STATUTORY INSTRUMENTS

1978 No. 1117

INCOME TAX

The Income Tax (Repayments to Wives) Regulations 1978

Made - - - -	1*st August* 1978
Coming into Operation	1*st August* 1978
Laid before the House of Commons - -	1*st August* 1978

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 22(6) of the Finance Act 1978(a), hereby make the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the Income Tax (Repayments to Wives) Regulations 1978, and shall come into operation forthwith.

Interpretation

2. The Interpretation Act 1889(b) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

3. In these Regulations, unless the context otherwise requires:—

"the Employment Regulations" means the Income Tax (Employments) Regulations 1973(c) as amended(d) and words and expressions to which meanings are assigned by the Employments Regulations, or in which other words or expressions are stated in the Employments Regulations to be included, are to be interpreted in accordance with the Employments Regulations;

"the Repayment Supplement Regulations" means the Income Tax (Repayment Supplement) Regulations 1975(e) and words and expressions to which meanings are assigned by the Repayment Supplement Regulations, or in which other words or expressions are stated in the Repayment Supplement Regulations to be included, are to be interpreted in accordance with the Repayment Supplement Regulations;

"adjusted underpayment" means the excess, calculated in accordance with the provisions of Regulation 49 of the Employments Regulations, of the tax payable under an assessment for any year over the total net tax deducted during that year to the extent that the excess so calculated has not been paid to the Collector;

"deficiency" means the amount, calculated in the same way as a wife's excess and adjusted (if necessary) in accordance with Regulation 4(2) of these Regulations, by which the total net tax deducted from the

(a) 1978 c. 42. (b) 1889 c. 63. (c) S.I. 1973/334.
(d) The relevant amending Regulations are S.I. 1974/2102, 1975/728, 1976/381, 950, 1977/700, 1978/326.
(e) S.I. 1975/1283.

earned income of a married woman in the year of assessment falls short of the tax chargeable on her relevant earned income for that year;

"total repayment" means the aggregate, referred to in section 22(2) of the Finance Act 1978, of the amounts repayable in respect of the total net tax deducted from the income of the wife and the income of her husband as reduced, if necessary, by any part of the aggregate amounts previously repaid;

"wife's excess" means the excess, calculated in accordance with section 22(2) of the Finance Act 1978, of the total net tax deducted from the earned income of a married woman in the year of assessment over the tax chargeable on her relevant earned income for that year but before taking account of the total repayment;

"wife's repayment" means the amount repayable to a married woman in accordance with the provisions of section 22 of the Finance Act 1978.

4.—(1) For the purposes of determining the amount of a wife's repayment, the provisions of section 22(2) of the Finance Act 1978 shall be modified in accordance with the following provisions of this Regulation in relation to the cases therein specified.

(2) In determining the wife's excess for any year, any necessary adjustment shall be made to the total net tax deducted taken into account under that subsection in respect of:—

(*a*) any tax already repaid to her for that year and any tax already repaid to her husband for that year which would have been repaid to her had it been a repayment to which section 22 of the Finance Act 1978 applied; and

(*b*) any amount to be recovered from the wife as if it were unpaid tax under section 22(5) of the Finance Act 1978 in respect of which an adjustment has been made under Regulation 49(3) of the Employments Regulations for the year for which the excess is to be determined and which has been taken into account in determining the wife's code under Regulation 7 of those Regulations; and

(*c*) any deficiency for the year before that year to the extent that it represents tax chargeable on the wife's relevant earned income for the earlier year from which tax was not deducted in the earlier year because the income was paid in the year for which the excess is to be determined, provided that there is an adjusted underpayment for the earlier year.

(3) If any part of the total repayment is to be attributed to an earlier year for the purposes of section 47(6) of the Finance (No. 2) Act 1975(a), or would be so attributed if it were a repayment to which that subsection applied, the wife's excess for each of the years to which part of the total repayment is to be or would be so attributed shall be separately determined and, subject to paragraph (4) of this Regulation, the wife's repayment shall be the total of the said excesses. Provided that:—

(*a*) in determining the wife's excess for each of the years any necessary adjustment shall be made in accordance with (*a*) and (*b*) of paragraph (2) of this Regulation; and

(a) 1975 c. 45.

