

PART V
PAYMENT AND RECOVERY OF TAX

Payment and recovery of tax

- 40 Periodic payments to and recoveries from the Revenue
- 40A Quarterly income tax periods
- 40B Modification of regulation 40 in case of trade dispute
- 42A Recovery from employee of tax not deducted by employer

Annual returns of [payments of emoluments] and tax

- 43 Annual return of [payments of emoluments] liable to deduction of tax
- 44 Annual return of [payments of emoluments] not liable to deduction of tax
- 45 Additional return in case of trade dispute

Failure to account for deductible tax

- 43A Certificate if tax on regulation 43 return is unpaid
- 47 Return and certificate if tax may be unpaid
- 48 Notice and certificate if tax may be unpaid
- 55A Certificate after inspection of PAYE records
- 49 Determination of tax unpaid and not otherwise certified
- 49A Employee's liability if tax unpaid after regulation 49 determination

Interest

- 51 Interest on tax overdue
- 53A Interest on tax overpaid

Recovery

- 54 Recovery of tax and interest

Returns involving [emoluments] other than payments

- 46 Employers: annual return of [other emoluments]
- 46B Moving expenses and notional payments: exceptions from returns under regulation 46
- 46A Quarterly return if a car becomes available or unavailable
- 46ZA Termination payments and non-cash benefits: information to be provided
- 46ZC Termination payments: return where award changes
- 46ZE Termination payments: return where more than one employer

Information to be given to employees

- 46AA Employers: information to employees of [other emoluments]
- 46AB Third parties: information to employees of [other emoluments]
- 46ZD Termination payments and non-cash benefits: information to employees

PAYE records: retention and inspection

- 55 Inspection of employer's PAYE records

General

- 46ZB Methods of providing information
- X Collector's certificate that sum due
- XX Payment by cheque

Payment and recovery of tax by employer

Periodic payments to and recoveries from the Revenue

40—(1) If, for an income tax period, A exceeds D, the employer must pay the excess to the [collector/Inland Revenue], within 14 days after the end of that period.

(2) But if D exceeds A for an income tax period, the employer may recover the excess from the [collector], either [directly] or by deducting it from the amount which he is liable to pay under paragraph (1) for a later income tax period.

(3) In this Regulation—

A is [the total] amount of tax which the employer was liable under these Regulations to deduct from emoluments paid by him in [the] income tax period;

D is [the total] amount which the employer was liable under these Regulations to repay in [the] income tax period.

(4) The income tax period is—

- (a) an [income tax] month, or
- (b) if regulation 20 (personal employees) or regulation 40A (payment of tax quarterly) applies, an [income tax] quarter.

(5) The [collector] must give a receipt to the employer for the total amount paid under paragraph (1) if so requested; but if a receipt is given for the total

amount of tax and any earnings-related contributions paid at the same time, then no separate receipt for tax only need be given.

(6) Paragraphs (1) and (2) are subject to regulation 40B (modification in case of trade disputes), and paragraph (1) is also subject to regulation 48(8) (entitlement to set off excess payments).

Quarterly income tax periods

40A—(1) This regulation applies if an employer has reasonable grounds for believing that the condition specified in paragraph (2) applies and he chooses [to pay tax quarterly].

(2) The condition is that, for income tax months falling within the current year, the average monthly amount found by the formula—

$$P + N + L + S - T$$

will be less than £1,500.

(3) In paragraph (2)—

P is the amount which would be payable to the collector under regulation 40 if any adjustment to that amount under regulation 7(1) of the Tax Credits (Payments by Employers) Regulations 1999 (funding of payment by relevant employer or relevant subsequent employer of tax credit) were disregarded;

N is the amount which would be payable to the collector under the Social Security Contributions and Benefits Act 1992 and the Social Security (Contributions) Regulations 1979, or, in Northern Ireland, under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Contributions) Regulations (Northern Ireland) 1979 disregarding—

(a) any amount of secondary Class 1 contributions in respect of which liability has been transferred to the employed earner by virtue of an election made jointly by the employed earner and the secondary contributor for the purposes of paragraph 3B(1) of Schedule 1 to either the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

(b) any adjustment to the amount so payable to the collector under regulation 7(3) of the Tax Credits (Payments by Employers) Regulations 1999 (funding of payment by relevant employer or relevant subsequent employer of tax credit);

L is the amount which would be payable to the collector under regulation 39(1) of either the Education (Student Loans)(Repayment) Regulations 2000

or the Education (Student Loans)(Repayment) Regulations (Northern Ireland) 2000 (payment of repayment deducted to the Inland Revenue) if the reduction of that amount which is referred to in paragraph (3) of that regulation and in regulation 7(2) of the Tax Credits (Payments by Employers) Regulations 1999 were disregarded;

S is the amount payable to the collector under section 559 of the Taxes Act and the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993; and

T is the amount which the employer is required to pay by way of tax credits in accordance with regulation 6(2) of the Tax Credits (Payment by Employers) Regulations 1999.

Modification of regulation 40 in case of trade dispute

40B—(1) This regulation applies from the first income tax period at the end of which there is, by virtue of regulation 36(3) (trade disputes), an amount calculated as due to be repaid but required to be withheld, until the end of the income tax period in which there is no longer any amount of repayment being withheld by virtue of that regulation.

