
STATUTORY INSTRUMENTS

1993 No. 744

The Income Tax (Employments) Regulations 1993

PART VII

SOCIAL SECURITY BENEFITS

CHAPTER I

GENERAL

Interpretation of Part VII

81. In this Part of these Regulations unless the context otherwise requires—

“benefit” means a payment in accordance with the Social Security Act 1986(1) or the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, the Social Security (Northern Ireland) Order 1986(2) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992, which includes taxable benefit;

“claim” means a claim to a benefit;

“claimant” means a person who has made a claim and who is not an employed claimant;

“employed claimant” means an employed earner who has made a claim;

“taxable benefit” means income chargeable under section 617(1) of the Taxes Act(3); and

“working sheet” means any form of record on or in which the matters required by this Part of these Regulations are to be kept.

Application of other parts of these Regulations

82.—(1) Parts III to VI of these Regulations shall apply to payments of taxable benefit only to the extent and with the modifications set out in this Part of these Regulations.

(2) To the extent that Parts III to VI of these Regulations are applied to this Part of these Regulations and unless the context otherwise requires—

“emoluments” shall be interpreted as “taxable benefit”;

“employee” shall be interpreted as “claimant”;

“employer” shall be interpreted as “the Department”;

and related expressions shall be construed accordingly.

(1) 1986 c. 50.

(2) S.I.1986/1888 (N.I.18).

(3) Section 617(1) was amended by paragraph 18 of Schedule 2 to the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 18), paragraph 93 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 and paragraph 33 of Schedule 2 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) and by S.I. 1991/2874.

CHAPTER II

PAYMENTS TO WHOLLY UNEMPLOYED PERSONS

Interpretation of Chapter II

83.—(1) In this Chapter “the Department” means—

- (a) in Great Britain, the Department of Employment whether or not a particular payment including taxable benefit was actually made by that Department, or
- (b) in Northern Ireland, the Department of Health and Social Services for Northern Ireland.

(2) Where a payment of taxable benefit is made by the Department of Social Security that Department shall make arrangements to enable the Department to comply with these Regulations.

(3) For the purposes of this Chapter any reference to the deduction or repayment of tax on making any payment shall be taken to refer to the duties imposed upon the Department by regulations 88 and 89.

Procedure on making claim

84.—(1) On making a claim after a period of employment to which Part IV of these Regulations applied, the claimant shall deliver to the Department the two copies of the certificate delivered to him in accordance with regulation 23(3).

(2) On making a claim after a previous claim to which regulation 89 applied, the claimant shall deliver to the Department the two copies of the certificate delivered to him in accordance with regulation 89(2)(c).

(3) The Department shall forthwith—

- (a) prepare a deductions working sheet in the form provided or in a form authorised by the Board and in accordance with the particulars given on the copies of the certificate, the two copies of which were delivered by the claimant;
- (b) record on the working sheet the cumulative emoluments shown on the certificate;
- (c) either record on the working sheet or keep such records as enable the production of the following particulars, namely—
 - (i) save where the code contained in the certificate reflects additional pay, the cumulative free emoluments, the cumulative taxable emoluments and the corresponding cumulative tax as at the week or month shown on the copies of the certificate;
 - (ii) where the code contained in the certificate reflects additional pay, the cumulative additional pay, the cumulative taxable emoluments and either the cumulative tax as at the week or month shown on the copies of the certificate or the total net tax deducted shown on the copies of the certificate, whichever is the less; and
- (d) supply those particulars to the inspector, in such form as the Board may provide, together with such further information as may be required for the purposes of these Regulations.

(4) If the details on the certificate, the two copies of which were delivered by the claimant, are such that if a calculation were made in accordance with those figures under regulation 91 on the day of claim a repayment of tax exceeding £200 would arise, the Department shall so inform the inspector in accordance with paragraph (3)(d) above.

