
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 7

SPECIAL CASES

CHAPTER 1

COUNCILLORS' ALLOWANCES

Interpretation of Chapter 1

118.—(1) In this Chapter—

“allowances” means—

- (a) payments by way of attendance allowance within section 173(1) or 175(1) of the Local Government Act 1972(1),
- (b) payments within regulations made under section 18(1) of the Local Government and Housing Act 1989(2),
- (c) payments within regulations made under section 100(1)(a) or (c) of the Local Government Act 2000(3),
- (d) payments by way of attendance allowance within section 47(1) of the Local Government (Scotland) Act 1973(4), or
- (e) payments within regulation 3(1), 4(1) or 5(1) of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999(5);

“councillor” means a person entitled to receive any allowances;

“local council” means the local authority, council, joint authority or joint committee paying allowances.

(2) For the purposes of paragraph (1)—

“council” and “joint committee” are to be read in accordance with section 148(1) of the Local Government Act (Northern Ireland) 1972(6); and

“local authority” in England and Wales has the meaning given in section 270(1) of the Local Government Act 1972(7), and in Scotland has the meaning given in section 235(1) of the Local Government (Scotland) Act 1973(8).

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- (1) 1972 c. 70; section 173(1) was amended by section 24(1) of the Local Government, Planning and Land Act 1980 (c. 65) and paragraph 26 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42); section 175(1) was amended by paragraph 27 of Schedule 11 to the Local Government and Housing Act 1989.
 - (2) 1989 c. 42.
 - (3) 2000 c. 22.
 - (4) 1973 c. 65.
 - (5) S.R. (N.I.) 1999 No. 449.
 - (6) 1972 c. 9 (N.I.).
 - (7) The definition of “local authority” in section 270(1) was amended by Schedule 17 to the Local Government Act 1985 (c. 51) and section 1(5) of the Local Government (Wales) Act 1994 (c. 19).

Councillor's option to have tax deducted at basic rate

119.—(1) A councillor may, by notice to the Inland Revenue, opt to have income tax deducted from allowances at the basic rate in force at the time of payment of the allowances (the “basic rate option”).

(2) On receiving any such notice the Inland Revenue must give notice to the local council of the councillor's exercise of the basic rate option.

(3) On receiving a notice under paragraph (2), the local council must, when making any payment of allowances to the councillor, deduct income tax at the basic rate in force at the time of that payment on the non-cumulative basis.

(4) Paragraph (5) applies if—

- (a) a councillor has exercised the basic rate option, and
- (b) the Inland Revenue consider that the councillor may incur deductible expenses.

(5) The Inland Revenue may direct the local council to disregard an appropriate amount of the allowances in calculating the tax to be deducted.

(6) In paragraph (4)(b), “deductible expenses” means expenses of a kind which would be deductible under sections 336 to 338 of ITEPA (expenses incurred wholly, exclusively and necessarily in performance of duties, and travel expenses).

Particulars that local council must record

120.—(1) This regulation applies if the Inland Revenue have given notice to the local council of the exercise by a councillor of the basic rate option.

(2) The local council must record, in a deductions working sheet (which it must prepare for the purpose unless it has already prepared one) the following particulars about every payment of allowances which it makes to the councillor.

(3) The particulars are—

- (a) the councillor's name,
- (b) the councillor's national insurance number, if known,
- (c) the date of the payment,
- (d) the amount of the allowances,
- (e) where regulation 119(5) applies, the net amount of the allowances from which tax has been deducted, and
- (f) the amount of tax deducted from the allowances.

Regulations apply as if basic rate option were issue of code

121. If a councillor exercises the basic rate option, these Regulations apply as if the Inland Revenue had issued the basic rate code in respect of the allowances.

(8) The definition of “local authority” in section 235(1) was substituted by paragraph 92(66) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c. 39).