(2) For the first income tax period, the amount payable under regulation 40(1) is calculated as follows—

- (a) if $A - D$ is nil or less, there is nothing to pay;
- (b) in any other case, the amount payable is $A - D$ reduced by C , or by so much of C as reduces the amount payable to nil.

(3) For subsequent income tax periods, the amount payable under regulation 40(1) is calculated as follows—

- (a) if $(A + B) - D$ is nil or less, there is nothing to pay;
- (b) in any other case, the amount payable is $(A + B) - D$ reduced by C , or by so much of C as reduces the amount payable to nil.

(4) The amount (if any) recoverable under regulation 40(2) is to be reduced to the extent that it includes amounts—

- (a) for which reduction was made under paragraph (2) or (3) in an earlier income tax period, or
- (b) which are otherwise being recovered.

(5) In this regulation—

A is [the total] amount of tax which the employer was liable under these Regulations to deduct from emoluments paid by him in [the] income tax period;

B is the total of amounts—

(a) which, by virtue of regulation 36(3)(b), reduce amounts included in A in the [current] income tax period, and

(b) which also, under paragraph (2) or (3), have reduced the amount payable in an earlier income tax period;

C is the total of amounts calculated as due to be repaid in the income tax period but required to be withheld during that income tax period by regulation 36(3);

D is [the total] amount which the employer is liable to repay in [the] income tax period, not including any amounts—

(a) for which a reduction was made under paragraph (2) or (3) in an earlier income tax period; or

(b) which are being recovered under paragraph (4).

Recovery from employee of tax not deducted by employer

42A—(1) In this regulation—

X is the amount [included in A in regulation 40] which an employer was liable to deduct from emoluments paid to an employee in an income tax period; and

Y is the amount actually deducted by the employer from emoluments paid to that employee during the relevant income tax period.

(2) If it appears to the collector that X exceeds Y, the collector may direct that the amount which he considers should have been but was not deducted (“the excess”) is to be recovered from the employee, where the employer satisfies the collector—

(a) that he took reasonable care to comply with these Regulations, and

(b) that the failure to deduct the excess was due to an error made in good faith.

(3) If it appears to the Board that X exceeds Y, the Board may direct that the amount which they consider should have been but was not deducted is to be recovered from the employee, where the Board are of the opinion that an employee has received his emoluments knowing that the employer has wilfully failed to deduct the amount of tax which he was liable to deduct under these Regulations from those emoluments.

(4) If the collector or the Board directs that an amount of tax is to be recovered from an employee, the employer is not liable to pay that amount to the collector.

(5) Tax recoverable from an employee under paragraph (3) carries interest in accordance with regulation 51 from the reckonable date until whichever is the earlier of—

- (a) the date on which payment is made, or
- (b) the date (if any) immediately before the date on which it begins to carry interest under section 86 of the TMA.

Annual returns of [payments of emoluments] and tax

Annual return of [payments of emoluments] liable to deduction of tax

43—(1) Not later than May 19th following the end of the tax year, an employer must [deliver] to the inspector [or, if so required, to the collector,] a return, containing the following information—

- (a) the tax year to which the return relates,
- (b) the total amount of the emoluments paid by the employer during that year to all employees in respect of whom the employer was required at any time during the year to prepare or maintain deductions working sheets, and
- (c) subject to regulation 36(4), the total net tax deducted from those emoluments.

(2) The return is to be [accompanied] by the following information in respect of each of the employees mentioned in paragraph (1)(b)—

- (a) such information as the Board may require for the identification of the employee,
- (b) the tax year to which the return relates,
- (c) the total amount of the emoluments paid by the employer to the employee during that year,
- (d) the employee's code, and
- (e) subject to regulation 36(4), the total net tax deducted from the emoluments.

(3) If an employee was taken into employment after the beginning of the tax year, the employer must also provide the total amounts of—

- (a) any emoluments paid by a previous employer to the employee, and
- (b) any tax deductible or, where required either to be recorded on the deductions working sheet or to be capable of being produced from

other records pursuant to regulation 25(4), any tax deducted from those emoluments, which the employer delivering the return was required to take into account for the purposes of deducting or repaying tax in the case of emoluments paid by him.

- (4) Subject to paragraph (5), the return is to include—
- (a) a statement and declaration, signed by the employer, in the form approved or prescribed by the Board, containing a list of all deductions working sheets on which the employer was required to keep records in accordance with these Regulations in respect of that year; and
 - (b) a certificate, signed by the employer, showing—
 - (i) the total net tax deducted or the total net tax repaid in the case of each employee, and
 - (ii) the total net tax deducted or repaid in respect of all his employees,
 during that year;
- and where the employer is a body corporate, the statement and declaration and the certificate are to be signed either by the secretary or by a director.

(5) If the return is transmitted electronically or delivered by means of electronic communications [(in accordance with regulation 46ZB(1)(b) or (c))], it is to be accompanied by the statement and declaration and the certificate specified in paragraph (4), but instead of being signed by the employer they are to be authenticated by or on behalf of the employer in such manner as may be approved by the Board.

(6) Section 98A of the TMA (special penalties) [applies] in relation to the provisions of paragraph (1) requiring a return to be made.

