



TC02468

Appeal number: TC/2012/6134

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

EMPLAS WINDOWS LIMITED

Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S Respondents
REVENUE & CUSTOMS**

**TRIBUNAL: JUDGE MICHAEL TILDESLEY OBE
LESLIE HOWARD**

**Sitting in public at Tribunals Unit, Ground Floor, St Katherine's House, St
Katherine's Street, Northampton, NN1 2LX on 18 December 2012**

Alistair Kendrick, Tax Director, MacIntyre Hudson, for the Appellant

Alan Hall, Presenting Officer for HMRC.

DECISION

The Appellant appealed against the following HMRC's decisions made on 10 April 2012:

- (1) A regulation 80 determination in the sum of £3,533.20 for unpaid tax due under the PAYE Regulations 2003.
- (2) A section 8 decision in the sum of £1,218.99 for unpaid primary and secondary Class 1 National Insurance contributions.

The dispute related to the status of payments made to a Mark Holloway, a former employee of the Appellant, when he left his employment at the end of 2010.

The issue was whether the payment of £8,833.34 was a payment in lieu of notice made in pursuance of a provision of a contract of employment or a payment received directly or indirectly in connection with the termination of his employment.

After hearing from Alistair Kendrick, Tax Director, MacIntyre Hudson, for the Appellant, and Alan Hall, Presenting Officer for HMRC, the Tribunal decided that the payment was a payment in lieu of notice made in pursuance of a provision of a contract of employment.

The Tribunal dismisses the Appeal and confirms that the disputed payment of £8,833.34 is earnings under section 62 ITEPA 2003.

The decision is one of principle, leave is given to the parties to request a determination of the quantum from the Tribunal in the event of disagreement between them.

The parties agreed pursuant to Rule 35(3) of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 that it is unnecessary for this decision to include full or summary findings of facts and reasons for the decision. A party wishing to appeal against this decision must apply within 28 days of the date of release of this decision to the Tribunal for full written findings and reasons. When these have been prepared, the Tribunal will send them to the parties and publish them on its website and either party will have 56 days in which to appeal. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

**MICHAEL TILDESLEY OBE
TRIBUNAL JUDGE**

RELEASE DATE: 8 January 2013