



STATUTORY INSTRUMENTS

S.I. No. 592 of 2008



INCOME TAX (EMPLOYMENTS) REGULATIONS 2008

(Prn. A8/2074)

INCOME TAX (EMPLOYMENTS) REGULATIONS 2008

The Revenue Commissioners, in exercise of the powers conferred on them by section 986 of the Taxes Consolidation Act 1997 (No. 39 of 1997), hereby make the following regulations:

1. (1) These Regulations may be cited as the Income Tax (Employments) Regulations 2008.

(2) These Regulations shall come into operation on 1 January 2009.

2. In these Regulations “Principal Regulations” means the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001).

3. The Principal Regulations are amended—

(a) in Regulation 2, in paragraph (1)—

(i) by inserting the following after the definition of “domestic employment”:

“ ‘electronic communications’ has the meaning assigned to it by section 864A(1)(a) of the Act;”,

(ii) by substituting the following for the definition of “inspector”:

“ ‘inspector’ means an inspector of taxes or other officer of the Revenue Commissioners;”,

and

(iii) by inserting the following after the definition of “tax credits”:

“ ‘tax deduction card’ means a tax deduction card in the form prescribed by the Revenue Commissioners or such other document corresponding to a tax deduction card as may be authorised by the Revenue Commissioners in any particular case;”,

(b) by substituting the following for Regulation 6:

“ Service by post or electronic communications.

6. Any notice, notification, certificate, requirement or tax deduction card which is authorised or required to be given, served, made, sent or issued under these Regulations may be sent by post or by electronic communications.”,

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 6th January, 2009.

(c) in Regulation 11 by substituting the following for paragraph (2):

“(2) The inspector shall send to the employer of the employee either a certificate (in these Regulations referred to as a ‘certificate of tax credits and standard rate cut-off point’) or a tax deduction card incorporating a certificate of tax credits and standard rate cut-off point, certifying—

- (a) the amount of the tax credits and standard rate cut-off point of the employee as determined by the inspector, and
- (b) where appropriate, details of total emoluments and total tax deducted in respect of the employee’s previous employment or employments for the year; and such details shall be taken into account by the employer for the purposes of calculating the cumulative tax in respect of the cumulative emoluments of the employee in accordance with Regulation 17.”,

(d) in Regulation 19—

(i) by substituting the following for paragraph (1):

“(1) This Regulation applies to—

- (a) payments of emoluments made on 31 December in any year or, if that year is a leap year, on 30 or 31 December in that year, to an employee who is paid weekly, and
- (b) any other payments of emoluments made to or on behalf of any employee to which the inspector directs that this Regulation shall apply.”,

and

(ii) in paragraph (4) by substituting “Where the employee has ceased to be employed by the employer and no tax deduction card or certificate of tax credits and standard rate cut-off point is held” for “Where the employee has ceased to be employed by the employer and no tax deduction card is held”,

(e) by inserting the following after Regulation 19:

“Arrears of pay.

19A. (1) This Regulation applies to payments of emoluments made to or on behalf of an employee after he or she has ceased to be employed by the person making the payments.

(2) On making any such payment as mentioned in paragraph (1) of this Regulation, the employer shall deduct—

- (a) in the case of an employee in respect of whom the employer holds a certificate of tax credits and standard rate cut-off point or a tax deduction card, by reference to the amount of the employee's tax credits and standard rate cut-off point, the amount of tax which would have been deductible therefrom if the payment had been made on the date the employee ceased to be employed by the employer and Regulation 17 had applied, or
- (b) in the case of an employee in respect of whom no certificate of tax credits and standard rate cut-off point or tax deduction card is held, tax in accordance with paragraph (2) of Regulation 22.

(3) On making any such payment as mentioned in paragraph (1) of this Regulation, the employer shall record either on the tax deduction card or in such other form as may be authorised by the Revenue Commissioners—

- (a) the date of the payment,
- (b) the gross amount of the emoluments,
- (c) the amount of the appropriate tax credits and standard rate cut-off point, and
- (d) the amount of tax (if any) deducted on making the payment.

(4) Where the employee has ceased to be employed by the employer and no certificate of tax credits and standard rate cut-off point or tax deduction card is held, then the particulars referred to in paragraph (3) of this Regulation, except the amounts of the tax credits and standard rate cut-off point, shall be recorded on the emergency card referred to in Regulation 22.”,

(f) in Regulation 20—

- (i) in paragraph (2) by substituting “3 copies” for “2 copies”,
- (ii) in paragraph (3)—
 - (I) by substituting “2 copies” for “the 2 copies”, and
 - (II) by substituting the following for paragraph (a):

“(a) the new employer shall insert on one copy of the certificate—

- (i) the address of the employee,
- (ii) the date on which the new employment commenced,

- (iii) the rate of payment of the emoluments and
- (iv) the manner in which the payment of emoluments is made to the employee, that is to say, weekly, monthly or as the case may be some other period,

and immediately send that copy to the inspector by whom certificates of tax credit and standard rate cut-off point are ordinarily issued to the employee;”,

and

- (iii) by inserting the following after paragraph (4)(b):

