

## Information about this Document

This document has been prepared as part of the ongoing engagement and consultation in relation to the PAYE Modernisation changes that are scheduled to come into effect from 1 January 2019.

This document sets out draft amending Income Tax Regulations (PAYE) to reflect the position from 1 January 2019. It is emphasised that these are draft Regulations and may be subject to change in the light of feedback from stakeholders.

Any comments on these draft Regulations should be sent to the [PAYEModernisation@revenue.ie](mailto:PAYEModernisation@revenue.ie) using the subject line "Draft Regulations"

---

### 1 Citation and commencement

- (1) These Regulations may be cited as the Income Tax (Employments) (Consolidated) Regulations, 2001.
- (2) These Regulations shall come into operation on 1 January 2002.

### 2 Interpretation

- (1) In these Regulations, except where the context otherwise requires —

"the Act" means the Taxes Consolidation Act, 1997;

"authorised officer" means an officer of the Revenue Commissioners authorised by them in writing for the purposes of these Regulations;

"Collector-General" means the Collector-General appointed under section 851 of the Act;

"cumulative emoluments" in relation to any date means the sum of all payments of emoluments made to the employee from the beginning of the year up to and including that date after such deduction as is provided in Part 7;

"electronic communications" has the meaning assigned to it by section 864A(1)(a) of the Act;

"emoluments" means emoluments to which Chapter 4 of Part 42 of the Act applies;

"employee" means any person in receipt of emoluments;

"employer" means any person paying emoluments;

"exclusion order" means a notification issued by an inspector under section 984(1) of the Act;

"general tax credit" has the same meaning as in section 3 of the Act;

“gross pay” means total remuneration which includes emoluments and notional emoluments but without reference to any deduction for pension contributions payable by the employee or any salary sacrifice deduction;

“higher rate of tax” means the rate of income tax known by that description and provided for in section 15 of the Act;

“income tax month” means a calendar month;

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

“notional payment” has the meaning assigned to it by subsection (2) of section 985A (inserted by the Finance Act 2003) of the Act;

“personal public service number” has the same meaning as in section 223 of the Social Welfare (Consolidation) Act, 1993;

“personal tax credit” has the same meaning as in section 3 of the Act;

“reliefs from income tax” means allowances, deductions and tax credits;

“revenue payroll notification” means, in relation to an employment, the latest notification that –

- (a) is issued by or made available by the Revenue Commissioners to an employer in respect of an employee, and
- (b) contains information relating to the calculation and deduction of tax for the year in which the emoluments are paid;

“standard rate cut-off point” in relation to an employee, means the standard rate cut-off point advised by the inspector on the revenue payroll notification;

“standard rate of tax” means the rate of income tax known by that description and provided for in section 15 of the Act;

“tax credits” in relation to an employee means the appropriate amount of personal tax credits and general tax credits to which the employee is entitled under the Act;

“total net tax deducted” means, in relation to the emoluments paid to any employee during any period, the aggregate of –

- (i) the total tax deducted from those emoluments, and
- (ii) tax which was not so deducted but which was remitted by the employer for that period under section 985A(4) of the Principal Act in relation to notional payments,

less any tax repaid to the employee;

“year” means year of assessment.

(1A) In these Regulations, except where the context otherwise requires –

- (a) references to a payment of emoluments shall include references to notional payments in respect of emoluments, and
  - (b) references to tax deducted or to be deducted, or to a requirement to deduct tax, from a payment of emoluments shall include references to —
    - (i) tax deducted or to be deducted, or to a requirement to deduct tax, from the payment, and
    - (ii) tax remitted or to be remitted, or a requirement to remit tax, under section 985A(4) of the Principal Act,in respect of notional payments, as the circumstances may require,
- and cognate words shall be construed accordingly .

- (2) A word or expression that is used in these Regulations and is also used in the Income Tax Acts has, except where the context otherwise requires, the same meaning in these Regulations that it has in those Acts.

## **5 Powers of inspector**

Anything which is authorised or required by these Regulations to be done by the inspector shall be done by such inspector as the Revenue Commissioners may direct.