Annual return of [payments of emoluments] not liable to deduction of tax

44—(1) Not later than May 19th following the end of the tax year, an employer must [deliver] a return to the inspector in respect of every employee to whom the employer paid emoluments at any time during that tax year at a rate exceeding the minimum rate, but in respect of whom the employer was not required under these Regulations to prepare a deductions working sheet.

- (2) The return is to contain the following information—
- [(a) such information as the Board may require for the identification of the employee,
 - (b) the tax year to which the return relates,
 - (c) the dates during which the employee was employed in that year, and

(d) the total amount of the emoluments paid by the employer to the employee during that year.]

Additional return in case of trade dispute

45—(1) An employer must immediately [deliver] an additional return [to the inspector] if—

(a) the employer has not made any repayment of tax withheld under regulation 36(3) within 42 days after the end of the employee’s strike action, and

(b) a return has been made under regulation 43 in accordance with regulation 36(4)(b).

(2) The return is to contain the following information—

(a) the tax year to which it relates;

(b) such information as the Board may require for the identification of each of the employees in question,

(c) the amount of tax not repaid in respect of each of those employees.

(3) The return is to be accompanied by a statement containing the following information—

(a) a list of all employees in respect of whom the additional return is made,

(b) the amount of tax not repaid in respect of each of those employees,

(c) the total tax not repaid by the employer for that year.

Failure to account for deductible tax

Certificate if tax on regulation 43 return is unpaid

43A If, within 14 days after the end of any tax year, an employer has failed to pay the total net amount of tax which the return under regulation 43 shows that he is liable to pay, the collector may prepare a certificate showing the net amount of tax remaining unpaid for that year.

Return and certificate if tax may be unpaid

47—(1) This regulation applies if?

(a) within 14 days after the end of any income tax period an employer has not paid any tax to the collector under regulation [40] for that period, and the collector is unaware of the amount (if any) which the employer is liable to pay; or

(b) an employer has paid an amount of tax to the collector under regulation [40] for an income tax period, but the collector is not satisfied that it is the full amount which the employer is liable to pay for that period.

(2) The collector may give notice to the employer requiring him, within 14 days, to [deliver] a return in such form as the Board may prescribe showing the amount of tax which the employer is liable to pay to the collector under regulation [40] in respect of the income tax period.

[(3) If the notice extends to two or more consecutive income tax periods, [this Regulation has] effect as if they were one income tax period.]

(4) On receipt of a return made by the employer under paragraph (2), the collector may prepare a certificate showing the amount of tax which the employer is liable to pay to him for the income tax period.

Notice and certificate if tax may be unpaid

48—(1) This regulation applies if?

- (a) within 14 days after the end of any income tax period an employer has not paid any tax to the collector under regulation [40] for that period, and the collector has reason to believe that the employer is liable to pay an amount; or
- (b) an employer has paid an amount of tax to the collector under regulation [40] for an income tax period, but the collector is not satisfied, after seeking the employer's explanation, that it is the full amount which the employer is liable to pay for that period.

(2) The collector, on consideration of the employer's record of past payments, may specify, to the best of his judgment, the amount of tax which he considers the employer is liable to pay, and serve notice on the employer [requiring payment of that amount within 7 days ("the notice period")].

(3) [If the employer has not paid any tax under regulation [40] for the relevant income tax periods,] the collector may give a notice under paragraph (2) which extends to two or more consecutive income tax periods, and [this Regulation has] effect as if they were [the latest income tax period specified in the notice.]

(4) If, during [the notice period] the employer claims, but does not satisfy the collector, that the payment (if any) made in respect of the income tax period specified in the notice is the full amount he is liable to pay, the employer may require the collector to inspect the employer's PAYE records as if the collector had required the employer to produce those records in accordance with regulation 55.

(5) Where there is an inspection by virtue of paragraph (4), regulation 55 applies to that inspection and the notice given by the collector under paragraph (2) is to be disregarded.

(6) Subject to paragraph (7), if the specified amount of tax, or any part of it, is [not paid during the notice period], the amount not paid—

- (a) is [treated as] an amount of tax which the employer was liable to pay for that income tax period under regulation [40], and
- (b) may be certified by the collector.

(7) Paragraph (6) does not apply if, during the notice period—

- (a) the employer pays the full amount of tax which he is liable to pay to the collector under regulation [40] for that income tax period, or
- (b) the employer satisfies the collector that no amount, or no further amount, is due for that income tax period.

(8) If the employer pays an amount certified by the collector under this regulation which exceeds the amount he would have been liable to pay in respect of that income tax period apart from this regulation, he is entitled to set off the excess against any amount which he is liable to pay to the collector under regulation [40] for any subsequent income tax period.

(9) If the employer [delivers] the return required by regulation 43(1) after the end of the year, 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 this regulation is to be repaid.

Certificate after inspection of PAYE records

55A By reference to the information obtained from an inspection of an employer's PAYE records under regulation 55(1), the collector may, on the occasion of each inspection, prepare a certificate showing—

- (a) the amount of tax which it appears that the employer is liable to pay for the tax years or income tax periods covered by the inspection; and
- (b) any amount of such tax which remains unpaid.

