

**PART 8**  
**ASSESSMENT AND DIRECT COLLECTION**

**Adjusting tax deducted in a year for purposes of sections 59A(1) and 59B(1) TMA**

- 101A— (1) This regulation applies for the purpose of determining—
- (a) the excess mentioned in section 59A(1) of TMA (payments on account of income tax: income tax assessed exceeds amount deducted at source), and
  - (b) the difference mentioned in section 59B(1) of TMA (payments of income tax and capital gains tax: difference between tax contained in self-assessment and aggregate of payments on account or deducted at source).
- (2) Paragraphs (3) to (5) require certain additions to be made to, and subtractions from, the amount of tax which was deducted at source in the relevant tax year (“A”) in accordance with these Regulations.
- (3) Subtract from A any repayments of tax deducted at source in the relevant tax year which are made before the taxpayer’s return and self-assessment is made under section 8 or 8A of TMA.
- (4) Add to A any overpayment of tax from a previous year to the extent that it was taken into account in determining the taxpayer’s code for the relevant tax year.
- (5) Add to A any tax, other than any direction tax, which an employer was liable to deduct from payments to the taxpayer in the relevant tax year but failed so to deduct, but—
- (a) only if there would be an amount payable by the taxpayer under section 59B(1) TMA on the assumption that there are no payments on account and no addition to A under this paragraph, and then
  - (b) only to a maximum of that amount.
- (6) In this regulation—
- “direction tax” means any amount of tax which is the subject of a direction made—
- (a) by the collector under regulation [42A(2)], or
  - (b) by the Board under regulation [42A(3)] or [49A(1)],
- in relation to the taxpayer in respect of one or more income tax periods falling within the relevant tax year,
- “relevant tax year” means—
- (a) in relation to section 59A(1) TMA, the immediately preceding year referred to in that subsection;
  - (b) in relation to section 59B(1), the tax year for which the self-assessment referred to in that subsection is made;
- “the taxpayer” means the person referred to in section 59A(1) TMA or the person whose self-assessment is referred to in section 59B(1) (as the case may be);

**Recovery : adjustment of employee’s code**

101B— (1) Where the difference for a tax year mentioned in section 59B(1) TMA (difference between tax contained in a self-assessment and aggregate of payments on account) is payable by the taxpayer, the Inland Revenue may take it into account in determining under regulation 7 the taxpayer’s code for a subsequent year in the circumstances set out in paragraphs (2) to (4).

(2) The Inland Revenue must have regard to the difference in determining a taxpayer’s code under regulation 7 if—

- (a) it is less than £2000, and
- (b) the return for a year of assessment is delivered on or before 30th September following the end of that year.

(3) The Inland Revenue may take the difference into account in determining a taxpayer’s code under regulation 7 if—

- (a) it is less than £2000, and
- (b) the return for a year of assessment is delivered after 30th September but before 30th November following the end of that year and the code is determined before 31st December.

(4) But the Inland Revenue must not take the difference into account if the taxpayer objects at the time the return is delivered or subsequently.

(5) If—

- (a) the difference is established in accordance with section 59B of TMA before 31st July following the end of the tax year, and
- (b) the taxpayer is liable to make a payment on account under section 59A of TMA by that date, some or all of which has yet to be paid (“the outstanding amount”),

the difference for the purposes of this regulation is to be determined by adding the outstanding amount to the aggregate of any payments on account already made.

(6) Where the difference is payable to the taxpayer, the Inland Revenue may take it into account in determining under regulation 7 the employee’s code for a subsequent tax year, if the employee does not object at the time the return is delivered or subsequently.

**Assessments other than self-assessments**

101—(1) In this regulation, “assessment” means an assessment other than one under section 9 of TMA (self-assessment).

(2) The tax payable by the employee is—

$$A - (B - C)$$

Where

- A is the tax payable under the assessment;
- B is the total net tax deducted from the employee’s [PAYE income] during the tax year [for which the assessment is made]; and
- C is so much, if any, of B as is subsequently repaid.

(3) Subject to paragraphs (4) and (5), for the purpose of determining the tax payable by the employee any necessary adjustment is to be made to B in respect of—

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- (a) any tax which the employer was liable to deduct from the employee’s [PAYE income] but failed so to deduct;
  - (b) any tax overpaid or remaining unpaid for any year; and
  - (c) any amount to be recovered as if it were unpaid tax under section 30(1) of TMA (recovery of overpayment of tax etc) to the extent that—
    - (i) the Inland Revenue took that amount into account in determining the employee’s code, and
    - (ii) the total net tax deducted was in consequence greater than it would otherwise have been.
- (4) No direction tax is to be included in calculating the amount of tax referred to in paragraph (3)(a).
- (5) If a direction is made after the making of the assessment, the amount (if any) shown in the notice of assessment as a deduction from, or a credit against, the tax payable under the assessment is to be taken as reduced by [so much of the direction tax as was included in [calculating the amount of tax referred to in paragraph (3)(a).]
- (6) [Instead of requiring payment by the employee,] the Inland Revenue may take the tax payable by the employee into account in determining the employee’s code for a subsequent year.
- (7) In this regulation—
- “direction” means a direction made—
    - (a) by the collector under regulation [42A(2)], or
    - (b) by the Board under regulation [42A(3)] or [49A(1)],
 in relation to the employee in respect of one or more income tax periods falling within the tax year [in question];
  - “direction tax” means any amount of tax which is the subject of a direction;
  - “tax payable under the assessment” means the amount of tax shown in the assessment as payable without regard to any amount shown in the notice of assessment as a deduction from, or a credit against, the amount of tax payable.

