STATUTORY INSTRUMENTS

1970 No. 1142

INCOME TAX

The Income Tax (Employments) (No. 6) (Seamen) Regulations 1970

Made - - - - - -	30*th July* 1970
Laid before the House of Commons	6*th August* 1970
Coming into Operation - -	6*th April* 1971

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 204 of the Income and Corporation Taxes Act 1970(a), hereby make the following Regulations:—

Commencement, citation and revocations

1.—(1) These Regulations shall come into operation on the 6th day of April 1971, and may be cited as the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970. These Regulations are supplemental to the Income Tax (Employments) Regulations 1965(b) as amended(c) (hereinafter referred to as "the Principal Regulations").

(2) Part V of the Principal Regulations shall cease to have effect as from the 6th day of April 1971, except as regards obligations incurred before that date.

Interpretation

2.—(1) The Interpretation Act 1889(d) shall apply to the interpretation of these Regulations as if these Regulations were an Act of Parliament.

(2) In these Regulations, unless the context otherwise requires, words and expressions to which meanings are assigned by the Principal Regulations, or in which other words or expressions are stated in the Principal Regulations to be included, are to be interpreted in accordance with the Principal Regulations.

(3) Subject to the immediately preceding paragraph, and without prejudice to the generality thereof, in these Regulations, except where the context otherwise requires—

"agreement with the crew" includes such an agreement as is mentioned in section 1 of the Merchant Shipping Act 1970(e);

(a) 1970 c. 10.
(b) S.I. 1965/516 (1965 I, p. 1321).
(c) The amending Regulations are S.I. 1966/1373, 1969/170, 688, 1970/166 (1966 III, p. 3691; 1969 I, p. 440; II, p. 1859; 1970 II, p. 2166).
(d) 52 & 53 Vict. c. 63.
(e) 1970 c. 36.

"authorised code" means a code which is the appropriate code determined by the Inspector in accordance with Part II of the Principal Regulations as modified by Regulation 3 of these Regulations, or, if no such code has been so determined, then the code assigned to a seaman by the Mercantile Marine Office Superintendent and shown on that seaman's code card by the Inspector or by the said Superintendent as the case may be, or which on the authority of the Inspector is entered in the seaman's discharge book. Provided that where there is not for the time being an authorised code as here defined in respect of a seaman, a code shall be deemed to be the authorised code if it is shown to be for the relevant year the code appropriate to the seaman in the copies of a certificate issued to him under Regulation 17(2) of the Principal Regulations on leaving a previous employment;

"code card" means a card issued to a seaman by the Inspector or by the Mercantile Marine Office Superintendent as the case may be, showing the seaman's authorised code for a particular year or years;

"employer" includes the master of a ship;

"seaman" means any person—

(*a*) who has signed the agreement with the crew of a ship to which any determination of the National Maritime Board relating to remuneration applies, not being a member of Her Majesty's naval, military or air forces or a person in the employment of the British Railways Board; or

(*b*) who being the holder of a British Seaman's Identity Card or of a British Seaman's Card to which he is lawfully entitled is employed to work on a ship;

and for the purpose of this definition—

(i) where the crew of a ship are engaged at a place outside the United Kingdom on terms which adopt any determination of the National Maritime Board relating to remuneration, that ship shall be deemed to be a ship to which that determination applies if the determination would have applied to the ship if the crew had been engaged in the United Kingdom;

(ii) where an arrangement has been made for the purposes of deduction of tax from the emoluments of persons resident in the United Kingdom who are employed or engaged in sea-going service in any foreign ship, those persons shall be deemed to be seamen; and

(iii) an apprentice or cadet whose name is entered on the agreement with the crew shall be deemed to be a person who has signed the agreement;

"the seamen's tables" means the tables prepared by the Commissioners of Inland Revenue for the purposes of deduction of tax from seamen's wages;

"wages" means emoluments of the following kinds, that is to say, pay at the monthly or weekly rates stated in the agreement with the seaman, leave pay, pay in lieu of leave, leave subsistence allowance, pay in respect of overtime, shipwreck unemployment indemnity, special payment while sick abroad (as defined by the National Maritime Board), and any other emoluments paid to a seaman which arise out of his service as such, not being sick pay while sick in the United Kingdom.

