P.A.Y.E.

1954 No. 1577

The Income Tax (Employments) (No. 5) Regulations, 1954

Made - - - -	*25th November*, 1954
Laid before the House of Commons - -	*1st December*, 1954
Coming into Operation	*2nd December*, 1954

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by Section 157 of the Income Tax Act, 1952(a), hereby make the following Regulations:—

1. These Regulations may be cited as the Income Tax (Employments) (No. 5) Regulations, 1954, and shall come into operation on the 2nd day of December, 1954.

2. In these Regulations the expression " the principal Regulations " means the Income Tax (Employments) Regulations, 1950(b) as amended by the Income Tax (Employments) (No. 2) Regulations, 1951(c), the Income Tax (Employments) (No. 3) Regulations, 1952(d) and the Income Tax (Employments) (No. 4) Regulations, 1952(e). Other expressions shall have the same meaning as in the principal Regulations.

3. Paragraph (1) of Regulation 2 of the principal Regulations shall have effect as if, in the definition of " employer ", the words " whether on his own account or on behalf of another person " were omitted.

4. Regulation 16 of the principal Regulations shall have effect as if after the words " appropriate code " in paragraph (2) there were inserted the words " or, where the employee has ceased to be employed by him and no tax deduction card is held, by reference to the code prescribed by the Commissioners of Inland Revenue under paragraph (2) of Regulation 19 ", and the following proviso were added at the end of paragraph (3):—

" Provided that where tax is deducted by reference to the code prescribed by the Commissioners of Inland Revenue under paragraph (2) of Regulation 19 the aforesaid particulars, except the amounts of the free emoluments and taxable emoluments, shall be recorded on the card prescribed for that purpose ".

5. Paragraph (3) of Regulation 26 of the principal Regulations shall have effect as if for the words " Commissioners of Inland Revenue " there were substituted the word " Collector " and for the words " they so direct " there were substituted the words " the Collector so directs ".

6. In Regulation 26 of the principal Regulations there shall be inserted after paragraph (3) the following paragraphs:—

(3A) If the amount which the employer is liable to pay to the Collector under paragraph (1) of this Regulation exceeds the amount actually deducted by him from emoluments paid during the relevant income tax month and the Commissioners of Inland Revenue are of the opinion that an employee has received his emoluments knowing that the employer

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10. (b) S.I. 1950/453 (1950 I, p. 1069).
(c) S.I. 1951/836 (1951 I, p. 1122). (d) S.I. 1952/1004 (1952 I, p. 1219).
(e) S.I. 1952/1758 (1952 I, p. 1220).

has wilfully failed to deduct therefrom the amount of tax which he was liable to deduct under these Regulations, the said Commissioners may direct that the amount of the excess shall be recovered from the employee and where they so direct the employer shall not be liable to pay the amount of the said excess to the Collector.

(3B) If a difference arises between the employer and the employee as to whether the employer has deducted tax, or having regard to Regulation 23 of the principal Regulations is deemed to have deducted tax, from emoluments paid to the employee, or as to the amount of the tax that has been so deducted or is so deemed to have been deducted, the matter shall, for the purpose of ascertaining the amount of any tax to be recovered from the employee under paragraph (3) or (3A) of this Regulation, be determined by the General Commissioners for the division in which the appropriate code was or should have been determined or by the General Commissioners for the division in which the employee resides as the Commissioners of Inland Revenue having regard to all the circumstances shall direct or, in Northern Ireland or in the case of a non-resident employee, by the Special Commissioners, and the determination of the said Commissioners shall be final.

7. Regulation 29 of the principal Regulations shall have effect as if after the words "Regulation 19" in paragraph (2) there were inserted the words "or paragraph (3) of Regulation 16", and after the words "Regulation 17B" in paragraph (5) as amended, there were inserted the words "and in respect of every employee to whom the employer has at any time during the year made payments of emoluments after he has ceased to employ him".

8. The following Regulation shall be inserted after Regulation 29 of the principal Regulations:—

29A. *Further return in case of certain employees.*—In the case of an employee who is a director within the meaning of Section 163 of the Income Tax Act, 1952, or a person employed in an employment to which Chapter II of Part VI of that Act applies, not later than fourteen days after the end of the year the employer shall, in addition to the return required by Regulation 29, render to the Collector in such form as the Commissioners of Inland Revenue may approve or prescribe, a further return showing the total amounts of

(*a*) any payments made by the employer to the employee in respect of expenses;

(*b*) any payments made on behalf of the employee and not repaid;

(*c*) any sums put by the employer at the disposal of the employee and paid away by him; and

(*d*) any expenses incurred by the employer in or in connection with the provision, for the employee, of any services, benefits or facilities to which subsection (1) of Section 161 of the said Act applies.

9. In Regulation 51 of the principal Regulations there shall be inserted after paragraph (3) the following paragraph:—

"(4) The Inspector, if he is of the opinion that agreement as aforesaid is unlikely to be reached and that the employee is unreasonably delaying giving notice of appeal, may, on giving notice to the employee, treat the notice of objection as a notice of appeal to the General Commissioners for the division in which the assessment was made or, in Northern Ireland or in the case of a non-resident employee, to the Special Commissioners, and refer it to those Commissioners accordingly, and the

provisions of the Income Tax Acts relating to the determination of appeals against assessments and to the statement of a case for the High Court on a point of law shall apply accordingly."

10. Paragraph (3) of Regulation 52 of the principal Regulations shall have effect as if after the words "Commissioners of Inland Revenue" there were inserted the words "or the Collector".

By Order of the Commissioners of Inland Revenue.

R. Willis,
Secretary.

25th November, 1954.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations make a number of minor amendments to the Regulations governing Pay As You Earn.

Regulation 3 widens the definition of employer so that it will include holders of statutory offices who pay emoluments neither on their own behalf nor on behalf of any other person but in the exercise of duties imposed upon them by Statute.

Regulation 4 provides for the deduction of tax by an employer when paying emoluments to a former employee who has left and for whom he no longer holds a tax deduction card.

Regulation 5 transfers from the Commissioners of Inland Revenue to the Collector the power to require payment of tax by an employee instead of by the employer where the employer has inadvertently failed to deduct the tax from the employee's pay.

Regulation 6 enables the Commissioners of Inland Revenue to require an employee himself to pay tax on his emoluments where they consider that he acquiesced in a wilful omission by the employer to deduct the tax. It also provides that, in a case where tax not deducted by the employer is to be collected from the employee, any dispute between employer and employee as to whether any tax was in fact deducted and, if so, how much is to be determined by the appropriate body of appellate Commissioners.

Regulation 8 adapts the provisions of the Income Tax Acts which require an employer to make a return of expenses allowances and other payments to or for the benefit of directors and certain employees to permit the use of a form of return more convenient for P.A.Y.E. purposes.

Regulation 9 provides that, where the Inspector considers that an employee's objection to an assessment cannot be settled by agreement and that the employee is unreasonably delaying giving notice of appeal to the appellate Commissioners, the Inspector himself may refer the objection to the Commissioners as though it were a formal appeal.

The amendments made by Regulations 7 and 10 are consequential.