(*b*) in determining the wife's excess for each of the years any necessary adjustment shall be made in accordance with (*c*) of paragraph (2) of this Regulation where the deficiency arose in any of those years or, where there is an adjusted underpayment for that year, in the year before the earliest of those years and the income to which the deficiency relates was paid in any of those years; and

(*c*) for each of the years paragraph (4) of this Regulation shall apply to the wife's excess, adjusted if necessary in accordance with sub-paragraphs (*a*) and (*b*) of this paragraph, as if the wife's repayment was the wife's excess, so adjusted, for that year, and the total repayment was the part of the total repayment attributed to that year for the purposes of the said section 47(6) or which would be so attributed if the total repayment was one to which that subsection applied.

(4) The wife's repayment shall not exceed the amount of the total repayment.

5.—(1) For the purposes of determining the amount of any repayment supplement to be paid to the wife and to her husband in relation to a case in which a repayment falls to be made under section 22 of the Finance Act 1978, the provisions of section 47 of the Finance (No. 2) Act 1975 shall be modified in accordance with the following provisions of this Regulation.

(2) The provisions of section 47 of the Finance (No. 2) Act shall apply to a repayment of less than £25 made to the wife or her husband as if, in subsection (1) of that section, the words "of not less than £25" were omitted provided that the total repayment is not less than £25.

(3) Where any part of the total repayment would have been attributed to any earlier year under the Repayment Supplement Regulations had it been repaid to the husband in one sum, the wife's repayment and her husband's repayment, if any, shall be attributed as follows: —

(*a*) the amount of the wife's repayment attributed to each year shall be the amount of the wife's excess for that year calculated and adjusted in accordance with Regulation 4(3) of these Regulations;

(*b*) the amount of the husband's repayment attributed to each year shall be the amount of the total repayment which would have been so attributed to each year as reduced by the amount of the wife's repayment attributed to that year in accordance with sub-paragraph (*a*) of this paragraph.

By Order of the Commissioners of Inland Revenue.

J. D. Taylor Thompson,
Secretary.

1st August 1978

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations supplement the provisions of section 22 of the Finance Act 1978 for the repayment of Schedule E tax in certain circumstances to married women.

(1) Regulation 4 of the Regulations modifies the way in which the amount to be repaid to the married woman is calculated in the following cases: —

(*a*) Where there has been an earlier repayment for the same year, the total amount repayable to the wife for the year is reduced by the amount of an earlier repayment of her tax to arrive at her current repayment. (Regulation 4(2)(*a*)).

(*b*) Where an amount over-repaid to the married woman on an earlier occasion has been recovered from her (through her Pay As You Earn code) by increased deductions of tax under PAYE during the year for which repayment is to be made, the tax taken into account in calculating her repayment is reduced by the amount of the recovery included in it. (Regulation 4(2)(*b*)).

(*c*) Under the Regulations relating to Income Tax under PAYE, tax is deducted when income is paid and is taken into account in the assessment for the year in which it is deducted even though the income from which it is deducted may be assessable in an earlier year. This means that in such cases tax is usually underpaid in the ealier year and overpaid in the later year. Under these Regulations the tax underpaid on the married woman's income in the year preceding the year of repayment is, so far as it has not been recovered, taken into account in calculating her repayment. (Regulation 4(2)(*c*)).

(*d*) Where the repayment is of an overpayment on a Schedule E assessment which relates in whole or part to previous years, because the assessment includes adjustments for tax overpaid or underpaid in earlier years, the calculation of the married woman's repayment is extended to include the earlier years to which the overpayment relates. (Regulation 4(3)).

(*e*) The amount repayable to a wife is not to exceed the total amount repayable to husband and wife. (This follows the rule in section 22(2)). (Regulation 4(4)).

(2) Regulation 5 of the Regulations modifies the provisions of section 47 of the Finance (No. 2) Act 1975 for repayment supplement with the following effect: —

(*a*) Supplement is paid when the total repayment being divided between husband and wife is £25 or more even though the amounts paid to each are individually less than £25 (supplement is not normally due where the repayment is less than £25); this means supplement is not lost just because a repayment is divided between husband and wife. (Regulation 5(2)).

(*b*) The amount repaid to the married woman is attributed to earlier years where the repayment is of an overpayment on a Schedule E assessment which relates in whole or part to previous years. Under the Regulations the amount attributed to each year is the amount for that year taken into the calculation of her repayment under Regulation 4—see (1)(*d*) above. (Regulation 5(3)).

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