Application of Part II of the Principal Regulations

3.—(1) Part II of the Principal Regulations shall apply to the case of a seaman subject to any necessary modifications and in particular to the modifications set out in the following paragraphs of this Regulation.

(2) Regulation 6 shall not apply.

(3) Paragraph (3) of Regulation 8 shall apply as if for the words "appropriate code" in the second place where they occur, there were substituted the words "authorised code", and as if for the words "any deduction card" there were substituted the words "any code card".

(4) Regulation 9 shall apply subject to the deletion of the words "before the deduction card is issued to the employer".

(5) Paragraph (5) of Regulation 10 shall not apply but an appropriate code may be determined by the Inspector and entered as the authorised code on the seaman's code card or in his discharge book notwithstanding that the Inspector's determination is the subject of an objection or appeal; and the employer shall deduct tax by reference to that authorised code.

(6) Paragraph (2) of Regulation 11 and Regulation 12 shall not apply, but after any amendment of the determination of the code by the Inspector he shall forthwith issue to the seaman a notice of coding and an amended code card which the seaman shall produce to the employer; and after production of the amended code card the employer shall deduct tax by reference to the authorised code shown thereon.

Deduction of tax from seamen's wages

4.—(1) Part III of the Principal Regulations shall not apply to seamen's wages.

(2) Where the provisions of these Regulations so require every employer who pays wages to any seaman shall deduct tax therefrom in accordance with the seamen's tables and the seaman's authorised code for the year in which the wages are paid.

(3) In the case of a seaman who has signed the agreement with the crew of a ship tax shall be deducted when his balance of wages is paid to the seaman and shall be then deducted in respect of the total amount of his wages for the period of employment or engagement as extended by the period for which paid leave is due for which wages are credited:

Provided that where wages are paid weekly tax shall be deducted from each payment made to the seaman.

(4) In the case of a seaman who is employed on a ship in port otherwise than in accordance with an agreement with the crew of a ship tax shall be deducted from every payment of wages made to the seaman.

Seamen with no code

5.—(1) The following paragraphs of this Regulation shall apply in any case in which a seaman has not notified his employer of an authorised code applicable to him for the current year.

(2) When any such seaman enters into an agreement with the crew, the employer shall forthwith render to the Inspector a return giving the name of the seaman and such other particulars as may be necessary to enable the Inspector to notify the seaman's authorised code to the employer.

(3) On making payment to any such seaman of any wages at a time before he has been notified by the Inspector under paragraph (2) of this Regulation, the employer shall deduct tax according to a code prescribed by the Commissioners of Inland Revenue.

Payment of tax to the Collector

6. All amounts of tax which an employer is liable under these Regulations to deduct from any payment of wages shall be paid to the Collector not later than the 14th day of the month following the month in which the payment in question was made, or if the agreement with the crew terminates outside the United Kingdom within such longer period as the Commissioners of Inland Revenue may allow.

Return to be rendered by employer

7. Every employer who pays any wages to a seaman shall, within the time laid down in Regulation 6 for the payment of the tax, if any, which he is liable to deduct from those wages, render a return to the Collector showing—

(*a*) the seaman's name;

(*b*) his rank or rating and discharge book number;

(*c*) the total emoluments paid to him by the employer for the period to which the return relates;

(*d*) the authorised code used in determining the tax to be deducted;

(*e*) the amount, if any, of the tax deducted from his wages under these Regulations;

(*f*) any other matter affecting the calculation of the tax which the employer was liable under these Regulations to deduct during that period.