**Provisions for direct collection and special arrangements**

102— In

- (a) cases of casual employment, and
- (b) any other case in which the Inland Revenue is of the opinion that deduction of tax by reference to the tax tables is impracticable,

the Inland Revenue may proceed in accordance with the provisions of regulation [104] to [104C], or [make] other arrangements for the collection of tax in respect of the [PAYE income] of any employees.

**Direct collection**

104—(1) This regulation [and regulations 104A to 104C] apply if the Inland Revenue issues a deductions working sheet to the employee specifying—

- (a) the employee’s name,

- (b) the capacity in which the employee receives [PAYE income],
  - (c) the employee’s code, and
  - (d) the tax year to which the deductions working sheet relates.
- (2) But this regulation [and regulations 104A to 104C] do not apply if, within 30 days of receiving the deductions working sheet, the employee objects [to the use of this procedure] [by notice in writing] to the Inland Revenue.]
- (3) Whenever the employee receives any [PAYE income] during that year, the employee must record on the deductions working sheet—
- (a) the amount of the [PAYE income];
  - (b) the date on which it was received; and
  - (c) the cumulative [PAYE income] in relation to that date.
- (4) In addition, the employee must record on the deductions working sheet in relation to the last date in an income tax quarter on which the employee receives [PAYE income]—
- (a) the cumulative free [PAYE income] or, as the case may be, the cumulative additional pay in relation to that date according to the employee’s code; and
  - (b) the corresponding cumulative tax.
- (5) If the employee does not receive any [PAYE income] in an income tax quarter, the last day of the quarter is to be used for the purposes of paragraph (4).
- (6) In paragraphs (7) and (8)—
- “A” means the cumulative tax required to be recorded on the deductions working sheet by an employee under paragraph (4)(b);
  - “B” means the cumulative tax (if any) required to be recorded for the previous income tax quarter in the year.
- (7) If, in relation to any income tax quarter, A exceeds B, the employee must, within 14 days after the end of the quarter, pay the amount of excess to the Inland Revenue.
- (8) But if, in relation to any income tax quarter, B exceeds A, the employee may recover the excess from the [Inland Revenue] either [directly] or by deducting it from the amount payable under paragraph (7) for a later quarter in the year.
- (9) If the employee’s code is a “K” code, the amount payable under paragraph (8) is not to exceed the overriding limit in relation to the [PAYE income] which the employee has received in that income tax quarter.
- [(10) Any amount which is not payable because of the application of paragraph (9) is to be added to A for the purpose of the calculation in paragraph (7) or (8) for the next income tax quarter (if any) of that [tax] year.]
- (11) If the employee receives [PAYE income] in more than one capacity, no account is to be taken for the purposes of this regulation [and regulations 104A to 104C] of the [PAYE income] received by the employee in any capacity other than that mentioned on the deductions working sheet.
- (12) In this regulation and regulations 104A to 104C, [“cumulative PAYE income”] means, in relation to any date, the sum of all [PAYE income] received by the employee from the beginning of the year up to and including that date, irrespective of the person or persons from whom it was received.

**Direct collection: failure to pay**

104A—(1) This regulation applies if, within 14 days after the end of any income tax quarter—

- (a) the employee has paid no amount of tax for that income tax quarter, and the Inland Revenue is unaware of the amount, if any, which the employee is liable so to pay, or
- (b) an amount has been paid but the Inland Revenue is not satisfied that it is the full amount which the employee is liable to pay for that income tax quarter.

(2) The Inland Revenue may give notice to the employee requiring the employee, within 14 days, to deliver a return in such form as the Board may prescribe showing the amount of tax which the employee is liable to pay under regulation 104(7) in respect of the income tax period in question.

(3) Where such a notice is given, regulations [47] and [54] apply with the necessary modifications for the purposes of ascertaining, certifying and recovering the tax payable by the employee as if it were tax which the employee was liable to deduct from [PAYE income] paid by the employee.

**Direct collection: return on ceasing to receive [PAYE income]**

104B —(1) On ceasing to receive [PAYE income], the employee must immediately send a return to the Inland Revenue in such form as the Board may prescribe, showing the following particulars.

(2) Those particulars are—

- (a) such particulars as the Board may require for the identification of the employee,
- (b) the year to which the return relates,
- (c) the last date on which the employee received any [PAYE income] (“the last date”),
- (d) the employee’s cumulative [PAYE income] at the last date,
- (e) the corresponding cumulative tax at the last date, and
- (f) if the employee’s code is a “K” code, the amount, if any, of that corresponding cumulative tax which is not payable because of regulation 104(9) (overriding limit).

**Direct collection: end of year return**

104C—(1) Not later than 19th May following the end of the [tax] year, the employee must deliver a return to the Inland Revenue in such form as the Board may prescribe, showing the following particulars.

(2) Those particulars are—

- (a) such particulars as the Board may require for the identification of the employee,
- (b) the [tax] year to which the return relates,
- (c) the employee’s cumulative [PAYE income] at the end of that year,

(d) the cumulative tax calculated for the last income tax quarter in the tax year,  
and

(e) if the employee's code is a "K" code, the amount, if any, of that  
corresponding cumulative tax which is not payable because of regulation {jr  
104}(9) (overriding limit).

(3) But paragraph (1) does not apply if the employee has already delivered a return  
under regulation 104B or section 8 of the TMA (personal returns).

(4) Where paragraph (1) applies, regulations [43A], [54], [X] and [XX], which relate  
to the certification and recovery of tax remaining unpaid by an employer for any year,  
apply with the necessary modifications in the case of any tax remaining unpaid by the  
employee.

(5) Section 98A of the TMA (special penalties in case of certain returns) applies to the  
requirement in paragraph (1) to deliver a return.

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