

STATES OF JERSEY



Jersey

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 13) (JERSEY) REGULATIONS 202-

Lodged au Greffe on 21st September 2020
by the Minister for Social Security

STATES GREFFE

REPORT

Proposal

These draft Regulations follow on from the prior year basis (the “PYB”) reform proposals for income tax and the proposed draft Income Tax (Amendment No. 46) (Jersey) Law 202- (the “ITL Amendment Law”).

Income tax and long-term contributions are collected at the same time. The move to a current year basis for income tax will also have consequences for the payment of long-term care contributions.

These Regulations would make complimentary changes to the collection of long-term care contributions set out in the [Social Security \(Jersey\) Law 1974](#) and [Income Tax \(Jersey\) Law 1961](#).

This will mean that –

1. Some peoples’ long-term care contributions will be estimated and communicated in a simpler way.
2. These people will pay their long-term care contributions in May 2021 rather than November 2020.

The delay in paying contributions is part of the fiscal stimulus package and is designed to help the economy to recover more quickly.

This will also mean that some contributions income is delayed coming in to the LTC Fund. An upper estimate is that the Fund would be expected to receive £4.5 million of long-term care contributions in May 2021 rather than November 2020. To put this into context, the Fund received about £21 million of long-term care contributions in 2019.

Everyone pays their long-term care contributions on the basis of their current income and so there is no liability for long-term care contributions in 2019 to pay back in future years.

LTC payment cycle for non-ITIS taxpayers

Current timing of LTC payments –

- One payment (instalment) by 31st May in the year of assessment.
- A balancing payment by 30th November (the surcharge date).
- The LTC assessment would be finalised the following year, on receipt of the completed tax return.

New timing of LTC payments –

- One payment (instalment) by 30th November in the year of assessment.
- Another instalment by 31st May the following year.
- The surcharge date would remain 30th November in the year following the year of assessment.

Financial and manpower implications

Adopting these Regulations would delay the payment of £4.5 million of long-term care contributions from November 2020 to May 2021. This would reduce the cash flow of the Long-term Care Fund by £4.5 million in November and increase the cash flow by £4.5 million in May 2021.

There are no manpower implications that would result from the adoption these proposed draft Regulations.

EXPLANATORY NOTE

The draft Social Security (Amendment of Law No. 13) (Jersey) Regulations 202- (the “Regulations”) if passed would amend the Social Security (Jersey) Law 1974 and the Income Tax (Jersey) Law 1961. The amendments ensure that the collection of long-term care (“LTC”) contributions remains consistent with the collection of income tax, given the changes introduced by the Income Tax (Amendment No. 46) (Jersey) Law 202- (the “amendment Law”) to remove the prior year basis of paying income tax.

Regulation 1 inserts new Article 54E (transitional provision for payment of LTC instalment in 2020) into the Social Security (Jersey) Law 1974. Because of the deferral of the 2019 income tax liability under the amendment Law, the instalment of income tax that would have been due on 30th November 2020 will not be payable. Instead, taxpayers must pay an instalment of their 2020 income tax by 31st May 2021. New Article 54E ensures the instalment of LTC contributions that would have been due on 30th November 2020 is also moved to 31st May 2021.

Regulation 2 amends Schedule 1D of the Social Security (Jersey) Law 1974. These amendments replace references to the payment year with references to the year of assessment, update cross-references to reflect new numbering in the Income Tax (Jersey) Law 1961 due to the amendment Law and remove the distinction between new taxpayers and other taxpayers.

Regulation 3 replaces and simplifies Article 49B of the Income Tax (Jersey) Law 1961. Article 49B provides for the collection of long-term care contributions. The existing Article lists amendments to Articles 41A, 41B, 41C and 41E of the Income Tax (Jersey) Law 1961 for the purposes of LTC contributions, which are then illustrated in Schedule 1A to that Law. The amended Article removes the amendments and points towards the relevant provisions of the Schedule.

