

INCOME TAX (INSTALMENT PAYMENTS) ACT 1974

INCOME TAX (MODIFIED I.T.I.P.) REGULATIONS 1987

In exercise of the powers conferred on the Treasury by sections 1, 2, 3, 4, 6 and 7 of the Income Tax (Instalment Payments) Act 1974(a), and of all other powers enabling it in that behalf, the following regulations are hereby made:-

PART I

GENERAL

Citation, commencement and revocations

1. (1) These regulations may be cited as the Income Tax (Modified I.T.I.P.) Regulations 1987 and subject to section 8(3) of the Income Tax (Instalment Payments) Act 1974, shall come into operation on 6th April 1987.

(2) The public documents mentioned in Schedule 1 shall cease to have effect from 6th April 1987 except as respects obligations incurred before that date.

Interpretation

2. In these regulations –

“allowable superannuation contributions” means any sum paid by an employee by way of contribution towards a superannuation fund or scheme which is allowed to be deducted as an expense under the Income Tax (Retirement Benefit Schemes) Act 1978;

“Assessor” means the Assessor of Income Tax;

“code” means any part of the tax tables in which all the amounts of free remuneration for any period have been calculated on the basis of the same total amount for the whole year; and references to code include any designation thereof by numbers and letters, alone or in combination;

“code authorisation” means a notice given by the Assessor to an employer specifying the appropriate code;

“deduction card” means a deduction card in the form approved by the Assessor after consultation with the Department of Health and Social Security or such other document as may be authorised by him as a deduction card;

“earnings-related contributions” means contributions payable under the Social Security Act 1975 (an Act of Parliament) as that Act has effect in the Island, by or in respect of an employed earner in respect of employed earner’s employment;

“employed earner” and “employed earner’s employment” have the same meaning as in the said Social Security Act 1975;

“employee” means any person in receipt of remuneration;

“employer” means any person paying remuneration;

“free remuneration” means the appropriate amount of any remuneration of the employee which qualifies for relief from income tax;

“income tax month” means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

“pension remuneration” means any payment of remuneration comprising a pension or annuity assessable to income tax other than paid by a person outside of the Isle of Man;

“principal Act” means the Income Tax Act 1970;

“reliefs from income tax” includes allowances and deductions but not allowable superannuation contributions;

“remuneration” means the amount of any income arising from the sources specified in section 2C(2) of the principal Act after the deduction of allowable

superannuation contributions and references to payment of remuneration include references to payment on account of remuneration;

“tax tables” means the tax tables contained in Schedule 2 and any references to table A, B or C, as the case may be, means the specified table in that Schedule;

“taxable remuneration” means remuneration reduced by free remuneration;

“total net tax deducted” means in relation to the remuneration paid to any employee during any period, the total tax deducted from that remuneration less any tax repaid to the employee;

“year” means year of assessment;

and other expressions have the same meaning as in the Income Tax Acts.

Intermediate employers

3. (1) Where any employee works under the general control and management of a person who is not his immediate employer, that person (referred to in this and the next following regulation as “the principal employer”) shall be deemed to be the employer for the purposes of these Regulations, and the immediate employer shall furnish the principal employer with such particulars of the employee’s remuneration as may be necessary to enable the principal employer to comply with the provisions of these regulations.

(2) If the employee’s remuneration is actually paid to him by the immediate employer –

- (a) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted or repaid when the remuneration is paid to the employee, and shall deduct or repay the amount so notified to him accordingly; and

- (b) the principal employer shall make a corresponding deduction or addition on making to the immediate employer the payment out of which the said remuneration will be paid.

Service

4. (1) Any notice or deduction card which is authorised or required to be given, served or issued under these regulations may be sent by post.

(2) Any direction of the Assessor of general application, or in regard to any number or class of cases, shall be made by one of the following means –

- (a) by notice given to all the persons concerned; or
- (b) by notice published in two newspapers published and circulating in the Island; or
- (c) by broadcast on not less than 2 occasions on Manx Radio.