## **6 Service by post or electronic communications**

Any notice, notification, certificate, requirement or revenue payroll notification 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.

## **10 Determination of appropriate tax credits and standard rate cut-off point by inspector**

- (1) The amount of the tax credits and standard rate cut-off point appropriate to an employee for any year shall be determined by the inspector who for that purpose may have regard to any of the following matters, namely—

- (a) the reliefs from income tax to which the employee is entitled for the year in which the amount of the tax credits and standard rate cut-off point is determined, so far as the employee's title to those reliefs has been established at the time of the determination, but, where the amount of the tax credits and standard rate cut-off point is determined before the beginning of the year for which it is to have effect, the inspector shall disregard any such relief from income tax if he or she is not satisfied that the employee will be entitled to it for that year;
- (b) the emoluments of the employee;
- (c) where the employee has income (other than emoluments in relation to which the amount of the tax credits and standard rate cut-off point is being determined) the tax credits and standard rate cut-off point appropriate to that employee may be adjusted as necessary to collect the tax due on such income;

- (d) where the employee is entitled to reliefs from income tax at the higher rate of tax, the tax credits and standard rate cut-off point appropriate to that employee may be adjusted as necessary to give effect to the relief;
  - (e) any tax overpaid for any previous year which has not been repaid;
  - (f) any tax remaining unpaid for any previous year which is not otherwise recovered;
  - (g) such other adjustments as may be necessary to secure that, so far as possible, the tax in respect of the employee's emoluments for the year to which the tax credits and standard rate cut-off point relate shall be deducted from the emoluments paid during the year.
- (2) When an employee requests the inspector to disregard any particular relief or income referred to in subparagraph (a) or (c) of the foregoing paragraph, the inspector shall disregard it for the purposes of that paragraph.
- (3) The inspector may disregard part or all of any expenses in respect of which the employee may be entitled to relief from income tax if it is impracticable to take account of all those expenses in determining the appropriate amount of tax credits and standard rate cut-off point, and, where he or she does so, shall direct the employer to disregard an equivalent amount of the employee's emoluments in calculating the tax to be deducted or repaid when any payment of emoluments is made to the employee.
- (4) Anything to be done by or under these Regulations by an inspector may be done through such electronic systems as the Revenue Commissioners put in place for the time being for such purpose.

## **11 Notice of determination of tax credits and standard rate cut-off point**

- (1) After the inspector has determined the amount of the tax credits and standard rate cut-off point for any year in accordance with *Regulation 10*, he or she shall send, make available or cause to make available notice of his or her determination to the employee.
- (2) The inspector shall send or make available to the employer of the employee a revenue payroll notification specifying—
- (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*.
- (3) If it appears to the inspector that the employee has more than one employment, he or she shall send, in respect of each employment, to the employer a separate revenue payroll notification showing the tax credits and standard rate cut-off point applicable to the particular employment, but the aggregate amount of the tax credits and standard rate cut-off point on the separate revenue payroll notifications shall not exceed the total amount of the tax credits and standard rate cut-off point of the employee for the year.

- (4) (a) Before the making of any payment of emoluments to an employee, an employer shall ensure that, where a relevant revenue payroll notification has been sent to or made available to the employer, the information on that notification is used to calculate the tax to be deducted or repaid.
- (b) For the purposes of paragraph (a), the employer shall, as appropriate, access the electronic system as provided for in section 984A of the Act.

## **12 Objection and appeal against amount of tax credits and standard rate cut-off point**

- (1) If the employee is aggrieved by the inspector's determination, he or she may give notice in writing of his or her objection to the inspector, stating the grounds of the objection, within 21 days of the date on which the determination is ~~was~~ notified to him or her.
- (2) On receipt of the notice of objection, the inspector may amend his or her determination by agreement with the employee, and in default of such agreement with the employee, the employee may appeal the inspector's determination to the Appeal Commissioners within the period of 30 days from the date of notice of objection.
- (3) The Appeal Commissioners on appeal shall determine either or both the amount of tax credits and standard rate cut-off point having regard to the same matters as the inspector may have regard to when the amount of the tax credits and standard rate cut-off point is determined by the inspector, and, subject to the provisions of *Regulation 13*, their determination shall be final.
- (4) Where either or both the amount of the tax credits and standard rate cut-off point is amended, either by the inspector or by the Appeal Commissioners, the inspector shall send, make available or cause to make available to the employee a notice of the new determination.
- (5) A revenue payroll notification appropriate to the amount of the tax credits and standard rate cut-off point of an employee as determined by the inspector may be issued or made available to the employer, notwithstanding that the inspector's determination is the subject of an objection or appeal.

