2002 No. 680

INCOME TAX

The Income Tax (Employments and Electronic Communications) (Miscellaneous Provisions) Regulations 2002

Made - - - - - - - -	*13th March 2002*
Laid before the House of Commons	*13th March 2002*
Coming into force - - - - -	*8th April 2002*

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 203(10) of the Income and Corporation Taxes Act 1988(a) and section 132 of the Finance Act 1999(b), hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Tax (Employment and Electronic Communications) (Miscellaneous Provisions) Regulations 2002 and shall come into force on 8th April 2002.

(2) In these Regulations "the Board" means the Commissioners of Inland Revenue.

Notices given by the Board under regulation 34 of the Education (Student Loans) (Repayment) Regulations 2000

2.—(1) Any notice to be given by the Board under regulation 34 of the Education (Student Loans) (Repayment) Regulations 2000(c) (notices to employers by the Board to deduct repayments from emoluments) ("regulation 34") may be given, either to the employer or a person acting on his behalf, in such form and by such means of electronic communications as are for the time being approved by directions issued by the Board if the employer—

(a) has given his consent to the delivery of documents by the Board by that means; and

(b) has not notified the Board that that consent has been withdrawn.

(2) If it is recorded on an official computer system that a notice under regulation 34 has been given to any person by an approved means of electronic communications, it shall be presumed, unless the contrary is proved, that a notice—

(a) was given by that means;

(b) was given to the person recorded on that system as the recipient;

(c) was given at the time recorded on that system as the time of delivery; and

(d) contained the information recorded on that system in respect of that notice.

(a) 1988 c. 1. The relevant amendment to section 203 is the addition of subsection (10) by section 119 of the Finance Act 1998 (c. 36).

(b) 1999 c. 16.

(c) S.I. 2000/944. Regulation 34 was amended by regulation 4 of S.I. 2001/971. Regulation 4 of S.I. 2000/944 applies section 1 of the Taxes Management Act 1970 (c. 9) (matters under the care and management of the Board) to Parts 3 and 4 of that instrument.

(3) A document certified by an officer of the Board to be a printed-out version of a notice, given by means of electronic communications in accordance with paragraph (1), which is recorded on an official computer system as at a particular date shall be presumed unless the contrary is proved—

(a) to have been recorded on an official computer system at that date;

(b) to constitute the entirety of the electronic communication so recorded.

(4) A document purporting to be such a certificate as is mentioned in paragraph (3) shall be presumed to be such a certificate unless the contrary is proved.

(5) For the purposes of this regulation "employers" and "official computer system" have the same meanings as they have in the Income Tax (Employments) Regulations 1993(a).

3. Amend the Income Tax (Employments) Regulations 1993 as follows.

4. In regulation 2 (interpretation)—

(a) in paragraph (1), in the definition of "electronic communications"(b) after "the Finance Act 1999" insert—

"but does not include the electronic transmission of information as defined in paragraph (4)(c);"; and

(b) omit paragraphs (4A) to (6)(d).

5. After regulation 2 insert—

"Whether information transmitted electronically or delivered by means of electronic communications

2A. For the purposes of these Regulations, information shall be taken to have been—

(a) transmitted electronically to a computer system maintained by or on behalf of an officer of the Board, or

(b) delivered to an official computer system by means of electronic communications,

only if it is accepted by the system to which it is transmitted or delivered.

Proof of content of an electronic transmission and of information delivered electronically

2B.—(1) A document certified by an officer of the Board to be a printed-out version of any particulars transmitted electronically under these Regulations on any occasion shall be evidence, unless the contrary is proved, that those particulars—

(a) were transmitted electronically on that occasion; and

(b) constitute the entirety of what was transmitted on that occasion.

(2) A document certified by an officer of the Board to be a printed-out version of any information delivered by means of electronic communications under these Regulations on any occasion shall be evidence, unless the contrary is proved, that that information—

(a) was delivered by means of electronic communications on that occasion; and

(b) constitutes the entirety of what was delivered on that occasion.

(3) A document purporting to be a certificate given in accordance with paragraph (1) or (2) shall be presumed to be such a certificate unless the contrary is proved.

Proof of identity of sender or recipient of information

2C.—(1) The identify of—

(a) the sender of any particulars transmitted electronically to an officer of the Board, or

(b) the recipient of any particulars transmitted electronically by an officer of the Board,

shall be presumed, unless the contrary is proved, to be the person recorded as such on the officer of the Board's computer system.

(a) S.I. 1993/744; see regulation 2(1), as amended by regulations 7 and 8(1) and (2) of S.I. 2001/1081.
(b) The definition was inserted by regulation 8(1) and (2) of S.I. 2001/1081.
(c) Paragraph (4) was substituted by regulation 8(1) and (3) of S.I. 2001/1081.
(d) Paragraph (4A) was inserted by regulation 8(1) and (4) of S.I. 2001/1081, paragraph (5) was inserted by regulation 3 of S.I. 1998/2484, paragraph (5A) was inserted by regulation 8(1) and (5) of S.I. 2001/1081 and paragraph (6) was inserted by regulation 3 of S.I. 1998/2584 and amended by regulation 8(1) and (6) of S.I. 2001/1081.

(2) The identify of—

(a) the sender of any information delivered to an official computer system by means of electronic communications under these Regulations; or

(b) the recipient of any information delivered by means of electronic communications from an official computer system,

shall be presumed, unless the contrary is proved, to be the person recorded as such on an official computer system.

