

2016 No. 147

HOUSING; RATES; SOCIAL SECURITY

**The Social Security (Scottish Rate of Income Tax etc.)
(Amendment) Regulations (Northern Ireland) 2016**

Made - - - - *11th March 2016*

Coming into operation - *6th April 2016*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 132 (3) and (4)(a), and 171(1) and (3) (b), of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (a), Articles 14 (1), (2), (3) and (4)(a) and 36(2)(b) of the Jobseekers (Northern Ireland) Order 1995 (b) and sections 17(1) and (2), 24(1) and 25(1) of the Welfare Reform Act (Northern Ireland) 2007 (c).

Regulations 4 and 5 are made with the consent of the Department of Finance and Personnel (d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 6th April 2016.

(2) The Interpretation Act (Northern Ireland) 1954 (e) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendments to the Income Support (General) Regulations (Northern Ireland) 1987

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 (f) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) after the definition of “remunerative work” insert—

““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;”.

(3) In regulation 39(1) (deduction of tax and contributions for self-employed earners)—

(a) 1992 c.7

(b) 1995 No.2705 (N.I. 15)

(c) 2007 c.2 (N.I.)

(d) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481

(e) 1954 c.33 (N.I.)

(f) S.R. 1987 No.459; relevant amending Regulations are S.R. 1992 No. 403, S.R. 1994 No. 327, S.R. 2007 No. 306, and S.R. 2009 No. 92

- (a) after “basic rate” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (b) for “personal allowance to which the claimant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowance) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (c) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”; and
 - (d) for “personal allowance” substitute “personal reliefs”.
- (4) In regulation 39D (deduction in respect of tax for participants in the self-employment route)—
- (a) for paragraph (1)(b) substitute—
 - “(b) the personal reliefs applicable to the person receiving assistance under the self-employment route under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 are allowable against that income;”;
 - (b) in paragraph (1)(c)—
 - (i) for “relief” substitute “reliefs”; and
 - (ii) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”; and
 - (c) in paragraph (2)—
 - (i) after “basic rate” insert “, or the Scottish basic rate,”; and
 - (ii) for “personal allowance” substitute “personal reliefs”.
- (5) In regulation 42(8)(a)(notional income)—
- (a) after “basic rate of tax” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (b) for “personal allowance to which the claimant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowance) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (c) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”; and
 - (d) for “personal allowance” substitute “personal reliefs”.

Amendments to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996

3.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(a) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “sandwich course” insert—

““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;”.

(3) In regulation 102(1) (deduction of tax and contributions for self employed earners)—

- (i) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;

- (ii) after “basic rate” in the second place it occurs insert “, or the Scottish basic rate,”;

(a) S.R.1996 No.198; relevant amending Regulations are S.R.2007 No. 306 and S.R. 2009 No.92

- (iii) for “personal allowance to which the claimant is entitled under section 257(1), of the Income and Corporation Taxes Act 1998 (personal allowance) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”; and
 - (iv) for “personal allowance deductible under this paragraph” substitute “personal reliefs deductible under this paragraph”.
- (4) In regulation 102D (deduction in respect of tax for participants in the self-employment route)—
- (a) for paragraph (1)(b) substitute—
 - “(b) the personal reliefs applicable to the person receiving assistance under the self-employment route under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 are allowable against that income;”;
 - (b) in paragraph (1)(c)—
 - (i) for “personal allowance” substitute “personal reliefs”; and
 - (ii) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”; and
 - (c) in paragraph (2)—
 - (i) after “basic rate” insert “, or the Scottish basic rate,”; and
 - (ii) for “personal allowance” substitute “personal reliefs”.
- (5) In regulation 105(15)(a) (notional income)—
- (a) after “basic rate” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (b) for “personal allowance to which the claimant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowance) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (c) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”; and
 - (d) for “personal allowance” substitute “personal reliefs”.
- (6) In regulation 163(4) (calculation of earnings)—
- (a) in sub-paragraph (c)
 - (i) after “basic rate” insert “, or the Scottish basic rate,”; and
 - (ii) for “relief” substitute “reliefs”.

Amendments to the Housing Benefit Regulations (Northern Ireland) 2006

4.—(1) The Housing Benefit Regulations (Northern Ireland) 2006^(a) are amended in accordance with paragraphs (2) to (4).

- (2) In regulation 2(1) after the definition of “Residential Care Home” insert—
- ““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;
 - “Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;”.
- (3) In regulation 31 (disregard of changes in tax, contributions etc.)—
- (a) after paragraph (a) insert—
 - “(aa) in the Scottish basic or other rates of income tax;”;

^(a) S.R. 2006 No.405 as amended by S.R. 2009 No. 92

- (b) in paragraph (b) for “relief” substitute “reliefs under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007”.
- (4) In regulations 33(6)(a) (calculation of net earnings of employed earnings), 36(1) (deduction of tax and contributions of self employed earners) and 39(12)(a) (notional income)—
 - (a) after “basic rate” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (b) for “personal relief to which the claimant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (c) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”; and
 - (d) for “relief” substitute “reliefs”.