## **13 Amendments of amount of tax credits and standard rate cut-off point**

- (1) If either or both the amount of tax credits and standard rate cut-off point is found not to be appropriate because the actual circumstances are different from the circumstances by reference to which it was determined by the inspector or the Appeal Commissioners, the inspector may, and if so required by the employee shall, by reference to the actual circumstances, amend, by way of increase or reduction, the previous determination.
- (2) After the inspector has amended the determination of the amount of tax credits and standard rate cut-off point, he or she shall give, make available or cause to make available notice of the new determination to the employee not later than the date on which a new revenue payroll notification is sent or made available to the employer under *Regulation 14*.

(3) The provisions of Regulation 12 regarding objections and appeals shall apply in relation to the amended determination as they applied in relation to the previous determination.

#### **14 Notice to employer of amended amount of tax credits and standard rate cut-off point**

Where a determination of the inspector or of the Appeal Commissioners is amended after a revenue payroll notification has been issued, the inspector shall send or make available to the employer, and the employer shall thereafter use, a revenue payroll notification which reflects the determination.

#### **16 General provision for deductions and repayments**

On payment of emoluments by an employer to an employee, deductions or repayments of tax shall be made subject to, and in accordance with, the subsequent provisions of this Part of these Regulations.

#### **16A Deduction of tax in respect of notional payments**

The obligation on an employer to deduct tax in respect of a notional payment shall have effect as an obligation to deduct tax due on that payment from any payment or payments of emoluments actually made by the employer to or on behalf of the employee on—

- (a) the day the notional payment is made, or
- (b) if there is no actual payment of emoluments made to the employee on that day, the earlier of—
  - (i) the next pay day following the day when the notional payment is made, or
  - (ii) the 31 December in the year in which the notional payment is made,

and where, by reason of an insufficiency of payments of emoluments actually made to or on behalf of the employee, the employer is liable to remit under section 985A(4) of the Principal Act an amount of income tax which the employer was unable to deduct from such payments, the employer shall be liable to remit that amount of tax to the Revenue Commissioners as if the amount to be remitted had been deducted in accordance with this Regulation.

#### **16B Tax borne by the employer in respect of notional payments**

Where tax in respect of a notional payment is remitted by the employer in accordance with subsection (4) of section 985A of the Principal Act and subsection (5) of that section applies, the notional payment in respect of the emolument referred to in that subsection (5) shall be treated as if it were made on 31 January in the year of assessment in which the emolument is treated as arising.

#### **17 Calculation and making of deduction or repayment**

(1) On any payment of emoluments to or on behalf of an employee in respect of whom a revenue payroll notification has been sent to or made available to the employer, the employer, except where these Regulations otherwise provide, shall ascertain—

- (a) firstly, the cumulative emoluments of that employee in respect of the employment at the date of the payment,

(b) secondly, the cumulative gross tax for the pay period in respect of the cumulative emoluments, and

(c) finally, the cumulative tax for the pay period.

(1A)(a) The cumulative gross tax for the pay period is–

$$(A \times \text{standard rate of tax}) + (B \times \text{higher rate of tax})$$

where–

A is the amount of the cumulative emoluments up to and including the cumulative standard rate cut off point for the pay period (which may be nil), and

B is the amount of the cumulative emoluments that exceeds the cumulative standard rate cut off point for the pay period (which may be nil).

(b) The cumulative standard rate cut-off point for the pay period is–

$$\text{Standard rate cut-off point} \times \frac{C}{D}$$

where–

C represents the number of pay periods, including the current pay period, since the start of the year, and

D represents the total number of pay periods for the year.

