the right of recovery from the employer)” shall be omitted;
 - (c) at the end there shall be added the words “, and, where the Board so direct, the employer shall not be liable to pay that part of that tax to the collector.”.
6. In regulation 55(2) after sub-paragraph (a) there shall be inserted the following sub-paragraph—
- “(aa) all documents and records whatsoever relating to any particulars which an employer is required to include in a return or returns under regulation 46(3) in respect of any year specified by the authorised officer; or”.
7. In regulation 101—
- (a) in paragraph (3) for the words “paragraph (5)” there shall be substituted the words “paragraphs (5) and (6)”;
 - (b) in paragraph (4)(a) the words from “, having regard to” to the end shall be omitted;
 - (c) after paragraph (5) there shall be added—

“(6) Where a direction is made by the collector under regulation 42(2), or by the Board under regulation 42(3) or 49(5), in relation to the employee and in respect of one or more income tax periods falling within the year—

- (a) the employee shall not be entitled to include the amount of tax which is the subject of the direction in calculating the amount of tax referred to in paragraph (4)(a);
- (b) if the direction follows the making of the assessment, the amount (if any) shown in the notice of assessment as a deduction from, or a credit against, the tax payable under the assessment shall be taken as reduced by the amount of tax which is the subject of the direction.

(7) In this regulation “tax payable under the assessment” refers to the amount of tax shown in the assessment as payable without regard to any amount shown in the notice of assessment as a deduction from, or a credit against, the amount of tax payable.”.

*S C T Matheson
G H Bush*

22nd February 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 (S.I.1993/744) (“the principal Regulations”).

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 amends regulation 42 of the principal Regulations so as to provide that the collector or the Board may make a direction under paragraph (2) or (3) of that regulation that an amount of tax shall be recovered from the employee where it appears to them that the employer has failed to deduct that amount from emoluments paid to the employee (and the other conditions in those paragraphs are satisfied). The terms of the previous wording were to the effect that a direction could not be made unless an underdeduction of tax existed.

Regulation 4 amends regulation 48 of the principal Regulations so as to abolish the requirement that the collector first make a demand for tax liable to be paid by the employer under the Regulations before issuing notice of the specified amount to be paid by the employer. The regulation also amends regulation 48 so as to remove the requirement that the specified amount should be certified by the collector as an amount of unpaid tax.

Regulation 5 amends regulation 49 of the principal Regulations so as to clarify the circumstances in which a direction may be made by the Board under paragraph (5) of that regulation that tax which the employer failed to deduct shall be recovered from the employee, and the consequences of making such a direction.

Regulation 6 amends regulation 55 of the principal Regulations so as to include documents and records relating to particulars required to be included in a return by an employer under regulation 46 of the principal Regulations (return of additional emoluments) in the documents and records which the employer may be required to produce to an officer of the Board for inspection.

Regulation 7 amends regulation 101 of the principal Regulations so as to make clear that, where a direction is made under regulation 42 or 49 of the principal Regulations that an amount of tax shall be recovered from the employee, that amount may not be claimed as a credit by the employee in calculating the amount of tax which he is liable to pay under an assessment.