Regulation 4 replaces Schedule 1A of the Income Tax (Jersey) Law 1961. Part 1 of the Schedule contains provisions that apply the changes made by the amending Law to Articles 41A and 41C of that Law in respect of income tax to LTC contributions. Part 2 contains the amended Articles 41B and 41E that are in the existing Schedule.

Regulation 5 gives the title of the Regulations and provides that Regulation 1 comes into force on 16th November 2020, with the rest of the Regulations coming into force on 1st January 2021.



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Jersey

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 13) (JERSEY) REGULATIONS 202-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make these Regulations under Article 50 of the Social Security (Jersey) Law 1974¹ –

1 New Article 54E (Transitional provision for payment of LTC instalment in 2020) inserted into Social Security (Jersey) Law 1974

After Article 54D of the Social Security (Jersey) Law 1974² there is inserted –

“54E Transitional provision for payment of LTC instalment in 2020

- (1) A person must pay an instalment of their LTC contribution for the 2020 year of assessment if –
 - (a) the person is required to pay an instalment of income tax under paragraph 25 of Schedule 5 to the 1961 Law; and
 - (b) the person is an insured person.
- (2) The instalment is due and payable on 31st May 2021.
- (3) If, at 31st May 2021, an income tax assessment has not been made for the person for the 2020 year of assessment, the amount of the person’s instalment is calculated as follows –

$$A = (B \times C) - D$$

Where –

- A is the amount of the instalment;
- B is 0.5 if the person’s income for the year before the year of assessment did not include any earnings, and is 0.4 in any other case;
- C is the person’s estimated LTC contribution for the 2020 year of assessment (determined in accordance with paragraph 2A of Schedule 1D); and
- D is the amount of LTC contribution already paid for the 2020 year of assessment (not including an amount deducted under Article 41B or 41E of the 1961 Law).

- (4) If, at 31st May 2021, an income tax assessment has been made for a person for the 2020 year of assessment, the amount of the person's instalment is the lower of –
 - (a) the person's remaining LTC contribution liability for the 2020 year of assessment; and
 - (b) the amount calculated using the formula in paragraph (3).
- (5) If a person's instalment of income tax under paragraph 25 of Schedule 5 of the 1961 Law is waived or reduced under Article 41AA of that Law, the person's instalment of LTC contribution is correspondingly waived or reduced and the Comptroller must repay any amount determined to have been overpaid.
- (6) In this Article, unless the context requires otherwise, terms defined in the 1961 Law but not in this Law have the meaning given in the 1961 Law.”.

2 Schedule 1D to the Social Security (Jersey) Law 1974 amended

- (1) In paragraph 1 of Schedule 1D to the Social Security (Jersey) Law 1974³, the definition “new taxpayer” is repealed.
- (2) In paragraph 2A of Schedule 1D to the Social Security (Jersey) Law 1974⁴ –
 - (a) in sub-paragraph (1), for “(the “payment year”)” there is substituted “of assessment”;
 - (b) in sub-paragraph (2)(a), for “payment year” there is substituted “year of assessment”;
 - (c) in sub-paragraph (2)(i), for “preceding the payment year” there is substituted “before the year of assessment”;
 - (d) sub-paragraph (2)(ii) is deleted;
 - (e) in sub-paragraph (2)(iii), for “payment year” there is substituted “year of assessment”;
 - (f) for sub-paragraph (3)(a) there is substituted –
 - “(a) calculating an estimate of the amount of a person's LTC contribution for the purposes of paragraph 1 of Schedule 1A to the 1961 Law;”;
 - (g) sub-paragraph (3)(b) is deleted;
 - (h) in sub-paragraph (3)(c) –
 - (i) “new” is deleted,
 - (ii) for “Article 41C(5)” there is substituted “Article 41C”;
 - (i) sub-paragraph (4) is deleted;
 - (j) in sub-paragraph (5)(a), “new” is deleted;
 - (k) sub-paragraph 5(b) is deleted.
- (3) In paragraph 3 of Schedule 1D to the Social Security (Jersey) Law 1974⁵, for “Article 41A of the 1961 Law as modified by Article 49B of the 1961 Law” there is substituted “Article 49B and paragraph 1 of Schedule 1A to the 1961 Law”.