(c) The cumulative tax for the pay period is–

$$\text{Cumulative gross tax for the pay period} - \text{cumulative tax credits for the pay period}$$

(d) The cumulative tax credits for the pay period is –

$$\text{Tax credits} \times \frac{E}{F}$$

where–

E represents the number of pay periods, including the current pay period, since the start of the year, and

F represents the total number of pay periods for the year.

(1B) In this section, a pay period is the normal payment period in respect of which emoluments are paid to an employee and the total number of pay periods for the year is–

- (a) 52 where the employee is paid weekly,
- (b) 26 where the employee is paid fortnightly, and
- (c) 12 where the employee is paid monthly.

- (2) If the cumulative tax ascertained in accordance with paragraph (1) of this Regulation exceeds the cumulative tax corresponding to the employee's cumulative emoluments at the date of the last payment of emoluments (hereafter in this paragraph referred to as the "previous cumulative tax"), if any, the employer shall deduct the excess from the emoluments on making the payment in question and if the cumulative tax as so ascertained is less than the previous cumulative tax, if any, the employer shall repay the difference to the employee on making the payment in question.
- (3) On or before the making of any payment of emoluments to an employee, including emoluments referred to in Regulations 19, 19A, 21 and 22, the employer shall send the following information relating to the payment of such emoluments to the Revenue Commissioners—
- (a) the date of the payment of the emoluments,
  - (b) the normal pay frequency of the employee,
  - (c) the personal public service number of the employee,
  - (d) where a revenue payroll notification has been sent to or made available to by the employer, the number of the notification used to calculate the tax due,
  - (e) the cumulative standard rate cut-off point for the pay period,
  - (f) the cumulative tax credits for the pay period,
  - (g) the basis on which the tax was calculated,
  - (h) where an exclusion order applies, confirmation that it has been used by the employer,
  - (i) where the employee is a director, an indication to that effect specifying if he or she is a proprietary director within the meaning of section 472 of the Act,
  - (j) the employer reference being a unique staff identifier assigned to the employee by the employer which may not be changed where the employer has not already included the employee's personal public service number in a prior submission,
  - (k) the employment identifier being a unique identifier assigned to the employment of an employee by an employer where the particulars being sent include the employee's personal public service number,
  - (l) the gross pay,
  - (m) the amount of the emoluments after such deduction as is provided in Part 7,
  - (n) the amount of notional payment included in the emoluments, but excluding amounts referred to in section 985A(1A) of the Act,
  - (o) the amount referred to in section 985A(1A) of the Act included in emoluments,



- (p) the amount of a perquisite of the kind mentioned in section 112A(2) of the Act included in emoluments,
  - (q) the amount chargeable to tax under section 123 of the Act and included in emoluments,
  - (r) the amount chargeable to tax under section 123 of the Act, but excluded from emoluments by virtue of section 201 of the Act,
  - (s) the amount of any allowable contribution deducted from emoluments consisting of—
    - (I) the ordinary annual contribution deducted under Regulation 41(b),
    - (II) any other contribution deducted under Regulation 41(b),
    - (III) the amount deducted under Regulation 41(c),
    - (IV) the amount to be deducted under Regulation 41(d), and
    - (V) the amount of contribution deducted under Regulation 41(?), [ASC]
  - (t) the amount of any contributions made by the employer to—
    - (I) a retirement benefit scheme within the meaning of Chapter 1 of Part 30 of the Act, and
    - (II) a personal retirement savings account within the meaning of Chapter 2A of Part 30 of the Act,
- and
- (u) the tax deductible or repayable.

(4) Where, in respect of a payment of emoluments, a revenue payroll notification has been sent to or made available to the employer and the employer has included the number of that notification under paragraph (3)(c), the employer may omit the information required under subparagraphs (e), (f) and (g) of paragraph (3).