Proof of delivery of information and payments

2D.—(1) The use of an authorised method of electronic communications shall be presumed, unless the contrary is proved, to have resulted in the making of a payment or the delivery of information—

(a) in the case of information falling to be delivered, or a payment falling to be made, to the Board, if the making of the payment or the delivery of the information has been recorded on an official computer system.

(b) in the case of information falling to be delivered, or a payment falling to be made, by the Board, if the despatch of that payment or information has been recorded on an official computer system.

(2) The use of an authorised method of electronic communications shall be presumed, unless the contrary is proved, not to have resulted in the making of a payment or the delivery of information—

(a) in the case of information falling to be delivered, or a payment falling to be made, to the Board, if the making of the payment or the delivery of the information has not been recorded on an official computer system,

(b) in the case of information falling to be delivered, or a payment falling to be made, by the Board, if the despatch of that payment or information has not been recorded on an official computer system.

(3) The time of receipt of any information or payment sent by an authorised means of electronic communications shall be presumed, unless the contrary is proved, to be that recorded by an official computer system.

Use of unauthorised means of electronic communications

2E.—(1) Paragraph (2) applies to information which is required to be delivered to the Board or an officer of theirs under these Regulations.

(2) The use of a means of electronic communications, for the purpose of delivering any information to which this paragraph applies, shall be conclusively presumed not to have resulted in the delivery of that information, unless that means of electronic communications is for the time being approved for delivery of information of that kind.".

6. In regulation 6(4)(c)(a) (issue and receipt of a code authorisation by electronic transmission) after the words "delivered to him" insert "or a person acting on his behalf".

7. In regulation 13 (notice to employer of amended coding)(b)—

(a) in paragraph (1) after "to the employer" insert "or a person acting on his behalf"; and

(b) at the end add—

"(6) A notice under this regulation—

(a) may be contained in a document sent to the employer, or a person acting on his behalf, by the inspector;

(b) may be transmitted electronically to the employer, or a person acting on his behalf, by the inspector; or

(c) if the employer has indicated his consent to the delivery of information in that way, and the Board have not been notified that that consent has been withdrawn, may be delivered to the employer, or a person acting on his behalf, by an approved means of electronic communications from an official computer system.".

(a) Paragraph (4) was inserted by regulation 4(2) of S.I. 1998/2484, and amended by regulations 7 and 9 of S.I. 2001/1081.
(b) There is an amendment to regulation 13 which is not relevant for present purposes.

8. In regulation 20(3) (cessation of employment of employee on fixed pay) omit the words from "shall" to the end of the paragraph and substitute—

"shall forthwith—

(a) return the deductions working sheet, duly completed, to the inspector or, if so required, to the collector; or

(b) deliver the information contained in the deductions working sheet by an approved means of electronic communications to an official computer system.".

Tim Flesher
Dave Hartnett
13th March 2002 Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Employments) Regulations 1993 (S.I. 1993/744). They also provide for the electronic delivery of notices by the Inland Revenue in connection with the recovery of student loans under regulation 34 of the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944) (notices to employers by the Board to deduct repayments from emoluments).

Regulation 1 provides for the citation and commencement of these Regulations, and defines "the Board" for the purposes of the Regulations as the Commissioners of Inland Revenue.

Regulation 2 provides that notices under regulation 34 of the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944) may be given, either to the employer or a person acting on his behalf, by an approved means of electronic communications. For notices to be given electronically the employer must have given his consent to their being given by that means and not subsequently notified the Board that that consent has been withdrawn. The regulation also makes provision about proving the content, timing and recipient of a notice under regulation 34 which has been sent electronically.

Regulation 3 introduces the amendments to the Income Tax (Employments) Regulations 1993 (S.I. 1993/744) ("the 1993 Regulations").

Regulation 4 amends regulation 2 of the 1993 Regulations. It amends the definition of "electronic communications" to make it explicit that that expression does not include electronic transmission of information by the system known as Electronic Data Interchange ("EDI"). It also omits paragraphs (4A) to (6) of that regulation. These paragraphs dealt with proving the effects of electronic delivery of information and the use of EDI, matters now dealt with in the new regulations 2A to 2D.

Regulation 5 inserts into the 1993 Regulations new regulations 2A to 2E. These contain evidential provisions about the effect of using electronic communications or electronic transmission for the delivery of information and the making of payments. Regulation 2E provides that the use of any method of electronic transmission, for the purpose of delivering information required to be given to the Board or an officer of theirs under the 1993 Regulations, is to be conclusively presumed not to have resulted in the delivery of the information, if that method is not approved by the Board for delivering information of that kind.

Regulation 6 amends regulation 6(4)(c) (issue and receipt of code authorisation by means of electronic transmission) to permit electronic delivery of code authorisations to employers' agents.

Regulation 7 amends regulation 13 of the 1993 Regulations by permitting notices of amended coding to be given to employers' agents. It also adds a new paragraph (6) particularising how notices under regulation 13 may be given.

Regulation 8 amends regulation 20 of the 1993 Regulations to enable the employer of an employee on fixed pay to notify the cessation of employment by means of an approved method of electronic communications.

ISBN 0-11-039746-0

9 780110 397467

£1.75

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under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E493 4/2002 120493 19585