PART II

CODING

Deduction and repayment of tax under appropriate code

5. (1) Every employer, on making any payment of remuneration during any year to any employee in respect of whom a code authorisation has been issued to him for that year by the Assessor, shall –

- (a) if he has not already done so, obtain from the Department of Health and Social Security a deduction card for that employee, and
- (b) deduct or repay tax in accordance with these regulations by reference to the appropriate code, which shall be specified on the code authorisation.

(2) Where under regulation 6 the Assessor determines that the appropriate code for any year is not different from the code for the preceding year he shall not be obliged to issue a code authorisation to the employer and if for any year the employer does not receive a code authorisation for an employee who was in his employment on the 5th April in the year preceding that year a code authorisation shall be deemed to have been issued by the Assessor specifying as the appropriate code the code which was appropriate on the said 5th April and the employer shall act in accordance with sub-paragraphs (a) and (b) of paragraph (1).

Determination of appropriate code by Assessor

6. The appropriate code shall be determined by the Assessor, 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 code is determined, so far as his title to those reliefs has been established at the time of the determination: Provided that,

where the code is determined before the beginning of the year for which it is to have effect, the Assessor shall disregard any such relief if he is not satisfied that the employee will be entitled to it for that year;

- (b) any income of the employee (other than the remuneration in relation to which the appropriate code is being determined), the tax on which for the year for which the code is to have effect will be reduced by any relief;
- (c) any tax overpaid for any previous year, which has not been repaid;
- (d) any tax remaining unpaid for any previous year, which is not otherwise recovered;
- (e) the deductions which may be allowable in respect of any interest payable in the year for which the code is to have effect on any mortgage or loan which is assessable on the mortgagee or lender;
- (f) such other adjustments as may be necessary to secure that, so far as possible, the tax in respect of the employee's remuneration for the year for which the code is to have effect shall be deducted from the remuneration paid during that year.

Deduction in special cases

7. (1) The Assessor may determine that tax shall be deducted at a rate specified by him from any remuneration if he is of the opinion that deduction of tax from any other remuneration by reference to tax tables is impracticable and he has reason to believe that this will secure, so far as possible, the deduction from that remuneration of the tax chargeable on them and on the other remuneration.

(2) The assessor may determine that no tax shall be deducted from any remuneration if the remuneration falls to be assessed other than as remuneration.

(3) Where paragraph (1) or (2) of this Regulation applies the Assessor shall be deemed to have determined the appropriate code, and all the provisions of these Regulations which relate to objections and appeals against the Assessor's determination, or to deduction of tax by reference to the appropriate code, or to the specification of the appropriate code in any code authorisation, return or certificate, shall, with the necessary modifications, have effect accordingly.

Notices of coding

8. After the Assessor has determined the appropriate code for any year, he shall, if the code so determined is different from the code for the preceding year, give notice of his determination to the employee:

Provided that no such notice need be given when the change in the code is due to an alteration or alterations in the rates of any of the personal reliefs allowable under or by virtue of the principal Act or in the tax tables, but the other matters referred to in regulation 6 are not different from those for the preceding year.

Objections and appeals against coding

9. (1) If the employee is aggrieved by the Assessor's determination he may give notice of objection to the Assessor stating the ground of his objection.

(2) On receipt of the notice of objection the Assessor may amend his determination by agreement with the employee, and in default of such agreement the employee, on giving notice to the Assessor, may appeal against the determination.

(3) The appeal shall be heard by the Income Tax Commissioners in accordance with sections 87 to 98 of the principal Act.

(4) The Income Tax Commissioners shall on appeal determine the appropriate code, having regard to the same matters as the Assessor may have

regard to when the appropriate code is determined by him, and subject to the provisions of regulation 10 their determination shall be final.

(5) Notwithstanding that the appropriate code as determined by the Assessor may be the subject of an objection or appeal, the employer shall act in accordance with regulation 5 and shall deduct or repay tax by reference to that code.

Amendments of coding

10. (1) If a code is found not to be appropriate because the actual circumstances are different from the circumstances by reference to which it was determined by the Assessor or the Commissioners, the Assessor may, and if so required by the employee shall, amend the previous determination by reference to the actual circumstances.