## **17A Deduction of tax in respect of certain notional payments**

[1] This Regulation applies to emoluments being—

- (a) the benefit of the private use of a car which is chargeable to tax by virtue of section 121 of the Act,
- (b) the benefit of the private use of a van which is chargeable to tax by virtue of section 121A of the Act,
- (c) the benefit arising from a preferential loan which is treated as a perquisite for the purposes of section 112 by virtue of section 122 of the Act, or
- (d) a benefit arising from an asset which belongs to the employer and the valuation of which is determined in accordance with subsection (3) of section 119 of the Act.

(2) Where, a notional payment for a year is in respect of an emolument to which this Regulation applies—

- (a) the amount of the notional payment for the year in relation to the emolument shall be apportioned over the period (referred to in subparagraph (b) as the “period of benefit”) for which the benefit is available in that year, and
- (b) the employer shall deduct tax in accordance with this Part of these Regulations or remit tax under section 985A(4) of the Principal Act by reference to the part of the notional payment for the year apportioned to each week, where the employee is paid weekly, or month, where the employee is paid monthly, in the period of benefit.

## **19 Deduction in special cases**

(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.

(2) Regulation 17(1) shall not apply to payments of emoluments to which this Regulation applies, and on making any such payment the employer shall deduct therefrom, 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 preceding 1 January.

## **19A Arrears of pay**

(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 whose employment has ceased and in respect of whom a revenue payroll notification has been sent to or made available to the employer, 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 employee was still employed by the employer and Regulation 17 had applied, or
- (b) in any other case by reference to the higher rate of tax applicable on the date the emoluments are paid.

## **20 Employer obligations when an employee commences or ceases employment**

(1) When an employee commences employment with an employer, the employer shall send the following particulars, relating to the employee, to the Inspector –

- (a) his or her personal public service number, or in the absence of such number, the employer reference referred to in subparagraph (j) of paragraph (3) of Regulation 17,
- (b) his or her full name,
- (c) the date of commencement of the employment
- (d) his or her address and date of birth in the absence of his or her personal public service number, and
- (e) an the employment identifier referred to in subparagraph (k) of paragraph (3) of Regulation 17.

(2) An employer shall notify the Inspector of the date of cessation of employment of an employee no later than the date of cessation.

## **21 Death of employee**

(1) On the death of an employee, the date of death shall be treated as a date of cessation of employment.

(2) Notwithstanding Regulation 19A, if any emoluments are paid by the employer after the date of the employee's death in respect of his or her employment with the employer, the employer shall, on making any such payment, deduct or repay tax as if the deceased employee was still in the employer's employment at the date of the payment.

## **22 Emergency basis of deduction**

(1) This Regulation applies where an employer makes payments of emoluments to or on behalf of an employee in respect of whom a revenue payroll notification has not been received or made available to the employer.

(2) Where paragraph (1) applies, on making any payment of emoluments to or on behalf of an employee referred to in that paragraph who has not furnished the employer with his or her personal public service number, the employer shall deduct tax from such payment at the higher rate of tax.

(3) Where an employee furnishes the employer with his or her personal public service number, the employer shall take all reasonable measures to establish that the number furnished is in fact the personal public service number of that employee.

Where paragraph (1) applies, on making any payment of emoluments to or on behalf of an employee referred to in that paragraph who has furnished the employer with his or her personal public service number, the employer shall deduct tax from such payment in accordance with the following provisions–

- (i) during the period of 4 weeks, or in the case of an employee paid monthly, 1 month, from the day on which the employee first holds an employment with the employer, the employer shall deduct tax at the standard rate of tax and, where appropriate, the higher rate of tax on the basis that the amount of the standard rate cut-off point is an amount per week equal to one fifty-second of the amount chargeable to tax at the standard rate specified in Part 1 of the Table to section 15 of the Act, as it applies for that year, or if the employee is paid monthly, one-twelfth of that amount, and
- (ii) during any subsequent period, the employer shall deduct tax at the higher rate of tax.