(5) If the claim is made within the first seven weeks of the year and a certificate, the two copies of which were delivered in accordance with this regulation, shows that the last payment of emoluments or taxable benefit was in the preceding year, the Department shall comply with paragraph (3),

but without recording the cumulative emoluments or total net tax deducted (if any) shown on the certificate.

(6) The code shown on the certificate shall be treated as the appropriate code for the purposes of these Regulations, except that where the certificate relates to the year ended 5th April 1993 and the code shown on the certificate is no longer valid, the appropriate code shall be deemed to be the code which effects deduction of tax with no personal reliefs at one or more of the rates referred to in regulation 8(4).

(7) If, on the making of a claim, no copies of a certificate have been delivered in accordance with paragraphs (1) or (2), or, subject to paragraph (5), the two copies of a certificate so delivered show that the last payment of emoluments was in a year preceding that in which the claim was made, the Department shall, for the purposes of paragraph (3), record the code specified by the Board as the appropriate code.

(8) If, on making a claim, a claimant to whom paragraph (1) applies declares that his last employer has not delivered the two copies of the certificate referred to in that paragraph to him, the Department may require that last employer to deliver those two copies to a specified office of the Department.

(9) Subject to paragraph (10), if a claimant has not delivered the two copies of a certificate in accordance with paragraph (1) or (2) and the two copies of the certificate have not been obtained under paragraph (8) within the period specified by the Board, the Department shall render a return to the inspector, giving the name and address of the claimant, the date of claim and such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7.

(10) The return referred to in paragraph (9) shall not be rendered if the claimant certifies, in a form provided by the Board, that—

- (a) he is undergoing a course of full-time education and has not had regular employment since 6th April, or
- (b) he has not had regular employment since the end of his full-time education.

Determinations and notifications by the inspector

85.—(1) The inspector may determine an appropriate code for any claimant in accordance with regulation 7, and if he does so regulations 6, 8 and 10 to 13 inclusive shall apply to that determination.

(2) Any notification of code or amended code, or of cumulative emoluments and total net tax deducted received from the inspector by the Department shall be recorded in substitution for any previous record and shall be used for the purpose of all calculations required under this Chapter.

Quarterly attenders

86.—(1) If the Department decides that a claimant may make quarterly declarations in respect of his claim and the claimant has not had regular employment for at least twelve months, these Regulations shall not apply as regards any subsequent payment of benefit or event relating to the claim in question.

(2) If the Department decides that a claimant may make quarterly declarations in respect of his claim on the ground that he is in receipt of a pension in respect of a former employment such that no benefit is payable, the Department shall so notify the inspector.

Determination and recording of amount of taxable benefit

87. On each occasion that a payment of benefit is made to a claimant to whom regulation 86 does not apply, the Department shall determine and record the taxable benefit included in the payment.

End of year

88.—(1) After the end of the year the Department shall, in respect of each claimant whose latest claim was not treated as terminated under regulation 89 during the year—

- (a) make a tax calculation in accordance with regulation 91;
- (b) subject to paragraph (2), issue the certificate specified in paragraph (4) to the claimant; and
- (c) render the return specified in paragraph (5) to the inspector.

(2) The Department shall not be required to issue the certificate specified in paragraph (4) if no taxable benefit has been paid and a tax calculation in accordance with regulation 91 is not required.

(3) If a payment of benefit in respect of any year is made after the certificate for that year referred to in paragraph (1) has been rendered or would have been rendered but for paragraph (2), the Department shall proceed under regulation 90 as if further taxable benefit had been paid.

(4) The certificate specified in this paragraph is a certificate in such form as the Board may provide, and shall show as appropriate—

- (a) the year to which it relates,
- (b) the total benefit for the year excluding any amounts previously notified under regulation 89 or 90,
- (c) the taxable benefit included in such total benefit,
- (d) the code appropriate to the claimant,
- (e) any previous emoluments and any tax deducted from those emoluments which the Department was required to take into account under regulation 91,
- (f) the total emoluments for the year and the corresponding total net tax deducted, and
- (g) the amount of tax refunded by the Department.