Determination of tax unpaid and not otherwise certified

49—(1) If it appears to the inspector that there may be tax payable under regulation [40] [by an employer] which has neither been—

- (a) paid to the collector, nor
- (b) certified by the collector under regulation 43A, 47, 48 or 55A,

the inspector may determine the amount of that tax to the best of his judgment, and serve notice of his determination on the employer.

(2) A determination under this regulation is not to include tax in respect of which a direction under regulation 42A(2) or (3) has been made; and

directions under that regulation do not apply to tax determined under this regulation.

- (3) A determination under this regulation may—
- (a) cover the tax payable by the employer under regulation [40] for any one or more income tax periods in a year, and
 - (b) extend to the whole of that tax or to 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.

(4) A determination under this regulation is subject to Part IV, Part V (other than section 55(c)) and Part VI of the TMA as if it were an assessment, and as if the amount of tax determined were income tax charged on the employer, and those Parts of that Act apply accordingly with any necessary modifications.

(5) Subject to paragraph 3 of Schedule 3 to TMA (right to choose alternative venue for appeal), an appeal against a determination under this regulation which is to be brought before the General Commissioners is to be brought before the General Commissioners for the division in which the determination was made.

Employee liability if tax unpaid after regulation 49 determination

49A—(1) If—

- (a) any part of the tax determined under regulation 49 is not paid within 30 days from the date on which the determination became final and conclusive, and
- (b) the Board are of the opinion that an employee in respect of whose emoluments the determination was made has received his emoluments knowing that the employer has wilfully failed to deduct the amount of tax which he was liable to deduct under these Regulations from those emoluments,

the Board may direct that such part of that tax as it appears to them should have been but was not deducted under these Regulations by the employer on payment of the relevant emoluments [is] to be recovered from the employee, and, if the Board so direct, the employer is not liable to pay that part of that tax to the collector.

(2) The tax recoverable from an employee under paragraph (1) is recoverable together with interest in accordance with regulation 51 from the reckonable date until whichever is the earlier of—

- (a) the date on which payment is made, or

(b) the date (if any) immediately before the date on which it begins to carry interest under section 86 of the TMA.

Interest

Interest on tax overdue

51—(1) Subject to paragraph (2), if an employer has not paid to the collector the total net tax deductible by him in respect of all his employees during a tax year by the reckonable date, the unpaid tax carries interest at the prescribed rate from the reckonable date until payment.

(2) Paragraph (1) does not apply to any tax in respect of which a direction under regulation 42A(2) or (3) has been made.

(3) In this regulation, “the prescribed rate” means the rate applicable under section 178 of FA 1989 for the purposes of section 86 of TMA; and if that rate changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989 by virtue of those Regulations, the change has effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

Interest on tax overpaid

53A—(1) If tax is repaid to an employer after the end of the tax year in respect of which the tax was paid, the tax repaid carries interest at the prescribed rate from the later of—

- (a) the reckonable date or,
 - (b) the date on which the payment of tax for that year was made,
- until the order for the repayment is issued.

(2) In paragraph (1), “the prescribed rate” means the rate applicable under section 178 of FA 1989 for the purposes of section 824 of ICTA and if that rate changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989 by virtue of those Regulations, the change has effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

Recovery

Recovery of tax and interest

54—(1) In this regulation, “the amount of tax” means any amount of tax or interest which—

- (a) an employer is liable to pay under regulation 43A, 47(4), 48(6), 51(1) or 55A(b);
 (b) an employee is liable to pay under regulation 42A(5) or 49A(2).

(2) Part VI of the TMA applies to the recovery of the amount of tax as if it were income tax charged on the employer or employee (as the case may be) with the modification indicated in paragraph (3).

(3) Summary proceedings for the recovery of the amount of tax may be brought in England and Wales or Northern Ireland at any time before the expiry of the period which applies for the purposes of the regulation in question, as shown in the table—

Regulation 43A	(a) 12 months after the date by which the statement specified in regulation [43(4)] is to be delivered, or (b) if that statement is delivered after that date, 12 months after its delivery.
Regulations 47(4), 48(6) and 51(1)	(a) 12 months after the date on which the amount of tax became payable, or (b) if a return has been required under regulation 47, 12 months after the date of the delivery of that return to the collector.
Regulation 55A(b)	12 months after the date of the certificate.
Regulations 42A(5) and 49A(2)	12 months after the date on which the amount of tax became payable.

(4) Proceedings against an employer may be brought for the recovery of the amount of tax without distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question; and the amount of tax is one cause of action or one matter of complaint for the purposes of proceedings under sections 65, 66 and 67 of the TMA (magistrates' courts, county courts and inferior courts in Scotland).

(5) But paragraph (4) does not prevent the bringing of separate proceedings for the recovery of each of the several amounts which the employer is liable to pay for any income tax period in respect of his several employees.

Returns involving [emoluments] other than payments

Employers: annual return of [other emoluments]

46—(1) Subject to regulation 46B, the employer must [provide] the inspector or other officer of the Board, not later than 6th July after the end of the tax year, with the following information in respect of each employee—

- (a) the particulars specified in paragraph (2);
- (b) in the case of an [employee in benefits employment], the additional particulars specified in paragraph (3);
- (c) in the case of emoluments relating to business entertainment within the meaning of section 577 of the Taxes Act, whether the amount of the emoluments has been or will be disallowed as a deduction or inclusion as mentioned in subsection (1)(a) of that section in any tax computation relating to the trade, business, profession or vocation of the employer;
- (d) in the case of benefits provided for the employee such as give rise to any charge to tax under [sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the Taxes Act] (“the relevant sections”), particulars of the amounts which may be chargeable to tax by virtue of the relevant sections, determined in accordance with paragraph (4).