(5) On making payments of emoluments to or on behalf of the employee after a revenue payroll notification has been received or made available, the following provisions shall have effect for the purposes of Regulation 17 —

- (a) any cumulative emoluments notified to the employer by the inspector shall be recorded by the employer and shall be treated as if they represented emoluments paid by the employer, and
- (b) the cumulative tax before the first of the said payments shall be taken to be the sum of any cumulative tax notified to the employer by the inspector and recorded by the employer and any tax which the employer was liable to deduct from the employee's emoluments under paragraph (2) of this Regulation.

(7) This Regulation shall not apply where —

- (a) the employee performs the duties of his or her employment wholly outside the State, or
- (b) the employee is outside the State and the emoluments are paid outside the State.

## **24 Aggregation of emoluments in non-cumulative cases**

Where under these Regulations tax is deductible otherwise than by reference to cumulative emoluments and cumulative tax, the amount of tax to be deducted in any week or income tax month shall be calculated by reference to the aggregate of the emoluments paid to or on behalf of the employee in that week or month.

## **25 Tax-free emoluments**

Where the employer makes a payment to or for the benefit of the employee in respect of his or her tax, the amount of the emoluments which the employer pays to or on behalf of the employee shall be deemed for the purposes of deduction and repayment of tax under these Regulations to be such a sum as will include the amount assessable on the employee in respect of the payment made by the employer in respect of the employee's tax.

## **26 Repayment during sickness and unemployment**

(1) If, owing to the absence from work through sickness or other similar cause, the employee is entitled to receive no emoluments on the usual pay day, the employer shall, on application being made in person by the employee or his or her authorised representative, make such repayment

of tax to the employee as may be appropriate, having regard to his or her cumulative emoluments at the date of the pay day in question and the corresponding cumulative tax.

- (2) If, owing to absence from work otherwise than mentioned in paragraph (1) of this Regulation, the employee is entitled to receive no emoluments on the usual pay day, the employer either—
  - (a) shall make any such repayment of tax to the employee as would be appropriate under paragraph (1) if the absence from work was due to sickness, or
  - (b) not later than the first usual pay day on which no emoluments will be payable to the employee, shall send, to the Revenue Commissioners a notification of the employee's absence from work and of the employer's intention to make no repayment to the employee under subparagraph (a) of this paragraph.
- (3) Where the notification referred to in subparagraph (b) of paragraph (2) of this Regulation is sent within the timeframe specified in that subparagraph, the employer shall be relieved of the liability to make any repayment under the provisions of subparagraph (a) of that paragraph.
- (4) On the employee's return to work the employer shall immediately notify the Revenue Commissioners and for the purpose of deducting or repaying tax on the occasion of any subsequent payment of emoluments to or on behalf of the employee during the year shall, in the absence of a revenue payroll notification that has been issued or made available to the employer after the employee's return to work, deduct tax in accordance with Regulation 22.
- (5) In the case of a person who has ceased to be employed or with respect to whom a notification has been sent under the provisions of subparagraph (b) of paragraph (2) of this Regulation, any repayment which may be appropriate at any date, having regard to the person's cumulative emoluments at that date and the corresponding cumulative tax, shall be made to him or her by the Revenue Commissioners.

### **32 Inspection of employer's records**

- (1) Upon request made to him or her at any premises of an employer by an authorised officer, any person, being the employer or a person employed by the employer at the premises, shall produce to the authorised officer for inspection all wages sheets, revenue payroll notifications, other documents and records whatsoever relating to the calculation or payment of the emoluments, including notional payments, of employees of the employer or the deduction of tax from, or the remittance of tax under section 985A(4) of the Principal Act in respect of, such emoluments as may be in that person's powers, possession or procurement.
- (2) Where in pursuance of this Regulation an authorised officer requests production of any documents or records, he or she shall, on request, show his or her authorisation for the purposes of this Regulation to the person concerned.
- (3) The documents and records specified in paragraph (1) of this Regulation, which may be held in any format including electronic format, shall be retained by the employer for a period of six years after the end of the year to which they refer, or for such shorter period as the Revenue Commissioners may authorise by notice in writing to the employer.

### **33 Death of employer**

If the employer dies, anything which the employer would have been liable to do under these Regulations shall be done by the employer's personal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding the employer or, if there is no such person, the person on whose behalf the employer paid emoluments.