Amendment to the Housing Benefit (Persons who have attained the qualifying age for state pension credits) Regulations (Northern Ireland) 2006

5.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(a) are amended in accordance with paragraphs (2) to (5).

- (2) In regulation 2(1) (interpretation) after the definition of “savings credit” insert—
 - ““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;
 - “Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;”.
- (3) In regulation 32 (disregard of changes in tax, contributions etc.)—
 - (a) after paragraph (a) insert—
 - “(aa) in the Scottish basic or other rates of income tax;”;
 - (b) in paragraph (b) for “relief” substitute “reliefs under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007”.
- (4) In regulation 34(5)(a) (calculation of net earnings of employed earners)—
 - (a) after “basic rate” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (b) for “personal relief to which the claimant is entitled under section 257(1) of the Taxes Act (personal allowances) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (c) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”; and
 - (d) for “relief” substitute “reliefs”.
- (5) In regulation 38(1) (deduction of tax and contributions of self-employed earners)—
 - (a) after “basic rate” in the first place it appears insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (b) for “personal relief to which the claimant is entitled under sections 257(1) of the Taxes Act (personal allowances) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
 - (c) after “basic rate” in the second place it appears insert “, or the Scottish basic rate,”.

(a) S.R. 2006 No.406 as amended by S.R. 2009 No. 92

Amendments to the Employment and Support Allowance Regulations (Northern Ireland) 2008

6.—(1) The Employment and Support Allowance Regulations 2008(a) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) after the definition of “residential care home” insert—

““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;”.

(3) In regulation 99 (deduction of tax and contributions for self-employed earners)—

(a) in paragraph (1)—

(i) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”; and

(ii) for “personal allowance to which the claimant is entitled under sections 35 and 38 to 40 of the Income Tax Act 2007 (personal allowances) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”; and

(b) in paragraph (2)—

(i) after “basic rate” insert “, or the Scottish basic rate,”; and

(ii) for “paragraph (1) is” substitute “paragraph (1) are”.

(4) In regulation 103 (deduction in respect of tax for participants in the self-employment route)—

(a) for paragraph (1)(b) substitute—

“(b) the personal reliefs applicable to the person receiving assistance under the self-employment route under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 are allowable against that income;”;

(b) in paragraph (1)(c)—

(i) for “personal allowance” substitute “personal reliefs”; and

(ii) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”; and

(c) in paragraph (2) for “basic rate of tax to be applied and the amount of the personal allowance deductible is” substitute “basic rate, or the Scottish basic rate, of tax to be applied and the amount of personal reliefs deductible are”.

(5) In regulation 109(2) (notional income—calculation and interpretation)—

(a) in sub-paragraph (a)—

(i) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate,”; and

(ii) for “personal allowance to which the claimant is entitled under section 257(1) of the Taxes Act 1988 (personal allowance) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”; and

(b) in sub-paragraph (b)—

(i) omit “if”;

(ii) after “the basic rate” insert “, or the Scottish basic rate,”; and

(a) S.R. 2008 No.280 as amended by S.R. 2008 No. 413

(iii) for “personal allowance deductible under this paragraph is” substitute “personal reliefs deductible under this paragraph are”.

Sealed with the Official Seal of the Department for Social Development on 11th March 2016

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to regulations 4 and 5.

Sealed with the Official Seal of the Department of Finance and Personnel on 11th March 2016

(L.S.)

Emer Morelli

A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987 (S.R. 1987 No. 145), the Jobseeker's Allowance Regulations 1996 (S.R. 1996 No. 198), the Housing Benefit Regulations 2006 (S.R. 2006 No. 405), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.R. 2006 No. 406) and the Employment and Support Allowance Regulations 2008 (S.R. 2008 No. 280).

In each of the above Regulations provision is made for the calculation or estimation of income so as to enable the Department to determine the amount of benefit a claimant should be awarded. Broadly, the income of a self-employed claimant is calculated by determining the claimant's net profit and then deducting an amount in respect of income tax, based on the basic rate of tax applicable to the assessment period.

These Regulations amend the provisions relating to calculation or estimation of income in consequence of the power of the Scottish Parliament to set a Scottish rate of income tax provided for in Part 4A of the Scotland Act 1998 (c. 46). The power is expected to be exercisable for the tax year 2016-2017 and subsequent tax years. References to the basic rate of tax have been amended to include a reference to the Scottish rate of tax.

These Regulations also amend outdated references to "personal allowance" in each of the above Regulations substituting reference to personal reliefs under the relevant provisions of the Income Tax Act 2007.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c.8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee

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