- (4) In paragraph 4 of Schedule 1D to the Social Security (Jersey) Law 1974⁶ –
- (a) sub-paragraph (1) is deleted;
 - (b) in sub-paragraph (2), in the definition of “L”, for “the payment year” there is substituted “the year to which the rate applies”;
 - (c) in sub-paragraph (2), for the definition of “I” there is substituted –
 “I is the estimated sum, for the year to which the rate applies, of the amount of income for which the employee is liable to be assessed and the amount of income from which the employee is liable to allow the deduction of tax.”;
 - (d) in sub-paragraph (5) –
 - (i) for “an election under Article 41C(9A)” there is substituted “a request under Article 41CB”,
 - (ii) for “agreed by the Comptroller under Article 41C(9B) of that Law” there is substituted “approved by the Comptroller”,
 - (iii) for “the rate of tax notified under Article 41C(9A) of the 1961 Law and agreed by the Comptroller under Article 41C(9B) of that Law” there is substituted “the new rate of tax”;
 - (e) in paragraph 4(6)(b) there is deleted “in accordance with Article 41C(7) of the 1961 Law,”.
- (5) In paragraph 4A(1) of Schedule 1D to the Social Security (Jersey) Law 1974⁷, for “means midnight on 30th November in a year” there is substituted “has the meaning given by Article 41I(1) of the 1961 Law”.

3 Article 49B of the Income Tax (Jersey) Law 1961 substituted

For Article 49B of the Income Tax (Jersey) Law 1961⁸ there is substituted –

“49B General provision for collection of long-term care contributions

- (1) An insured person who is liable to pay instalments of income tax under Article 41A must also pay instalments of LTC contributions in accordance with paragraph 1 of Schedule 1A.
- (2) The combined effective rate for an employee who is an insured person is calculated in accordance with paragraph 2 of Schedule 1A.
- (3) Articles 41B and 41E have effect with the modifications shown in Part 2 of Schedule 1A.
- (4) Nothing in this Article or in Schedule 1A –
 - (a) confers a right of appeal under this Law in respect of a person’s liability for or the amount of an LTC contribution;
 - (b) confers a right of appeal under this Law against the part of a combined effective rate that relates to LTC contributions; or
 - (c) makes it an offence under this Law to fail to remit an LTC contribution to the Comptroller or to do any other thing in relation to LTC contributions.
- (5) In this Article and in Schedule 1A –

“insured person” means a person described in Article 3(1) of the Social Security (Jersey) Law 1974⁹;

“LTC contribution” means a long-term care contribution payable under the Social Security (Jersey) Law 1974¹⁰.”.

4 Schedule 1A to the Income Tax (Jersey) Law 1961 substituted

For Schedule 1A to the Income Tax (Jersey) Law 1961¹¹, there is substituted the Schedule 1A set out in the Schedule to these Regulations.

5 Citation and commencement

- (1) These Regulations may be cited as the Social Security (Amendment of Law No. 13) (Jersey) Regulations 202-.
- (2) Regulation 1 comes into force on 16th November 2020.
- (3) The remainder of the Regulations come into force on 1st January 2021.