“(c) where an employee has recommenced employment with the same employer in the same year and the 2 copies of the certificate referred to in paragraph (3) relate to that employment, then the employer shall comply with the provisions of paragraph (3) of this Regulation.”,

- (g) in Regulation 22—

- (i) in paragraph (1) by substituting “ordinarily issued to the employee,” for “ordinarily issued to the employer”,
- (ii) in paragraph (6)(a) by substituting “3 copies” for “2 copies”, and
- (iii) by substituting the following for paragraph (6)(b):

“(b) Immediately on commencing his or her next employment, the employee shall deliver to his or her new employer 2 copies of the certificate referred to above and the new employer shall—

- (i) insert on one copy of the certificate the address of the employee, the date on which the employment commenced, the manner in which the payment of emoluments is made to the employee, that is to say, weekly, monthly or as the case may be some other period, and the rate of payment of the emoluments, and
- (ii) immediately send that copy to the inspector by whom certificates of tax credit and standard rate cut-off point are ordinarily issued to the employee,

and paragraphs (2), (3), (4) and (5) of this Regulation shall apply as if the employee had not submitted to the new employer copies of a certificate by a former employer under paragraph (2) of Regulation 20.”

(h) in Regulation 26, in paragraph (2)(b), by substituting “by whom certificates of tax credits and standard rate cut-off point are ordinarily issued to the employee,” for “by whom certificates of tax credits and standard rate cut-off point or tax deduction cards are ordinarily issued to the employer,”,

(i) in Regulation 28 by inserting the following after paragraph (1):

“(1A) Where a remittance referred to in paragraph (1) is made by electronic means (within the meaning of section 917EA of the Act) as are required by the Revenue Commissioners, paragraph (1) shall apply and have effect as if the reference to ‘14 days’ were a reference to ‘23 days’; but where the said remittance is not made on or before the date provided for in this paragraph, this Regulation shall apply and have effect without regard to the provisions of this paragraph.”

(j) In Regulation 29 by inserting the following after paragraph (1):

“(1A) Where a remittance referred to in paragraph (1) is made by such electronic means (within the meaning of section 917EA of the Act) as are required by the Revenue Commissioners, paragraph (1) shall apply and have effect as if the reference to ‘14 days’ were a reference to ‘23 days’; but where the said remittance is not made on or before the date provided for in this paragraph, this Regulation shall apply and have effect without regard to the provisions of this paragraph.”

(k) in Regulation 30 by inserting the following after paragraph (1):

“(1A) Where a remittance referred to in paragraph (1) is made by such electronic means (within the meaning of section 917EA of the Act) as are required by the Revenue Commissioners, paragraph (1) shall apply and have effect as if the reference to ‘14 days’ were a reference to ‘23 days’.”

and

(l) in Regulation 37 by substituting “The inspector may” for “The inspector shall”.

GIVEN under my hand,
29 December 2008

MICHAEL O'GRADY
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations, which will come into operation on 1 January 2009, amend the Income Tax (Employments) (Consolidated) Regulations, 2001, that prescribe the manner in which the deduction of tax from salaries and wages under the “Pay As You Earn” system operates.

The Regulations are mainly of a technical nature to take account of Information Technology developments; the restructuring of the Office of the Revenue Commissioners; and the redesign of forms used in the operation of the PAYE system.

A new Regulation (Regulation 19A) is also inserted into the Income Tax (Employments) (Consolidated) Regulations, 2001 in relation to the operation of PAYE on arrears of pay made to a ceased employee. This new regulation ensures that the tax credits and standard rate cut off point are applied as if the payment was made at date of leaving. The new regulation does not interfere with the current collection procedure etc.

Regulations 2 and 6 of the Income Tax (Employments) (Consolidated) Regulations 2001 are amended to provide for the use of electronic communications and to take account of the restructuring of the Office of the Revenue Commissioners.

Regulation 11 of the Income Tax (Employments) (Consolidated) Regulations, 2001 is amended to reflect the practice whereby the inspector (where appropriate) notifies the employer of the emoluments and tax deducted of an employee in respect of his or her previous employments (in the same tax year) prior to commencement with the employer.

Regulation 19 of the Income Tax (Employment) (Consolidated) Regulations, 2001 is amended to delete the paragraph relating to arrears of pay which is now dealt with in the new Regulation 19A.

The new Regulation 19A provides for changes in the operation of PAYE on the taxation of arrears of pay.

Regulation 20 of the Income Tax (Employments) (Consolidated) Regulations, 2001 is amended to take account of a redesigned form P45, and introduces new rules for the deduction of tax where an employee recommences employment with the same employer within the same tax year.

Regulations 22, 26 and 37 of the Income Tax (Employments) (Consolidated) Regulations, 2001 are amended to take account of the restructuring of the Office of the Revenue Commissioners, redesigned forms and operational procedures within the Office of the Revenue Commissioners.

Regulations 28, 29 and 30 of the Income Tax (Employments) (Consolidated) Regulations, 2001 are amended to extend the deadline from 14 days to 23 days from the end of the income tax month or authorised period for PAYE remittances by employers who make the remittances by electronic means *via* the Revenue Online Service. Where the deadline of 23 days from the end of the income tax month or authorised period is not met, the deadline reverts to 14 days from the end of the income tax month or authorised period.

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(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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