(5) The return specified in this paragraph is a return in such form as the Board may prescribe, and shall show as appropriate—

- (a) such particulars as may be required for the identification of the claimant,
- (b) the particulars specified in paragraph (4),
- (c) the amount of any refund withheld under regulation 91(3) which the inspector has not authorised to be repaid, and
- (d) the excess (if any) of the total tax due arising from the calculation under regulation 91 over tax previously deducted in the year

Termination of claim

89.—(1) For the purposes of these Regulations a claim is to be treated as terminated if the claimant—

- (a) gives notice of termination, or
- (b) fails to make a further claim, or
- (c) fails to make a declaration in respect of the claim.

(2) Where a claim is treated as terminated, the Department shall—

- (a) make a tax calculation in accordance with regulation 91;
- (b) forthwith deliver to the inspector a certificate in such form as the Board may provide containing the following particulars—
 - (i) such particulars as may be required for the identification of the claimant,
 - (ii) the last day in accordance with paragraph (3) below,

- (iii) the code appropriate to the claimant,
 - (iv) the cumulative emoluments (including taxable benefit) and the corresponding total net tax deducted at the date of termination or, if regulation 91(4) or (5) applies, the taxable benefit,
 - (v) the amount of any tax shown by the calculation to be payable in addition to that already paid,
 - (vi) the amount of any refund withheld under regulation 91(3) which the inspector has not authorised to be repaid, and
 - (vii) the date of issue of the certificate;
- (c) make two copies of the certificate specified in sub-paragraph (b) above on the form provided, and deliver them to the claimant on the same date as the certificate is delivered to the inspector; and
- (d) give notice to the claimant of—
- (i) the total benefit for the year excluding any sums previously notified under this regulation or regulation 90, and
 - (ii) the taxable benefit included in that total benefit.

(3) Subject to paragraph (3), the relevant date for the purpose of any tax calculation which the Department is required to make under this regulation shall be the last day for which benefit was claimed, and if paid was not recoverable, except that if that last day is 4th or 5th April the relevant date shall be the preceding 3rd April.

(4) The Department shall not be required to amend a tax calculation solely because the date originally treated as the relevant date is subsequently shown to be incorrect.

Notification of taxable benefit adjustment

90. If after the issue of a certificate under regulation 88(1) or of a notice under regulation 89(2) (d) or under this regulation, further taxable benefit is paid or taxable benefit overpaid is refunded by the claimant, the Department shall—

- (a) give notice to the claimant of the revised figure of total benefit and the taxable benefit included in that revised figure in accordance with the relevant regulation; and
- (b) notify the inspector of the sums paid or refunded in such form as the Board may provide.

Tax calculation

91.—(1) Subject to paragraphs (4) and (5), whenever the Department is required by these Regulations to make a tax calculation, the Department shall ascertain—

- (a) for the year up to the relevant date—
 - (i) the cumulative emoluments including taxable benefit,
 - (ii) the cumulative free emoluments or, as the case may be, the cumulative additional pay,
 - (iii) the cumulative taxable emoluments, and
 - (iv) the cumulative tax; and
- (b) the total net tax deductible at the relevant date, save that where the code reflects additional pay, the total net tax deductible shall not exceed the overriding limit.

(2) If the total net tax deductible calculated in accordance with paragraph (1) exceeds the previous total net tax deducted, the Department shall amend the record of the code as if a direction had been received from the inspector on the relevant date under regulation 17.

(3) If the previous total net tax deducted recorded on the working sheet exceeds the total net tax deductible calculated in accordance with paragraph (1), the Department shall repay the excess to the claimant, save that any sum notified to the inspector under regulation 84(4) whose repayment has not been authorised by him shall not be repaid.

(4) No tax calculation shall be made if the inspector has made a direction that the provisions of regulation 17 shall apply to the claimant for the relevant year.