(2) After the Assessor has amended the determination of the code, he shall give notice of the amended determination to the employee not later than the date on which the notice under regulation 11(1) or the code authorisation, as the case may be, is issued to the employer:

Provided that no such notice need be given when the change in the code is due to an alteration or alterations in the rates of any of the personal reliefs allowable under or by virtue of the principal Act or in the tax tables, but the other matters referred to in regulation 6 have not changed.

(3) The provisions of regulation 9 regarding objections and appeals shall apply in relation to the amended determination as they applied in relation to the previous determination.

Notice to employer of amended coding

11. (1) Where a determination of the Assessor or the Commissioners is amended after a code authorisation has been issued or is deemed under these regulations to have been issued, the Assessor shall give a notice to the employer

specifying the code appropriate to the employee's case under the amended determination, and, on making any payment of remuneration to the employee after the receipt of the said notice, the employer shall deduct or repay tax by reference to that code.

(2) Where there is a change in the rates of any of the personal reliefs allowable under or by virtue of the principal Act, the Assessor may give notice requiring the employer, with effect from the date specified in the notice, to amend specified codes as directed. A code so amended shall be the appropriate code and all the provisions of these Regulations which relate to objections and appeals against the Assessor's determination, or to deduction of tax by reference to the appropriate code or to the specification of the appropriate code in any, return or certificate, shall, with the necessary modifications, have effect accordingly.

PART III

DEDUCTION AND REPAYMENT OF TAX

Calculation of deduction or repayment

12. (1) On the occasion of any payment of remuneration to the employee, the employer, except where these Regulations otherwise provide, shall ascertain the remuneration of the employee at the date of the payment, the free remuneration, the taxable remuneration and the corresponding tax.

(2) The employer shall record the following particulars regarding every payment of remuneration which he makes to the employee, namely –

- (a) the date of the payment;
- (b) the remuneration in relation to the said date;
- (c) the free remuneration in relation to that date;
- (d) the taxable remuneration in relation to that date;
- (e) the amount of tax, if any, deducted or repaid on making the payment.

Remuneration not paid weekly or monthly

13. Where remuneration is paid at regular intervals other than regular intervals of a week or a month, the employers shall deduct from every payment of remuneration a proportionate amount calculated by reference to the period in respect of which it is paid, in accordance with tables A and C.

Subsidiary remuneration of employee paid monthly etc.

14. If the employer makes a payment in respect of overtime or other extra earnings to an employee at any time other than when the main remuneration is paid, the employer shall deduct tax in accordance with table C.

Remuneration paid after employment ceased

15. (1) Where an employer makes any payment of remuneration to an employee after he has ceased to be employed by him and the payments have not been included in the certificate issued to the employee in accordance with regulation 16(2), regulation 12 shall not apply, and on making any such payment the employer shall deduct tax in accordance with table C in force for the year in which the payment is made.

(2) On making any such payment as aforesaid the employer shall record the date of payment, the amount of the remuneration, and the amount of tax deducted on making the payment.

(3) This regulation shall also apply to any payment of remuneration made to an employee in respect of an employment which has ceased by a trustee in bankruptcy, a receiver, a liquidator, or any other person making such a payment in respect of an obligation of a former employer, as if the person making the payment were a former employer.

Change of employment

16. (1) If the employer ceases to employ an employee in respect of whom code authorisation has been issued to him, or is deemed under these Regulations to have been issued to him, he shall forthwith send to the Assessor a certificate on the form approved by the Assessor containing the following particulars, namely –

- (a) the full name and address of the employee;
- (b) any number used by the employer to identify the employee;
- (c) the date on which the employment ceased;
- (d) the code appropriate to the employee;
- (e) the tax reference number and National Insurance number of the employee.

(2) The employer shall make on the form approved by the Assessor 2 copies of the said certificate, and shall deliver them to the employee on the date on which the employment ceases.

(3) Immediately on commencing his next employment the employee shall deliver the 2 copies of the certificate to his new employer, who shall, subject to the provisions of paragraph (4)

- (a) insert on one copy of the certificate any change of address of the employee, any number used to identify him, and the date on which the employment commenced, and forthwith send that copy to the Assessor;
- (b) obtain a deduction card and;
- (c) on making any payment of remuneration to the employee, deduct tax by reference to the appropriate code in accordance with regulation 12 and keep the records required by that regulation.