SCHEDULE

(Regulation 4)

NEW SCHEDULE 1A TO THE INCOME TAX (JERSEY) LAW 1961**“SCHEDULE 1A**

(Article 49B)

COLLECTION OF LONG-TERM CARE CONTRIBUTIONS**PART 1****1 Collection of long-term care contributions: payments of instalments**

- (1) A person who is required to pay instalments of income tax under Article 41A must pay instalments of LTC contributions if the person is an insured person.
- (2) The person must pay 2 instalments of LTC contributions, which are due and payable on the same dates as the instalments of income tax.
- (3) The amount of a person’s first instalment is calculated as follows –

$$A = (B \times C) - D$$

Where –

- A is the amount of the instalment;
- B is 0.5 if the person’s income for the year before the year of assessment did not include any earnings, and is 0.4 in any other case;
- C is the person’s estimated LTC contribution for the year of assessment in which the first instalment is due (determined in accordance with paragraph 2A of Schedule 1D of the Social Security (Jersey) Law 1974¹²); and
- D is the amount of LTC contribution already paid for the year of assessment in which the first instalment is due (not including an amount deducted during the year under Article 41B or 41E).

- (4) If, at the time the second instalment is payable, an income tax assessment has not been made for a person for the year of assessment, the amount of the person’s second instalment is calculated as follows –

$$A = (B \times C) - D$$

Where –

- A is the amount of the instalment;

- B is 0.5 if the person's income for the year before the year of assessment did not include any earnings, and is 0.4 in any other case;
 - C is the person's estimated LTC contribution for the year of assessment in which the first instalment is due (determined in accordance with paragraph 2A of Schedule 1D of the Social Security (Jersey) Law 1974¹³); and
 - D is the amount of LTC contribution already paid for the year of assessment (not including an amount deducted during the year under Article 41B or 41E and the amount paid for the first instalment).
- (5) If, at the time the second instalment is payable, an income tax assessment has been made for a person for the year of assessment, the amount of the person's second instalment is the lower of –
- (a) the person's remaining LTC contribution liability for the year of assessment; and
 - (b) the amount calculated using the formula in sub-paragraph (4).
- (6) If a person's instalment of income tax is waived or reduced under Article 41AA, the person's instalment of LTC contribution is correspondingly waived or reduced and the Comptroller must repay any amount determined to have been overpaid.
- (7) The Comptroller must remit a sum received under this Article to the Minister for Social Security.

2 Collection of long-term care contributions: combined effective rates

- (1) The combined effective rate applicable for a year to an employee who is an insured person is the lower of –
- (a) the sum of the rate calculated using the formula in Article 41C(2) and the LTC contribution effective rate determined in accordance with paragraph 4 of Schedule 1D to the 1974 Law, rounded up to the nearest whole number; and
 - (b) the maximum combined effective rate for the employee in sub-paragraph (2).
- (2) The maximum combined effective rate for an employee is –
- (a) 22%, if the employee has no arrears of income tax;
 - (b) 27%, if the employee has arrears of income tax for one year of assessment;
 - (c) 32%, if the employee has arrears of income tax for 2 years of assessment; and
 - (d) 37%, if the employee has arrears of income tax for 3 or more years of assessment.
- (3) If one or more of the variables used to calculate an employee's combined effective rate changes, the Comptroller may determine a revised rate for the employee by applying sub-paragraph (1) using the new variables.

- (4) If the Comptroller considers that the revised rate determined under sub-paragraph (3) will not recover the employee's income tax liability and LTC contribution liability (including arrears for previous years) by the end of the year to which the rate applies, the Comptroller may determine a revised rate that is the lower of –
- (a) the rate calculated using the formula in sub-paragraph (5), rounded up to the nearest whole number; and
 - (b) the maximum rate for the employee in sub-paragraph (2).

- (5) The formula for calculating a revised rate in the circumstances described in sub-paragraph (4) is –