Application of Part IV of the Principal Regulations

8.—(1) The provisions of Part IV of the Principal Regulations shall apply in relation to seamen subject to any necessary modifications and in particular to the modifications set out in the following paragraphs of this Regulation.

(2) Paragraph (1) of Regulation 26 shall apply as if for the reference to payment of tax within 14 days of the end of any Income Tax month there were substituted a reference to payment of tax within the time limited by Regulation 6 of these Regulations.

(3) Where the employer fails to pay to the Collector within the time limited by Regulation 6 of these Regulations any amount of tax which he is liable under these Regulations to deduct from any wages paid by him, or if the Collector is not satisfied that any amount of tax paid is the full amount of the tax which the employer was so liable to deduct, the following provisions shall apply in lieu of Regulation 27, that is to say—

(*a*) the Collector, by reference to the seamen's tax tables, shall ascertain and certify the amount of tax which the employer is liable to pay to him in respect of the wages paid by the employer to the seamen as shown in the return made by the employer under Regulation 7 of these Regulations and shall certify the amount of that tax remaining unpaid; and

(*b*) the production of the said return and of the certificate by the Collector under sub-paragraph (*a*) of this Regulation shall be sufficient evidence that the amount of the tax shown in the certificate as the amount of tax remaining unpaid is the amount of tax which the employer is liable to pay to the Collector in respect of the wages shown in that return as paid to the seamen; 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) Regulation 29 shall not apply to seamen's wages.

Repayment to seamen during the year

9. No tax in respect of wages shall be repaid to any seaman by the employer but the Inspector on application being made to him by a seaman may make such repayment to the seaman as may be appropriate at any time having regard to—

(*a*) the seaman's emoluments for the period from the beginning of the year up to and including that date; and

(*b*) the amount which would be the corresponding cumulative tax if these emoluments were the seaman's cumulative emoluments; and

(*c*) any tax chargeable under Schedule E remaining unpaid for any previous year which has not been taken into account under Regulation 7(*d*) of the Principal Regulations in determining the seaman's code.

Application of Parts I and VII

10. Parts I and VII of the Principal Regulations shall apply in the case of seamen.

Seamen to whom these Regulations shall not apply

11. Notwithstanding the preceding Regulations the Commissioners of Inland Revenue if they are satisfied that it would be practicable to apply the provisions of Parts II, III and IV of the Principal Regulations, with or without modifications, in respect of all or some of the seamen employed by a particular employer, may approve any arrangements agreed for this purpose with the employer, and where such arrangements have been approved by the said Commissioners the provisions of Parts II, III and IV of the Principal Regulations, subject to any modifications which may be specified in the said arrangements, shall apply in respect of those seamen in lieu of these Regulations.

By Order of the
Commissioners of Inland Revenue,
J. Webb,
Secretary.

30th July 1970.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations re-enact, with amendments, Part V of the Income Tax (Employments) Regulations, 1965, which at present contains the special PAYE provisions applicable to merchant seamen. The amendments to the previous

Regulations will bring the operation of PAYE for seamen more closely into line with that for other employees. A number of minor and drafting amendments have also been made.

The principal change of substance from the existing Regulations is that by Regulation 3, Part II (Coding) of the Income Tax (Employments) Regulations is applied to seamen (subject to certain modifications). This will allow the full range of PAYE code numbers to be used for seamen, in place of the present limited range, and will permit more accurate PAYE deductions.

The other alterations of substance in these Regulations are consequential on this change or are linked with it. Regulation 2 provides new definitions of "authorised code" and "code card". Regulation 4 sets out amended rules about the deduction of tax from seamen's wages. Regulation 5 makes provision for the seaman who has no code. Regulations 6, 7, 8 and 9 reproduce the substance of the existing Regulations, with amendments to take account of the amended rules about PAYE deductions.

The Regulations will come into effect at the start of the 1971/72 tax year.

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