



THE CONTRIBUTIONS AGENCY
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The Jockey Club
42 Portman Square
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Your ref :
Our ref : 4P/1465/92

Date : 15 March 1993

Dear Sirs,

**Re. Prize Money paid to Employees of Horse Racing Stables -
Refunds of National Insurance contributions.**

As you know, on 21 May 1991 () asked the Secretary of State for Social Services to decide whether there is a liability for Class 1 employed earner's National Insurance contributions (NICs) on prize money payments to Stable Lads and other employees of horse racing stables (for example, Headmen, Box Trainers, Assistant Trainers and general staff). This letter explains that NICs are not due in certain circumstances and that refunds are available.

It may help if I first provide some background information. Earnings for National Insurance purposes are defined as "remuneration or profit derived from an employment" in Section 3(1) of the Social Security Contributions and Benefits Act 1992 - similar legislation has been in existence since April 1975. Under Regulations, however, certain amounts may be excluded from the earnings computation when NICs are assessed.

On 14 September 1992, the Secretary of State said in his decision that prize money was indeed earnings within the meaning of the Act, but that it was also a gratuity payment. He then went on to say that, in the case under consideration, the amounts involved could be excluded from the earnings computation under Regulation 19(1)(c) of the Social Security (Contributions) Regulations 1979 since the prize money is not shared out by the employer. The Regulation says -

"For the purposes of earnings related contributions, there shall be excluded from the computation of a person's earnings in respect of any employed earner's employment any payment in so far as it is in respect of a gratuity or offering -

- (i) where the payment is not made directly or indirectly by the employer and the sum paid does not comprise or represent sums previously paid to the employer ; or
- (ii) where the payment is not directly or indirectly allocated by the employer."

By way of clarification I would like to mention that it is possible to exclude a prize money payment from earnings if it simply passes through the employer's hands. But, the exclusion will not apply if he/she makes a decision as to how the money should be shared out.

The Regulation can also be considered in relation to prize money payments which come from abroad.

Incidentally, in this type of case we understand that the employer is usually the Trainer.

You may be interested to know that prior to 3 July 1987 our policy line did in fact reflect the Secretary of State's recent decision. On that date, however, a different policy line was adopted. It was ruled then that prize money payments were not gratuities and consequently that the Regulation could not apply. In light of the Secretary of State's findings, a decision was made to rescind the July 1987 ruling. This meant in effect that prize money payments should have been regarded as gratuities all along.

Since 3 July 1987, therefore, some employees and employers will have incorrectly paid Class 1 NICs on prize money payments which should have been excluded from earnings under the Regulation. Those who are affected by this may now apply for refunds of NICs by writing to the Contributions Agency, Refunds Group, Department of Social Security, Longbenton, Newcastle upon Tyne, NE98 1YX. They will issue the appropriate application forms and subsequently deal with the repayments.

As with all requests for refunds, it would be helpful if employees and employers could submit with their completed application forms as much detail as possible about the incorrect payment of NICs. Perhaps they could supply photo-copies of wages slips or employers records if these documents itemize the prize money payments. As an alternative, I understand that the Jockey Club receives lists of prize money allocations from each employer. If you maintain a record of these and if employers can gain access to it, requests for refunds could perhaps be based on that information.

I would be very grateful if you could help us by contacting each horse racing stable to tell them about the Secretary of State's decision and to advise them that, where appropriate, employees and employers can apply for refunds of NICs. In relation to this, you could perhaps distribute the enclosed photo-copies (there are fifty in all). You may, however, wish to broadcast the message in a different way.

We have sent a press release to the head office of each nationally circulated horse racing publication; publicity based on the contents of this letter should therefore appear in those publications. As a result, former employees of stables will hopefully become aware of the revised position and, if affected, they can take steps to obtain a refund.

Please note that I have also written to the National Trainer's Federation to explain the situation.

Yours faithfully,

Ian Cairns

Ian Cairns
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