$$A = \frac{(B + C + D + E) - (F + G)}{H} \times 100$$

Where –

- A is the revised rate;
- B is the amount of the employee's estimated liability to income tax for the year to which the rate applies;
- C is the employee's total arrears of income tax (if any) for any earlier year of assessment (whether or not judgment has been obtained in respect of the arrears) and any costs recoverable in respect of those arrears;
- D is the amount of the employee's estimated liability to LTC contributions for the year to which the rate applies;
- E is the employee's total arrears of LTC contributions (if any) for any earlier year (whether or not judgment has been obtained in respect of the arrears) and any costs recoverable in respect of those arrears;
- F is the amount of income tax already paid for the year to which the rate applies, including any amount deducted during the year under Article 41B or 41E; and
- G is the amount of LTC contributions paid for the year to which the rate applies, including any amount deducted during the year under Article 41B or 41E; and
- H is the estimated sum, for the remainder of the year to which the rate applies, of the amount of income for which the employee is liable to be assessed and the amount of income from which the employee is liable to allow the deduction of tax.
- (6) The following Articles apply in respect of an employee who is an insured person as if references to a rate determined to apply to the employee are references to the employee's combined effective rate –
- (a) Article 41CB (revised rates: initiated by employee);
 - (b) Article 41CC (notification of rate);
 - (c) Article 41CF (rates do not prevent recovery of arrears).

PART 2**41B Duty of employer to deduct and account for tax [and LTC contributions]**

- (1) An employer shall, in accordance with this Article, deduct tax at [the combined effective rate] from earnings payable by the employer to an employee, including any payments made by an employer that fall within Article 62D.
- (2) [The combined effective rate] shall be –
 - (a) where the employer has received a copy of a notice issued by the Comptroller under Article 41CC specifying a rate applicable on the day the deduction is made, the rate so specified;
 - (b) where the employer has not received a copy of such a notice –
 - (i) for deductions made in the years 2015 to 2019 inclusive, 21%,
 - (ii) for deductions made in the year 2020 and ensuing years, 22%.]
- (3) When making a deduction under paragraph (1), an employer shall give the employee written notice of the amount of the deduction and [the combined effective rate] applied to the deduction.
- (4) An employer shall maintain a record of the amount of tax deducted and [the combined effective rate] applied to the deduction in respect of each of his or her employees.
- (5) Subject to paragraph (5AA), an employer shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the month in respect of each of his or her employees.
- (5AA) Provided that the conditions in paragraph (5AB) are met, in the case of an employer which is a company, the employer may, instead of complying with paragraph (5), remit to the Comptroller no later than midnight on the 15th day after the end of each year, an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the year in respect of each of his or her employees.
- (5AB) Those conditions are that –
 - (a) an application is made in writing to the Comptroller by a director of the company for paragraph (5AA) to apply;
 - (b) the director who makes the application owns at least 25% of the ordinary share capital of the company; and
 - (c) the Comptroller agrees to the application.
- (5A) If, in respect of an amount required to be remitted under paragraph (5) or (5AA) –

- (a) the Comptroller has not received a return from the employer under Article 20 or the information included in the return is not complete; and
 - (b) no amount is remitted to the Comptroller or the Comptroller is not satisfied the amount remitted is the amount required to be deducted under paragraph (1),
[the Comptroller –
 - (i) may to the best of the Comptroller’s information and judgement, make an estimate of the amount of tax required to be remitted under paragraph (5) or (5AA) and calculate, by reference to that estimate, the corresponding amount of LTC contribution required to be remitted, and
 - (ii) shall serve on the employer a notice requiring an amount that is the sum of those amounts to be paid and containing the information described in paragraph (5B).]
- (5B) That information is –
- (a) the amount required to be paid;
 - (b) the latest date on which an appeal against [the estimate of the amount of tax] required to be paid may be made; and
 - (c) the date by which [the amount required to be paid,] failing the making of an appeal, is required to be paid, such date being no earlier than 15 days from the date of the notice.
- (5C) If, at any time, the Comptroller discovers, by reason of receiving a return from the employer under Article 20 or for any other reason, that the amount of the estimate specified in a notice under paragraph (5A) is incorrect, the Comptroller may cancel the notice and serve on the employer a further notice under paragraph (5A) requiring a revised amount to be paid and containing the information described in paragraph (5B).
- (5D) An employer shall comply with any notice served on the employer under paragraph (5A).
- (5E) Part 6 shall apply, with the necessary modifications, to an appeal against an estimate under paragraph (5A) as it applies to an appeal against an assessment and as if for the number “40” in Article 27(1) there were substituted the number “15”.
- (6) An employer shall, no later than the end of January following a year of assessment, give each of the persons in his or her employment at the end of that year a written summary of the deductions made pursuant to this Article from the employee’s earnings for that year.
 - (7) Where an employee ceases employment before the end of a year of assessment, the employer shall, upon the employment ceasing give the employee a written summary of the deductions made pursuant to this Article from the employee’s earnings for that year.
 - (8) An employer shall not be required to deduct [tax and an LTC contribution and remit them] to the Comptroller in the case of an employee who, on the 31st December in the year in which the