(4) The delivery of the 2 copies of the certificate in accordance with paragraph (3) shall be treated for the purposes of this regulation as the issue of a code authorisation to the new employer in respect of the employee specifying the code contained in the certificate as the appropriate code.

(5) Retirement on pension shall not be treated as a cessation of employment for the purposes of this regulation if the remuneration is paid by the same person both before and after retirement, but any such person shall –

- (a) within 14 days after retirement send to the Assessor a certificate on the prescribed form containing the following, viz–
 - (i) the full name of the employee;
 - (ii) the date of the employee's retirement;

(iii) the amount of pension payable weekly or monthly as the case may be; and

(b) on making payments of pension remuneration to the employee after retirement deduct tax in accordance with regulation 12.

(6) If the 2 copies of the certificate given to the employee in accordance with paragraph (2) are delivered to an employer who pays or will pay pension remunerations to that employee, the employer shall –

(a) complete one copy of the certificate in accordance with paragraph (3) (a) and send it to the Assessor; and

(b) deduct tax by reference to the code shown on the certificate and in accordance with regulation 12.

Death of employee

17. (1) On the death of an employee in respect of whom a code authorisation has been issued by the Assessor, or is deemed under these regulations to have been issued, the employer shall forthwith send to the Assessor the certificate relating to cessation of employment mentioned in regulation 16(1) together with the 2 copies of the said certificate mentioned in regulation 16(2) and shall insert thereon the name and address of the personal representative of the deceased employee, if they are known to him.

(2) If any remuneration is paid by the employer after the date of the employee's death in respect of his employment with him, the employer shall, on making any such payment, deduct tax as if the deceased employee was still in his employment at the date of the payment.

Employee for whom appropriate code not known

17A. (1) If the employer makes any payment of remuneration to an employee in respect of whom he has not received a code authorisation from the Assessor (and

in respect of whom no code authorisation is deemed under regulation 5(2) to have been issued by the Assessor), the employer, on the occasion of any such payment, shall, subject to paragraph (2), forthwith render a return to the Assessor giving the name and address of the employee, the date on which his employment commenced, and such other particulars as may be necessary to enable the Assessor to determine the appropriate code in accordance with regulation 6.

(2) If the employer, having rendered such a return, makes any subsequent payment of remuneration to the employee, he shall not be required to render any further return in the same year pursuant to paragraph (1).

(3) If any payment is made as described in paragraph (1), the employer on making it shall deduct tax in accordance with regulation 12 applying the appropriate code.

(4) Whenever in accordance with this regulation the employer uses the appropriate code, a code authorisation shall, for the purposes of regulation 6, 11(1), 16(1) and 17(1), be deemed to have been issued to the employer by the Assessor specifying whichever of the codes applies as the appropriate code.

(5) This regulation shall not apply where the employee immediately on commencing employment has delivered to his employer two copies of a certificate received by him in accordance with regulation 16(2).

(6) In this regulation, "appropriate code" means –

(a) in the case of –

(i) a married woman;

(ii) a person receiving a National Insurance pension only;

(iii) a non-resident person other than a person exempted from the Control of Employment Act 1975 by virtue of the Control of Employment Order 1987 or any order

having the same effect in any year after 1987.

- (iv) remuneration arising from employment which is not the only or main employment of a person,

the code which effects the deduction of tax at the prescribed rate (for the purposes of section 1(2)(b) of the Income Tax Act 1970 and within the meaning of section 1(3A) of that Act with no free pay;

- (b) In any other case, the code which would be applicable in a case in which a taxpayer is entitled to the personal allowance of a single person and no other allowances, reliefs or deductions.

Tax-free remuneration

18. Where the employer makes a payment to or for the benefit of the employee in respect of his income tax, the amount of the remuneration which the employer pays to 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 income tax.

Information for employees

18A. (1) Every employer shall provide to an employee for each pay period a certificate showing –

- (a) the gross remuneration paid to the employee by that employer during the pay period to which the certificate relates;
- (b) the amount deducted from that remuneration by the employer under these regulations; and
- (c) that employee's code.