(2)The particulars specified in this paragraph are—

- (a) except as regards any emoluments falling within sub-paragraph (b) of this paragraph, [details] of—
 - (i) any emoluments which the employee receives from the employer or [related third party] otherwise than in money;
 - (ii) any payments made on behalf of the employee and not repaid;
 - (iii) any emoluments which the employee is treated by section [141(1) of the Taxes Act] as having received in that year by reason of the provision of a non-cash voucher by the employer or related third party;
 - (iv) any emoluments which the employee is treated by section [142(1) of the Taxes Act] as having received in that year by reason of the provision of a credit-token by the employer or related third party;
 - (v) the amount of income tax in respect of any notional payment where that amount is treated by section [144A of the Taxes Act] as income of the employee arising in that year;
 - (vi) any living accommodation which has been provided for the employee or for members of his family or household by the employer or related third party, and [details] of the amount of any emoluments of which the employee is treated by virtue of section [145 or 146 of the Taxes Act, or by virtue of those sections together,] as being in receipt in respect of that accommodation;

- (b) [details] of any emoluments consisting of the amount by which the total value to the employee found under [paragraph 24(2) of Schedule 11A to the Taxes Act (removal expenses)] exceeds the qualifying limit for the time being specified in paragraph 24(9) of that Schedule and having effect in relation to that employee.
- (3) The particulars specified in this paragraph are—
- (a) except as regards any emoluments falling within paragraph (2)(b), details of—
- (i) any payments made by the employer or related third party to the employee by reason of his employment in respect of expenses;
- (ii) any sums put by the employer or related third party at the disposal of the employee by reason of his employment and [paid away] by him;
- (b) particulars of any benefits provided by the employer or related third party for the employee (or for any other person) by reason of his employment such as give rise to any charge to tax under sections [154 to 165 of the Taxes Act], [which are not benefits constituting] emoluments within paragraph (2)(b).
- (4) In determining for the purposes of paragraph (1)(d) the amounts which may be chargeable to tax by virtue of the relevant sections, the employer—
- (a) must not make—
- (i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by the relevant sections; or
- (ii) any deduction authorised by sections [141(3), 142(2), 145(3) or 156(8) of the Taxes Act]; but
- (b) subject to that, must make all such deductions and other adjustments as may be authorised or required by the relevant sections.
- (5) At the same time [and in the same manner] as he provides the inspector or other officer of the Board with particulars in accordance with this regulation, the employer [must provide] a declaration, stating that—
- (a) all particulars required to be provided for the year in accordance with the regulation have been provided, and
- (b) those particulars are complete and accurate to the best of the employer's knowledge and belief.
- (6) In paragraphs (2) and (3), references to the [“related third party”] are references to any person making payments or providing benefits to an employee as mentioned in those paragraphs, where the making or provision

of the payments or benefits by that person has been arranged, guaranteed or in any way facilitated by the employer.

Moving expenses and notional payments: exceptions from returns under regulation 46

46B—(1) The employer is not required to provide particulars in the return under regulation 46 of payments or benefits falling within paragraph 1(1) of Schedule 11A to the Taxes Act (qualifying removal expenses and benefits) if the total value to an employee found under paragraph 24(2) of that Schedule does not exceed the qualifying limit for the time being specified in paragraph 24(9) of that Schedule and having effect in relation to that employee.

(2) The employer is not required to provide particulars in the return under regulation 46 of notional payments treated as made by virtue of any of sections [203F to 203H] of the Taxes Act in respect of which the employer is under an obligation to deduct or, as the case may be, account for income tax in accordance with section 203J(1) or (3) of that Act.

Quarterly return if a car becomes available or unavailable

46A—(1) If the benefit of a car is chargeable to income tax under [section 157 of the Taxes Act] as [income of an employee], and one or more of the following occurs in an income tax quarter—

- (a) the car becomes available;
- (b) the car becomes unavailable;
- (c) the employee becomes [an employee in benefits employment];

the employer must [provide] the inspector with the following information in respect of each [employee in benefits employment] not later than 28 days after the end of the income tax quarter.

(2) That information is—

- (a) the employee's name;
- (b) the employee's national insurance number;
- (c) [details of] the car [in question];
- (d) the price of the car, determined in accordance with sections [168A to 168G] of the Taxes Act;
- (e) any capital sum contributed by the employee to expenditure on the provision of the car or on any qualifying accessory which is taken into account in so determining the price of the car;
- (f) any amount which, as a condition of the car being available for his private use, the employee is required to pay in the year concerned for that use (whether by way of deduction from his emoluments or otherwise);
- (g) whether any fuel is provided for private use.

- (3) In this regulation—
 “available” and “unavailable” are to be construed in accordance with paragraphs 9 and 10 of Schedule 6 to the Taxes Act;
 “qualifying accessory” has the meaning given by section 168A(10) of the Taxes Act.