### **34 Succession to a business, etc**

- (1) This Regulation applies where there has been a change in the employer from whom an employee receives emoluments in respect of his or her employment in any trade, business, concern or undertaking, or in connection with any property, or from whom an employee receives any annuity or pension.
- (2) Where this Regulation applies, the change shall not be treated as a cessation of employment for the purposes of these Regulations, but, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place.
- (3) The employer after the change shall not be liable for the payment of any tax which was deductible from emoluments paid to the employee before the change took place.

### **35 Assessment of emoluments**

- (1) Nothing in these Regulations shall prevent an assessment under Schedule E being made on a person in respect of his or her emoluments (income assessed to tax) for any year.
- (2) Any assessments on an employee in respect of emoluments may be made in any income tax district and shall be valid notwithstanding that the employee was not in that district, or in the State, during the year in which the assessment was made.
- (3) All the emoluments of an employee may be included in one assessment.

### **36 Return of certain emoluments by employer**

The inspector may give notice to the employer requiring the employer to send a return of any emoluments paid by the employer to or on behalf of any employee for any year, being emoluments which are not paid to or on behalf of the employee until after the end of that year, and any such return shall be sent to the inspector within the time limited in the notice.

### **37 Notification of liability**

The inspector may send to the employee, as soon as possible after the end of the year, a statement of his or her liability for the year and showing how it is proposed to deal with any overpayment or underpayment of tax.

### **38 Objections and appeals against assessment**

The provisions of Part 40 of the Act shall, with any necessary modifications, apply in relation to an appeal by an employee against an assessment of emoluments.

### **39 Recovery of underpayments**

- (1) If the tax payable under an assessment exceeds the total net tax deducted from the employee's emoluments during the year, the inspector, instead of taking the excess into account in determining the appropriate amount of tax credits and standard rate cut-off point for a subsequent year, may require the employee to remit it to the Collector-General, and, where the inspector so requires, the employee shall remit the excess accordingly on demand made by the Collector-General.
- (2) For the purposes of determining the amount of any such excess, any necessary adjustment shall be made to the total net tax in respect of any tax overpaid or remaining unpaid for any year.

### **40 Recovery of tax from employee**

- (1) Any tax which is to be remitted to the Collector-General by any employee may be recovered in the manner provided by the Income Tax Acts.
- (2) Any tax which is to be remitted to the Collector-General under paragraph (1) of Regulation 39, shall be remitted within 14 days of the date on which the Collector-General first makes application therefor.

### **41 Interpretation (Part 7)**

In this Part of these Regulations "allowable contribution" means a contribution or a deduction payable by an employee and deductible by an employer from emoluments of the employee and which is —

- (a) by virtue of section 471 of the Act, allowable as a deduction from such emoluments for the purposes of assessment under Schedule E,
- (b) an ordinary annual contribution, or any other contribution treated by the Revenue Commissioners, as respects the year in which it is paid, as an ordinary annual contribution paid in that year, allowable by virtue of section 774 or 776 of the Act, as a deduction from such emoluments for the purposes of assessment under Schedule E,
- (c) by virtue of section 787C (inserted by the Pensions (Amendment) Act 2002) of the Act, to be deducted from or set off against the employee's relevant earnings (within the meaning of section 787B (as so inserted) of the Act) for the year of assessment in which it is paid,
- (d) by virtue of section 787 of the Act, to be deducted from or set off against the employee's relevant earnings (within the meaning of section 783 of the Act) for the year of assessment in which it is paid,
- (e) by virtue of section 790C of the Act (inserted by section 16 of the Financial Emergency Measures in the Public Interest Act 2009) allowable as a deduction from such emoluments for the purposes of assessment under Schedule E.

### **42 Deduction or repayment by reference to superannuation contribution**

When making a deduction or repayment of tax in accordance with the provisions of Part 4 of these Regulations from or in respect of emoluments to which Chapter 4 of Part 42 of the Act applies, an employer shall make such deduction or repayment as would require to be made if the amount of the

emoluments were those emoluments reduced by the amount of the allowable contribution deductible from those emoluments.