(2) Every employer shall provide to an employee annually; and on termination of employment a deduction card in a form approved by the Assessor showing –

- (a) that employee's tax reference;
- (b) the total gross remuneration paid to that employee during that year;
- (c) the net total tax deducted from that remuneration
- (d) that employee's code; and
- (e) such additional information as is required by the approved form.

PART IV

PAYMENT AND RECOVERY OF TAX, ETC.

Payment of tax by employer

19. (1) Within 14 days of the end of every income tax month the employer shall pay to the Assessor all amounts of tax which he was liable under these regulations to deduct from remuneration paid by him during that income tax month, reduced by any amounts which he was liable under these regulations to repay during that income tax month.

(2) The Assessor shall if so requested give the employer a receipt for the total amount so paid, provided that no separate receipt need be given for tax only if a receipt given for the total amount of tax and any earnings related contributions paid at the same time.

(3) If the amount which the employer is liable to pay to the Assessor under paragraph (1) exceeds the amount actually deducted by him from remuneration paid during the relevant income tax month, the Assessor, on being satisfied by the employer that he took reasonable care to comply with the provisions of these regulations and that the under-deduction was due to an error made in good faith, may direct that the amount of the excess shall be recovered from the employee, and where the Assessor so directs the employer shall not be liable to pay the amount of the said excess to the Assessor.

(4) If the amount which the employer is liable to pay to the Assessor under paragraph (1) exceeds the amount actually deducted by him from remuneration paid during the relevant income tax month, and the Assessor is of the opinion that an employee has received his remuneration knowing that the employer has wilfully failed to deduct therefrom the amount of tax which he was liable to deduct under these regulations, the Assessor may direct that the amount of the

excess shall be recovered from the employee, and where he so directs the employer shall not be liable to pay the amount of the said excess to the Assessor.

(5) If a difference arises between the employer and the employee as to whether the employer has deducted tax, or having regard to regulation 18 is deemed to have deducted tax, from remuneration 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 (4) of this regulation, be determined by the Income Tax Commissioners and the determination of the Commissioners shall be final.

(6) If the total of the amounts which the employer was liable to repay during any income tax month exceeds the total of the amounts which he was liable to deduct during that income tax month, he shall be entitled within the same year of assessment to deduct the excess from any subsequent payment which he is liable to make to the Assessor under paragraph (1) or to recover it from the Treasury.

Employer failing to pay tax

20. (1) If within 14 days of the end of any income tax month the employer has paid no amount of tax to the Assessor under regulation 19 for that income tax month, and the Assessor is unaware of the amount, if any; which the employer is liable so to pay, the Assessor may give notice to the employer requiring him to render, within the time limited in the notice, a return showing the name of every employee to whom he made any payment of remuneration or repayment of tax in the period from the preceding 6th April to the day (being the last day of an income tax month) specified by the notice, together with such particulars with regard to each such employee as the notice may require, being particulars of –

- (a) the code appropriate of the employee's case;
- (b) the payments of remuneration made to him during that period;
and
- (c) any other matter affecting the calculation of the tax which the employer was liable under these Regulations to deduct or to repay to the employee during that period.

(2) The Assessor, by reference to the tax tables, shall ascertain and certify the amount of tax which the employer is liable to pay to him in respect of the income tax month in question.

(3) The production of the return made by the employer under paragraph (1) and of the certificate of the Assessor under paragraph (2) shall be sufficient evidence that the amount shown in the said certificate is the amount of tax which the employer is liable to pay to the Assessor in respect of the income tax month in question; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Where a notice given by the Assessor under paragraph (1) extends to 2 or more consecutive income tax months, the provisions of these regulations shall have effect as if the said consecutive income tax months were one income tax month.

(5) A notice may be given by the Assessor under paragraph (1) notwithstanding that an amount of tax has been paid to him by the employer under regulation 19 for any income tax month, if the Assessor is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this regulation shall have effect accordingly.

Specified amount of tax payable by employer

20A. (1) If after 14 days following the end of any income tax month the employer has paid no amount of tax to the Assessor under regulation 19 for that income tax month, despite demand being made, and there is reason to believe that the employer is liable so to pay, the Assessor upon consideration of the employer's record or past payments may to the best of his judgement specify the amount of tax which he considers the employer is liable to pay and serve notice on him of that amount.