Termination payments and non-cash benefits: information to be provided

46ZA—(1) Not later than 6th July following the end of the tax year, an employer must, in respect of each employee, [provide] the inspector [or other officer of the Board] [with] the information specified in paragraph (2) relating to any award consisting of payments combined with non-cash benefits, or consisting solely of non-cash benefits—

- (a) which were awarded in [that tax year] in connection with the termination of that person’s employment [with him] or any change in the duties of or emoluments from his employment [with him],
- (b) which, when provided (whether in that year or a subsequent year), would constitute payments and other benefits received within the meaning of section [148] of the Taxes Act (payments and benefits in connection with termination), and
- (c) whose total amount, when aggregated with other payments and [non-cash] benefits provided or to be provided (whether in that year or a subsequent year) in respect of the same person as mentioned in paragraph 7(2) of Schedule 11 to the Taxes Act, is estimated by the employer to exceed £30,000.

- (2) The information specified is—
- (a) the total amount of the payments and non-cash benefits awarded, calculated as mentioned in paragraph (1)(c);
 - (b) the total amount of the payments made in that year in connection with the award;
 - (c) details of the non-cash benefits provided in that year in connection with the award, other than benefits previously contained in a return for that year under regulation 46, and the total amount of the cash equivalents of those benefits (within the meaning of paragraph 12(2) of Schedule 11 to the Taxes Act);
 - (d) the estimated total number of the years in which payments and non-cash benefits are to be provided in connection with the award and, if the duration of any of those payments and non-cash benefits is capable of being reduced in certain circumstances, details of those circumstances;
 - (e) the estimated total amount of the payments to be made in subsequent years in connection with the award;

- (f) a description of each of the non-cash benefits to be provided in subsequent years in connection with the award, and the terms of their provision.
- (3) In calculating the cash equivalents of non-cash benefits for the purposes of paragraphs (1) and (2), the employer—
- (a) must not make—
 - (i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by any of the provisions of Chapter II of Part V of the Taxes Act or by section 596B(1)(b) of that Act (“the relevant provisions”), or
 - (ii) any deduction authorised by section 156(8) of that Act; but
 - (b) subject to that, must make all such deductions and other adjustments as may be authorised or required by the relevant provisions.
- (4) In calculating the total amount of payments and non-cash benefits for the purposes of paragraphs (1)(c) and (2)(a), the employer—
- (a) must have regard to the provisions of section 148 of, and Schedule 11 to, the Taxes Act,
 - (b) must take into account the matters referred to in paragraph (2)(d),(e) and (f), and
 - (c) in valuing the amount of non-cash benefits for future years in connection with the award, must assume that the provisions of the Taxes Act relating to those benefits will remain unchanged with respect to those years.
- (5) Information required to be provided by an employer to an inspector or other officer of the Board in accordance with paragraphs (1) and (2) may be so provided after the award is made but prior to the end of the year in which the payments and benefits are awarded; and in such a case subparagraphs (b) and (c) of paragraph (2) have effect, so far as concerns the furnishing of information relating to that year, as if they required the amounts and benefits there specified to be estimated by the employer as accurately as possible.
- (6) In this regulation [and regulations 46ZC to 46ZE]—
- (a) “employer” and “employee” include a former employer and former employee;
 - (b) “employment” includes an office, and related expressions have a corresponding meaning.

Termination payments: return where award changes

46ZC—(1) Paragraph (2) applies where—

(a) information has not been furnished by the employer under regulation 46ZA(1) solely because either—

(i) the total amount of payments and non-cash benefits awarded in the year in respect of the employee is estimated in accordance with sub-paragraph (c) of that paragraph not to exceed £30,000, or

(ii) the award made in the year consisted of payments only, but

(b) in a subsequent year—

(i) there is a change in the amount of the payments awarded, or the nature and amounts of the non-cash benefits awarded, such that the total amount of those payments and non-cash benefits is estimated in accordance with paragraph (1)(c) to exceed £30,000, or

(ii) the nature of the award is changed so that it consists of payments combined with non-cash benefits, or solely of non-cash benefits [estimated in accordance with paragraph (1)(c) to exceed £30,000].

(2) Where this paragraph applies, the employer must, not later than 6th July following the year in which the change occurred, [provide] the inspector or other officer of the Board [with] the information specified in regulation 46ZA(2) with respect to those payments and non-cash benefits.

(3) If, following the provision of information by an employer in accordance with regulation 46ZA(1) or paragraph (2) above, there is a material change—

(a) in the amount of the payments awarded, or

(b) in the nature and amounts of the non-cash benefits awarded, in relation to the employee, the employer must, not later than 6th July following the end of the tax year in which the material change occurred, give details of the material change to the inspector or other officer of the Board.

Termination payments: return where more than one employer

46ZE If the payments and non-cash benefits aggregated in accordance with regulation 46ZA(1)(c) include payments and non-cash benefits provided in respect of different employments with more than one employer, the employer by whom information is required to be furnished under regulation 46ZA or 46ZC, or a copy of information is required to be given to the employee or former employee under regulation 46ZD, is the employer or the former employer providing the greatest amount of payments and other benefits so aggregated.

*Information to be given to employees***Employers: information to employees of [other emoluments]**

46AA—(1) Not later than 6th July following the end of the tax year, the employer must give a statement to every current employee in respect of whom particulars are to be provided under regulation 46(1) by him for that year.

