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STATUTORY INSTRUMENTS

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**1993 No. 744**

**The Income Tax (Employments) Regulations 1993**

**PART IV**

**DEDUCTION AND REPAYMENT OF TAX**

*Repayment of tax*

**Trade Disputes**

**36.**—(1) This regulation applies where the employee is absent from work in consequence of a trade dispute at his place of employment.

(2) Where this regulation applies, then, subject to paragraph (6), unless the employee is not participating or directly interested in the trade dispute, the employer shall—

- (a) on the occasion of any payment of emoluments, calculate the amount of tax to be deducted or repaid, or
- (b) if no emoluments are paid on the usual pay day, calculate, in accordance with regulation 35(1), the amount of tax (if any) due to be repaid on that day,

and shall then proceed in accordance with paragraphs (3) to (5) below.

(3) The employer shall—

- (a) make no repayment of tax calculated as due to be repaid under paragraph (2) and not yet set off in accordance with sub-paragraph (b) below until—
  - (i) the employee is no longer so absent, or
  - (ii) the employer ceases to employ the employee, or
  - (iii) the employee has become genuinely employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation, or
  - (iv) the employee dies; but
- (b) deduct any tax due to be so deducted except that the deduction shall be reduced by any repayment for the year calculated in accordance with paragraph (2) and not yet paid or set off in accordance with this sub-paragraph.

(4) Where the absence of an employee extends beyond the end of the year, the employer shall—

- (a) give notice to the employee of the amount of any repayment of tax calculated in accordance with paragraph (2) which has not been set off against any tax due to be deducted under paragraph (3)(b); and
- (b) complete the certificate which is to be given under regulation 39 and the return which is to be rendered under regulation 43 as if that tax had been repaid to the employee.

(5) If he has not made any repayment of tax withheld under paragraph (3) within 42 days after the relevant event specified in sub-paragraph (a) of that paragraph, the employer shall not repay that tax to the employee after that date, but shall proceed in accordance with regulation 42(7).

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

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(6) An employee from whom a repayment of tax has been withheld in accordance with paragraph (3) may request a benefit officer to certify that a determining authority under the Social Security Administration Act 1992<sup>(1)</sup> or, in Northern Ireland, the Social Security Administration (Northern Ireland) Act 1992<sup>(2)</sup>, has decided for the purposes of a claim to benefit that the employee has proved that he is not participating or directly interested in a trade dispute, and if the benefit officer so certifies, the employer shall make such repayment as may be appropriate.

(7) In this regulation—

“benefit” has the same meaning as in regulation 81;

“benefit officer” means the appropriate officer of the Department of Employment or the Department of Social Security, as the case may be, or, in Northern Ireland, the appropriate officer of the Department of Health and Social Services for Northern Ireland;

“place of employment” has the meaning given by section 27(3) of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, section 27(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

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(1) 1992 c. 5.  
(2) 1992 c. 8.