(2) If, on the expiration of the period of 7 days allowed in the notice, the specified amount of tax or any part thereof is unpaid, the amount so unpaid shall be certified by the Assessor and shall be deemed to be an amount of tax which the employer was liable to pay for that income tax month in accordance with regulation 19.

(3) The provision of paragraph (2) shall not apply if, during the period allowed in the notice, the employer pays to the Assessor the full amount of tax which the employer is liable to pay under regulation 19 for that income tax month, or the employer satisfies the Assessor that no amount is due for that income tax month.

(4) The production of a certificate such as is mentioned in paragraph (2) shall be sufficient evidence that the employer is liable to pay to the Assessor the amount shown in the certificate; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(5) Provided the employer has paid no amount under regulation 19 for the relevant income tax months a notice may be given by the Assessor under paragraph (1) which extends to 2 or more consecutive income tax months, and the

provision of these regulations shall have effect as if the said consecutive income tax months were the latest income tax month specified in the notice.

(6) A notice may be given by the Assessor under paragraph (1) notwithstanding that an amount of tax has been paid to him by the employer under regulation 19 for any income tax month, if after seeking the employer's explanation the Assessor is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this regulation shall have effect accordingly save that paragraph (2) shall not apply if the employer during the period allowed in this notice satisfies the Assessor that no further amount is due for the relevant income tax month.

(7) If during the period allowed in a notice given by the Assessor under this regulation the employer claims, but does not satisfy the Assessor, that the payment made in respect of the income tax month specified therein is the full amount he is liable to pay to the Assessor for that income tax month, the employer may require the Assessor to inspect the employer's documents and records as if the Assessor had called upon the employer to produce those documents and records in accordance with regulation 24 and the provisions of regulation 24 shall apply in relation to that inspection and the notice given by the Assessor under this regulation shall thereafter be disregarded.

(8) Notwithstanding anything in this regulation, if the employer pays any amount certified by the Assessor under this regulation and that amount exceeds the amount which he would have been liable to pay in respect of that income tax month apart from this regulation, he shall be entitled to set-off such excess against any amount which he is liable to pay to the Assessor under regulation 19 for any subsequent income tax month.

(9) If, after the end of the year, the employer renders the returns statement and declaration required by regulation 22 and pays the total net tax which he is liable to pay any excess of tax paid and not otherwise recovered by set-off in accordance with the provisions of this regulation shall be repaid.

Formal determination of tax payable by employer

21. (1) Where it appears to the Assessor that there may be tax payable under regulation 19 or is deemed liable under regulation 20A which has not been paid to the Assessor nor certified by him in pursuance of regulation 20, 22, or 24, the Assessor may determine to the best of his judgement the amount of such tax, and shall serve notice of such determination on the employer.

(2) A determination under this regulation –

(a) shall be subject to the provisions of the principal Act as if it were an assessment and as if the amount of tax determined were income tax charged on the employer, and that Act shall apply accordingly with any necessary modifications;

(b) may cover the tax payable by the employer under regulation 19 for any one or more months in an income tax year, and may extend to the whole of that tax or such part of it as is payable in respect of a class or classes of employees specified in the notice of determination (without naming the individual employees) or of one or more named employees so specified.

(3) Determinations made under this regulation shall not include tax in respect of which a direction under regulation 19(3) or (4) has been made; and directions under that regulation shall not apply to tax determined under this regulation.

(4) Where any part of any tax determined under this regulation is not paid within 90 days from the date on which the determination become final and conclusive, the Assessor may, if he considers that a direction under regulation 19(4) would, but for the preceding paragraph, have been made, direct that such part of that tax as it appears to him should have been but was not deducted under these regulations by the employer on payment of the relevant remuneration shall (without prejudice to the right of recovery from the employer) be recovered from the employee.