(2) The statement is to contain the particulars provided under regulation 46(1) in so far as they relate to the employee.

(3) If a person who was a current employee ceases to be an employee at any time before 6th July, the statement is duly given if it is sent or delivered to, or left at, that person's usual or last known address.

(4) If a former employee in respect of whom particulars are to be provided under regulation 46(1) by the employer for a year so requires by notice to the employer at any time up to three years after the end of the year, the employer must give the statement specified in paragraph (2) to that former employee—

- (a) by 6th July following the end of the year, or
- (b) within 30 days of receiving the notice,

whichever is the later.

(5) A former employee who has received a statement from the employer under paragraph (4) in respect of a year may not require a further statement from the employer under that paragraph in respect of the same year.

(6) In this regulation—

“current employee” means a person who was an employee on the 5th April in the year to which the particulars provided under regulation 46(1) relate;

“former employee” means a person who was an employee during a part of the year to which the particulars provided under regulation 46(1) relate, but who was no longer an employee on the 5th April in that year.

Third parties: information to employees of [other emoluments]

46AB—(1) This regulation applies if—

- (a) a person (“the third party”) has, in any tax year, made any relevant payments to or on behalf of, or provided any relevant benefits to or in respect of, another person's employee, and

(b) the employer is not required to provide particulars of those payments or benefits under regulation 46(1).

(2) The third party must, not later than 6th July following the end of the tax year, give the employee a statement containing such of the particulars required by regulation 46(1)(a), (b) or (d) as relate to the relevant payments or relevant benefits.

(3) In this regulation, “relevant benefits” and “relevant payments” mean any benefits or payments particulars of which would have been required to be provided under regulation 46(1) if the third party had been the employee’s employer.

Termination payments and non-cash benefits: information to employees

46ZD—(1) Not later than 6th July following the end of a tax year—

(a) in which payments and non-cash benefits to which regulation

46ZA(1) applies were awarded by an employer or former employer, or

(b) in which a change occurred as mentioned in regulation 46ZC(1)(b),

the employer must give to the employee in relation to whom the award was made a copy of the information specified in paragraph (2) relating to those payments and non-cash benefits that was provided to the inspector or other officer of the Board in accordance with regulation 46ZA(1) or regulation 46ZC(2) (as the case may be).

(2) A copy of the information referred to in paragraph (1) is duly given to the person concerned if it is sent or delivered to, or left at, that person’s usual or last known address.

PAYE records: retention and inspection

Inspection of employer’s PAYE records

55—(1) Whenever required do so by an authorised officer of the Board, an employer must produce his PAYE records to that officer for inspection at the prescribed place and at such time as that officer may reasonably require.

(2) In paragraph (1), “PAYE records” means the following documents and records or such of them as may be specified by the authorised officer—

(a) all wages sheets, deductions working sheets, certificates given in accordance with regulations [29(1) and 30(1)] (other than those which the employer has sent to the inspector), and other documents and records relating to the calculation or payment of the emoluments of his employees in respect of the years or income tax periods specified by the officer or to the deduction of tax from such emoluments; and

- (b) all documents and records relating to any information which an employer is required to provide to the inspector under regulation 46 in respect of any year specified by the authorised officer.
- (3) In paragraph (1), “the prescribed place” means such place in the United Kingdom as the employer and the authorised officer may agree upon, or in default of such agreement?
- (a) the place in the United Kingdom at which the PAYE records are normally kept, or
- (b) if there is no such place, the employer’s principal place of business in the United Kingdom.
- (4) The authorised officer may—
- (a) take copies of, or make extracts from, any document produced to him for inspection in accordance with paragraph (1);
- (b) remove any document so produced if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period.
- (5) If any document is removed in accordance with paragraph (4)(b), the authorised officer must provide—
- (a) a receipt for the document, and
- (b) a copy of the document, free of charge, within 7 days, to the person by whom it was produced or caused to be produced, if the document is reasonably required for the proper conduct of a business.
- (6) If a lien is claimed on a document produced in accordance with paragraph (1), the removal of the document under paragraph (4)(b) is not to be regarded as breaking the lien.
- (7) If records are maintained by computer, the person required to make them available for inspection must provide the authorised officer with all facilities necessary for obtaining information from them.
- (8) For the purposes of [this Regulation], an employer must retain, for not less than 3 years after the end of the year to which they relate, all of his PAYE records which are not required to be sent to the inspector or collector by other provisions of these Regulations.

General

Methods of providing information

46ZB—(1) Where an employer is required by any of the regulations listed in paragraph (2) to provide information or deliver a return [or other document]

to the inspector or (as the case may be) the collector, he [must] do so in [one] of the following ways—

- (a) by delivering it to that person in a document [or format] provided or approved by the Board,
- (b) by transmitting it electronically to that person, or
- (c) by delivering it by an approved means of electronic communications to an official computer system.