deduction would otherwise be made, will be under the upper limit of compulsory school age as defined by Article 2 of the Education (Jersey) Law 1999¹⁴.

- (9) An employer who fails to comply with paragraph (5) or (5AA) shall be guilty of an offence and liable to a fine.
- (10) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer by virtue of Article A15(6) or (7), the body corporate, as well as that person, shall be liable to a fine under paragraph (9) of this Article.
- (11) The imposition of a fine under paragraph (9)(b) shall not discharge the employer's liability to remit the monies required under paragraph (5) or (5AA).
- (12) Where an employee proves, to the satisfaction of the Comptroller, that a deduction has been made from the employee's earnings, in accordance with paragraph (1), the employee shall be entitled to have the deduction treated as a payment of tax [and LTC contribution] by the employee, notwithstanding that the employer has failed to remit the amount to the Comptroller in accordance with paragraph (5) or (5AA).
- (13) An employer who fails to make a deduction in accordance with paragraph (1) but who remits to the Comptroller the amount required by paragraph (5) or (5AA) in respect of an employee may recover that amount from the employee as a civil debt.
- (14) Deductions shall be made, in accordance with this Article, from the earnings of a civil partner B notwithstanding that, by virtue of Article 122B(1), his or her income is deemed to be that of his or her civil partner A.
- (14A) Deductions shall be made, in accordance with this Article, from the earnings of a civil partner B notwithstanding that, by virtue of Article 122B(1), his or her income is deemed to be that of his or her civil partner A.
- (15) An agreement shall be void to the extent that it provides for the payment of earnings without deduction of tax in contravention of this Article.

41E Duty of building contractor to deduct and account for tax [and LTC contributions]

- (1) A building contractor shall, in accordance with this Article, deduct tax [and an LTC contribution] at the specified rate from payments made to a sub-contractor or to a person nominated by the sub-contractor for the purpose.
- (2) Paragraph (1) shall not apply at any time when –
 - (a) the sub-contractor has produced an exemption certificate to the building contractor; and
 - (b) the LTC exemption certificate is in force at the time the payment is made.

- [(2A) A building contractor shall not deduct an LTC contribution under paragraph (1) at any time when –
- (a) the sub-contractor has produced an LTC exemption certificate to the building contractor; and
 - (b) the LTC exemption certificate is in force at the time the payment is made.
- (2B) The Comptroller shall issue an LTC exemption certificate to a sub-contractor –
- (a) upon the application of the sub-contractor; and
 - (b) if, in the year in which the application is made, the sub-contractor has paid, in the aggregate, an LTC contribution for the year that is equal to or exceeds the LTC percentage of the upper annual income limit for the year, referred to in paragraph 3 of Schedule 1C to the Social Security (Jersey) Law 1974¹⁵.
- (2C) An LTC exemption certificate shall remain in force from the day it is issued until the end of the year in which it is issued.]
- (3) When making a deduction under paragraph (1) a building contractor shall give the sub-contractor or the person nominated by the sub-contractor to receive the payment written notice of the amount of the deduction.
- (4) A building contractor shall maintain a record of the amount of tax [and LTC contribution] deducted in respect of each of his or her sub-contractors.
- (5) A building contractor shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the month in respect of each of his or her sub-contractors.
- (5A) If, in respect of an amount required to be remitted under paragraph (5) –
- (a) the Comptroller has not received a return from the building contractor under Article 20A or the information included in the return is not complete; and
 - (b) no amount is remitted to the Comptroller or the Comptroller is not satisfied the amount remitted is the amount required to be deducted under paragraph (1),
- [the Comptroller –
- (i) may, to the best of the Comptroller’s information and judgement, make an estimate of the amount required to be remitted under paragraph (5) and calculate, by reference to that estimate, the corresponding amount of LTC contribution required to be remitted, and
 - (ii) shall serve on the building contractor a notice requiring an amount that is the sum of those amounts to be paid and containing the information described in paragraph (5B).]