(5) Subject to regulation 85(2), the inspector shall be deemed to have made a direction under paragraph (4) where—

- (a) regulation 84(7) has been applied and the certificate referred to in regulation 84(10) has not been given, or
- (b) the two copies of the certificate delivered under regulation 84(1) or (2) do not relate to the claimant's last employment or claim before the present claim, whichever is later, or
- (c) the claimant is in receipt of a pension from a former employer, or
- (d) it appears to the Department on the occasion of a claim that a previous claim should have been treated as terminated in accordance with regulation 89, or
- (e) the code is one issued under regulation 9.

(6) In this regulation—

“the relevant date” means—

- (a) where a calculation is required by regulation 88, the end of the year, and
- (b) where a calculation is required by regulation 89, the date specified in regulation 89(3);

“the total net tax deductible” means the total tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date.

Death of claimant

92.—(1) On the death of a claimant the Department shall comply with regulation 89 where the name and address of the claimant's personal representative is known, except that—

- (a) the two copies of the certificate mentioned in regulation 89(2)(c) shall be sent to the inspector together with the certificate under regulation 89(2)(b), and
- (b) the notice referred to in regulation 89(2)(d) shall be sent to the personal representative.

(2) If the Department has not been notified of the name and address of the claimant's personal representative within 30 days of a claimant's death—

- (a) the inspector shall be deemed to have made a direction under regulation 17, and
- (b) the Department shall then proceed as in paragraph (1) above, except that the notice under regulation 89(2)(d) shall not be sent.

Finance

93.—(1) The Board shall advance monies to the National Insurance Funds of Great Britain and Northern Ireland at intervals to be agreed with the Department of Social Security and the Department of Health and Social Services for Northern Ireland respectively for use in making repayments of income tax under these Regulations.

(2) The Departments mentioned in paragraph (1) shall provide the Board with a quarterly statement of receipts and payments in such form as the Board may require.

CHAPTER III

PAYMENTS TO EMPLOYED PERSONS

Interpretation of Chapter III

94. In this Chapter “the Department” means—

- (a) in Great Britain, the Department of Employment or, as the case may be, the Department of Social Security, or
- (b) in Northern Ireland, the Department of Health and Social Services for Northern Ireland

by whom a payment of benefit is made.

Benefit paid by the paying Department direct to the claimant

95.—(1) If the Department pays benefit directly to an employed claimant—

- (a) the Department shall determine and record the amount of taxable benefit, and
- (b) the full sum shall be paid without any deduction or repayment of income tax.

Benefit paid by employer

96.—(1) If benefit is paid to an employed claimant by his employer on behalf of the Department and the employer calculates the benefit payable by reference to instructions supplied by the Department, the employer shall also calculate the taxable benefit in accordance with those instructions.

(2) If benefit is paid to an employed claimant by his employer on behalf of the Department and paragraph (1) does not apply, the Department shall notify the employer of the amount of benefit and of taxable benefit.

(3) If the employer has undertaken to pay benefit on behalf of the Department, the Department shall pay the full amount of benefit to the employer without any deduction on account of income tax.

(4) Subject to paragraph (5), Parts III to VI of these Regulations shall apply to the taxable benefit paid by the employer on behalf of the Department as if it were a payment of emoluments from the employment.

(5) In any case in which it appears to the Board that deduction of tax from the taxable benefit referred to in paragraph (4) by reference to the tax tables is impracticable, the Board may make such other arrangements as are appropriate for the collection of tax in respect of taxable benefit in such cases.

Termination of claim

97.—(1) A claim shall be treated as terminated if the employed claimant—

- (a) gives notice of termination, or
- (b) fails to make a further claim, or
- (c) fails to make a declaration in respect of the claim.

(2) Where a claim is treated as terminated the Department shall notify the inspector and the employed claimant of the total benefit and taxable benefit paid in respect of the claim, showing the amounts appropriate to each year.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Adjustments

98. If, after the payment of benefit by an employer or the Department, the Department recovers part or all of that payment from the employed claimant, the Department shall notify the inspector and the employed claimant of the adjustment to the figure of taxable benefit, showing the amounts appropriate to each year.