Return by employer at end of year

22. (1) Not later than 30 days after the end of the year the employer shall deliver to the Assessor a return and deduction card, in such form as the Assessor may approve, showing in respect of every employee employed by him during that year –

- (a) that employee's tax reference;
- (b) the total gross remuneration paid to that employee during that year;
- (c) the net total tax deducted from that remuneration; together with a reconciliation of the net total of those deductions with the net amount paid to the Assessor; and
- (d) such additional information as the Assessor may specify in the said form of return and deduction cards.

(2) If within 30 days of the end of any year an employer has failed to pay to the Assessor the total net amount of tax which he is liable so to pay, the Assessor may prepare a certificate showing the net amount of tax remaining unpaid for that year.

(3) A person who ceases to be an employer before the end of a year must deliver to the Assessor, not later than 30 days after the employment of the last employee ceases, a return and deduction card in the form and in manner required by paragraph (1).

Further returns

23. (1) Not later than 30 days after the end of the year the employer shall render to the Assessor in respect of each employee a return or returns, in such form as the Assessor may approve, showing particulars of –

- (a) any remuneration given by the employer to the employee otherwise than in money;
- (b) any payments made on behalf of the employee and not repaid;
and
- (c) any remuneration paid by the employer to the employee in the year which is not remuneration for that year.

(2) A person who ceases to be an employer before the end of a year must deliver to the Assessor, not later than 30 days after the employment of the last employee ceases, a return or returns in the form and manner required by paragraph (1).

(3) For the avoidance of doubt, the remuneration and payments referred to in paragraph (1) include any benefits in kind referred to in sections 2G to 2K of the principal Act.

Inspection of employer's records

24. (1) Every employer, whenever called upon to do so by any officer authorised by the Assessor, shall produce to that officer for inspection every book, record and document which is relevant to the operation of these regulations.

(2) The Assessor by reference to the information obtained from an inspection of the documents and records produced under paragraph (1) may on the occasion of each inspection prepare a certificate showing –

(a) the amount of tax which it appears from the documents and records so produced that the employer is liable to pay to the Assessor for the years or income tax months covered by the inspection; and

(b) any amount of such tax which has not been paid to him.

(3) The production of a certificate such as is mentioned in paragraph (2) shall be sufficient evidence that the employer is liable to pay to the Assessor in respect of the years or income tax months mentioned in the certificate the amount shown therein pursuant to paragraph (2) (b); and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

Duty to preserve records

24A. (1) An employer must preserve the records and supporting documents needed to enable the employer to make and deliver returns under regulations 22 and 23.

(2) The records under paragraph (1) must be preserved for 3 years after the end of the year to which the return relates.

(3) The records required to be preserved under paragraph (1) are those records and supporting documents which are necessary for making a true, correct and complete return.

(4) An employer must also preserve any records which may be required to be produced under regulation 24(1).

(5) The records under paragraph (4) must be preserved for 3 years after the end of the year to which the records relate.

(6) The records required to be preserved under paragraph (4) are those records and supporting documents as are necessary to secure compliance with regulation 24(1).

(7) In this regulation, "supporting documents" includes accounts, books, deeds, contracts, vouchers and receipts.

Death of employer

25. If any employer dies, anything which he would have been liable to do under these regulations shall be done by his personal representatives, or, in the case of any employer who paid remuneration on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid remuneration.

Succession to a business, etc.

26. (1) This regulation applies where there has been a change in the employer from whom an employee receives remuneration in respect of his 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 regulation 16 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:

Provided that the employer after the change shall not be liable for the payment of any tax which was deductible from remuneration paid to the employee before the change took place.

PART V

ASSESSMENT AND DIRECT COLLECTION

Assessment

27. The assessment of remuneration shall be made pursuant to the provisions of the principal Act.

Repayment of overpayments and recovery of underpayments

28. (1) If the tax payable under the assessment is less than the total net tax deducted from the employee's remuneration during the year, the Assessor may, and if the person assessed so requires shall, repay the difference to that person instead of taking it into account in determining the appropriate code for a subsequent year.

(2) If the tax payable under the assessment exceeds the total net tax deducted from the employee's remuneration during the year, the Assessor may require the person assessed to pay the excess instead of taking it into account in determining the appropriate code for a subsequent year, and where the Assessor so requires the person assessed shall pay the excess accordingly.