- (5B) That information is –
- (a) the amount required to be paid;
 - (b) the latest date on which an appeal against [the estimate of the amount of tax] required to be paid may be made; and
 - (c) the date by which [the amount required to be paid,] failing the making of an appeal, is required to be paid, such date being no earlier than 15 days from the date of the notice.
- (5C) If, at any time, the Comptroller discovers, by reason of receiving a return from the building contractor under Article 20A or for any other reason, that the amount of the estimate specified in a notice under paragraph (5A) is incorrect, the Comptroller may cancel the notice and serve on the building contractor a further notice under paragraph (5A) requiring a revised amount to be paid and containing the information described in paragraph (5B).
- (5D) A building contractor shall comply with any notice served on the building contractor under paragraph (5A).
- (5E) Part 6 shall apply, with the necessary modifications, to an appeal against an estimate under paragraph (5A) as it applies to an appeal against an assessment and as if for the number “40” in Article 27(1) there were substituted the number “15”.
- (6) Where, before the end of a year of assessment, a person ceases to be a sub-contractor of a building contractor, the building contractor shall give the sub-contractor a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.
- (7) A building contractor shall, no later than the end of January following a year of assessment, give each person who is, at the end of the year, his or her sub-contractor, a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.
- (8) A building contractor who fails to comply with paragraph (5) shall be guilty of an offence and liable to a fine.
- (9) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor by virtue of Article A15(4) or (5), the body corporate, as well as that person, shall be liable to a fine under paragraph (8) of this Article.
- (10) The imposition of a fine under paragraph (8)(b) shall not discharge the building contractor’s liability to remit the monies required by paragraph (5).
- (11) Where a sub-contractor proves, to the satisfaction of the Comptroller, that a deduction has been made in accordance with paragraph (1) from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose, the sub-contractor shall be entitled to have the deduction treated as a payment of tax [and LTC contribution] by the sub-contractor,

notwithstanding that the building contractor has failed to remit the amount to the Comptroller in accordance with paragraph (5).

- (12) A building contractor who fails to make a deduction in accordance with paragraph (1) but who remits to the Comptroller the amount required by paragraph (5) may recover that amount from the sub-contractor as a civil debt.
- (13) A contract shall be void to the extent that it provides for payments to be made without deduction of tax, in contravention of this Article.
- (14) Where a sub-contractor has arrears of tax for any year of assessment, the fact that deductions are made in accordance with this Article from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose shall not prevent the Comptroller pursuing the recovery of those arrears by any means.
- (15) For the purposes of this Article, the “specified rate” is –
 - (a) for deductions made in the years 2006 and 2007, 15%;
 - [(b) for deductions made in the years 2008 to 2014 inclusive, 20%;
 - (c) for deductions made in the years 2015 to 2019 inclusive, 21% being the sum of a rate of 20% for the purposes of deductions of tax and a rate of 1% for the purposes of deductions of LTC contributions;
 - (d) for deductions made in the year 2020 and ensuing years, 22% being the sum of a rate of 20% for the purposes of deductions of tax and a rate of 2% for the purposes of deductions of LTC contributions.]”.

ENDNOTES

Table of Endnote References

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