(2) Those regulations are—

- | | |
|----------------|--------------------------------------------------------------------------|
| Regulation 43 | Annual return of [payments of emoluments] liable to deduction of tax |
| Regulation 44 | Annual return of [payments of emoluments] not liable to deduction of tax |
| Regulation 46 | Employers: annual return of [other emoluments] |
| Regulation 46A | Quarterly return of cars becoming available or unavailable |

(3) Any information—

- (a) transmitted electronically to an inspector or collector, or
- (b) delivered by means of the Board's Internet Service for PAYE to an official computer system,

on behalf of a person is deemed to have been transmitted or delivered by that person unless he proves that it was transmitted or delivered without his knowledge or connivance.

Collector's certificate that sum due

X—(1) A certificate of the collector that any amount of tax or interest payable under any of the following regulations has not been paid is sufficient evidence that the sum mentioned in the certificate is unpaid and due to the Crown; and is deemed to be such a certificate until the contrary is proved.

(2) Those regulations are regulation 42A(5), 43A(1), 48(6), 49A(2), 55A(b) and 51.

(3) The production of—

- (a) the return made by the employer under paragraph (2) of regulation 47, and
- (b) the certificate of the collector under paragraph (4) of that regulation,

are sufficient evidence that the amount shown in the certificate is the amount of tax which the employer is liable to pay to the collector in respect of the income tax period in question [under that regulation].

Payment by chequeXX For the purposes of regulations 40, 42A, 48, 51, [53A], [50 and 53] if—

- (a) any payment to the collector is made by cheque, and
- (b) the cheque is paid on its first presentation to the banker on whom it is drawn,

the payment is treated as made on the day on which the cheque was received by the collector.

Regulation 2 will include definitions of:

“employee in benefits employment” means [...];

“reckonable date”, in relation to any tax year, means the 14th day after the end of that year [and includes a non-business day within the meaning of the Bills of Exchange Act 1882];

The following will be transitional provisions – probably as paragraphs of a Schedule rather than as regulations

FPCS arrangement—information to be provided to employee by employer

FPCS—(1) Not later than 6th July following the end of the tax year, the employer must give a statement to every current employee in respect of whom information is [provided] by him under the FPCS arrangement for that year.

(2) The statement is to contain particulars of either—

(a) the amount of the taxable profit, if any, for that year in respect of car allowances and motor mileage allowances paid to the employee in that year for business travel, calculated by reference to the FPCS arrangement; or

(b) the total amount of the car allowances and motor mileage allowances paid to the employee in that year for business travel, and the total amount of miles covered by the employee in that year in the course of business travel for which the motor mileage allowances were paid.

(3) If a person who was a current employee ceases to be an employee at any time before 6th July, the statement to be given by the employer to that person is duly given if it is sent or delivered to, or left at, that person's usual or last known address.

(4) If a former employee in respect of whom information is [provided] to the inspector or other officer of the Board by the employer under the FPCS arrangement for a year, so requires by notice to the employer at any time up to three years after the end of the year, the employer must give the statement specified in paragraph (2) to that former employee—

(a) by 6th July following the end of the year, or

(b) within 30 days of receiving the notice,

whichever is the later.

(5) A former employee who has received a statement from the employer under paragraph (4) in respect of a year may not require a further statement from the employer under that paragraph in respect of the same year.

(6) In this regulation—

“business travel” has the meaning given by section [168(5)(c)] of the Taxes Act;

“current employee” means a person who was an employee on the 5th April in the year to which the particulars provided under regulation 46(1) relate;

“former employee” means a person who was an employee during a part of the year to which the particulars provided under regulation 46(1) relate, but who was no longer an employee on the 5th April in that year;

“the FPCS arrangement” means the arrangement known as the Fixed Profit Car Scheme made between the employer and the inspector or other officer of the Board for providing information in respect of payments of car allowances and motor mileage allowances made to employees for business travel.

Interest on unpaid tax which has been formally determined

50—(1) If—

(a) an employer has not paid any tax to the collector under regulation 40, and

(b) the inspector, at any time after 19th April 1988, makes a determination of the amount of such tax under regulation 49, and

(c) the determination does not relate to a tax year later than the year ended 5th April 1992, and

(d) tax is payable pursuant to that determination,

the tax so payable carries interest at the prescribed rate from the reckonable date until payment.

(2) If, at any time after 19th April 1988, an inspector makes a determination that relates to a year earlier than the year ending on 5th April 1988, then tax payable in accordance with that determination carries interest at the prescribed rate from 19th April 1988 until payment, [and in those circumstances the reckonable date is 19th April 1988.]

Interest on tax overpaid by employer

53—(1) If tax in respect of any of the tax years ended 5th April 1993 to 5th April 1996 is repaid to an employer?

(a) after the end of the year following that in respect of which the tax was paid, and

(b) after the end of the year in which the tax was paid,

the tax repaid carries interest at the prescribed rate from the relevant time until the order for the repayment is issued.

(2) In this regulation “the prescribed rate” means the rate applicable under section 178 of FA 1989 for the purposes of section 824 of ICTA; and if that rate changes on an operative date within the meaning given by regulation 2 of the Taxes (Interest Rate) Regulations 1989 by virtue of those Regulations,

the change has effect for periods beginning on or after the operative date in relation to interest running from before that date as well as from or from after that date.

- (3) In this regulation “the relevant time” means—
- (a) in the case of a repayment of tax which was paid more than 12 months after the end of the year in respect of which the payment was made, the end of the year in which that tax was paid, and
 - (b) in any other case, the end of the year after the year in respect of which the payment was made.
-