(3) For the purposes of determining the amount of any difference or excess as aforesaid, any necessary adjustment shall be made to the aforesaid total net tax in respect of –

- (a) any tax which the employer was liable to deduct from the employee's remuneration but failed so to deduct, having regard to whether the Assessor has or has not directed that that tax shall be recovered from the employee; and
- (b) any tax overpaid or remaining unpaid for any year; but any such difference resulting from an adjustment under subparagraph (a) shall be disregarded for the purposes of

paragraph (1) and of computing any tax overpaid under subparagraph (b).

(4) In this regulation, references to an employee's remuneration include references to the remuneration of a wife assessed on her husband.

Provision for direct collection

29. In cases of casual employment, and in any other case in which the Assessor is of the opinion that deduction of tax by reference to the tax tables is impracticable, the Assessor may by direction, make such special arrangements as are necessary for carrying into effect the provisions of the Income Tax (Instalment Payments) Act 1974.

Recovery of tax from employee

30. Any tax which is payable to the Assessor by any employee may be recovered in the manner provided by the Income Tax Acts.

PART VI

Civil Penalties

Penalty for initial default in payment of tax

31. (1) An employer who fails to comply with regulation 19(1) is liable to pay a civil penalty.

(2) The penalty is 5 per cent of the amount which the employer is liable to pay under regulation 19(1).

Penalty for extended default in payment of tax

32. (1) An employer is liable to pay a further civil penalty if either of the amounts referred to in paragraph (2) are not paid in full within 6 months of the end of the income tax month to which they relate.

(2) The amounts are –

- (a) the amount due under regulation 19(1) which led to the imposition of the civil penalty under regulation 31(1); and
- (b) the amount of that civil penalty.

(3) The further penalty is 5 per cent of the unpaid balance of the aggregate of the amounts referred in paragraph (2).

Default payment penalties: supplementary

33. An employer is not liable to pay a penalty under regulation 31 or 32 where the amount of the penalty payable is less than £25.

Penalty for default in making returns

34. (1) An employer who fails to comply with regulation 22(1) or (3) or 23(1) or (2) is liable to pay a civil penalty.

(2) The penalty is £250.

(3) Where an employer is liable to pay a penalty under paragraph (1), the employer is liable to pay an additional civil penalty of £50 for each day that the

employer fails to comply with regulation 22(1) or (3) or 23(1) or (2) (as the case may be), commencing on the day after the day on which the penalty under paragraph (1) is imposed.

(4) An employer who remains in breach of regulation 22(1) or (3) or 23(1) or (2) for a continuous period of 6 months commits an offence and is liable on summary conviction to custody for up to 6 months or to a fine not exceeding £5,000, or to both.

Penalty for failure to comply

35. (1) Paragraph (2) only applies in circumstances where no other penalty applies in respect of a failure to comply with a provision specified in that paragraph.

(2) An employer is liable to pay a civil penalty if the employer fails for a continuous period of 14 days to comply with a provision of –

- (a) these Regulations;
- (b) the Income Tax (Instalment Payments) Act 1974.

(3) The penalty is £250.

SCHEDULES

regulation 1(2)

Schedule 1

Revocation of Public Documents

G.C. No	Title	Extent of Revocation
118/83	The Income Tax (Instalment Payments) Regulations 1983	The whole regulations
	The Income Tax (Instalment Payments) (Amendment) Regulations 1985	The whole regulations

Made under the Common Seal of the Treasury this 25th day of February 1987.

Minister

Administrator

This order was approved by Tynwald on 24th March 1987

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Income Tax (Modified I.T.I.P.) Regulations 1987, made by the Treasury under Section 1 of the Income Tax (Instalment Payments) Act 1974, wholly replace the Income Tax (Instalment Payments) Regulations 1983. The Income Tax (Modified I.T.I.P.) Regulations 1987 restate the tax collection machinery contained in the earlier Regulations and further provide:-

- (i) A new set of tax deduction tables
- (ii) A coding system which provides greater flexibility in the deduction of tax from the remuneration of employees and therefore more correct tax deduction
- (iii) Further documentation to take account of changes of employer by employees.