

SCHEDULE 1

Regulation 9

COMPUTATION OF INCOME

1.—(1) This Schedule shall have effect for the purposes of determining a person's income for the purposes of these Regulations by reference to his total income.

(2) In this Schedule any reference to the Act of 1988 is a reference to the Income and Corporation Taxes Act 1988(1).

2. Where any income of a person is not part of their total income by reason only that—

- (a) they are not resident, ordinarily resident or domiciled in the United Kingdom; or
- (b) the income does not arise in the United Kingdom; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any enactment,

their income for the purposes of these Regulations shall be computed as though such income were part of their total income.

3.—(1) For the purposes of these Regulations, a person's total income shall be computed as though there did not fall to be made any of the deductions or reliefs (by way of income tax reduction or otherwise) mentioned in sub-paragraph (2) below.

(2) The deductions or reliefs referred to in sub-paragraph (1) above are any which fall to be made—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Act of 1988, other than in section 265 thereof (relief for blind persons);
- (b) pursuant to Chapters I, II and III of Part XIV of the Act of 1988 so far as applicable in respect of superannuation or other payments made by a person, or in respect of deductions made from their salary, for the purpose of securing the payment to or in respect of them of pensions, annuities or other future benefits;
- (c) pursuant to section 639(1) of the Act of 1988 (relief for contributions to personal pension schemes);
- (d) in respect of payments by way of relevant loan interest within the meaning of section 370 of the Act of 1988;
- (e) pursuant to section 353(1) to (1H) of the Act of 1988 in respect of interest payments eligible for relief or deduction by virtue of section 354 of that Act (loan for purchase or improvement of land) or by virtue of section 365 of that Act (loan to buy life annuity);
- (f) in respect of any sums paid under a deed of covenant otherwise than to a child of the person concerned who is wholly or mainly dependent upon them;
- (g) pursuant to section 193(1) of the Act of 1988 in respect of earnings from work done abroad;
- (h) pursuant to section 617(5) of the Act of 1988 (relief for Class 4 contributions);
- (i) pursuant to sections 574, 575 and 576 of the Act of 1988 (relief for losses on unquoted shares in trading companies);
- (j) pursuant to Chapter III of Part VII of the Act of 1988 (relief for investment in corporate trades) but, in relation to shares issued before 1st January 1994, disregarding the amendments made thereto by section 137 of and Schedule 15 to the Finance Act 1994(2);
- (k) pursuant to section 202(1) to (7) and (11) of the Act of 1988 (relief for donations under payroll deduction scheme);

(1) 1988 c. 1 (as amended by various Finance Acts enacted in the period 1989 to 2000).

(2) 1994 c. 9.

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- (l) pursuant to regulations made under section 333-333B of the Act of 1988 (relief for investment plans);
- (m) pursuant to section 54 of the Finance Act 1989(3) (relief for premiums under a contract of private medical insurance);
- (n) pursuant to section 25 of the Finance Act 1990(4) (relief for donations to charity by individuals);
- (o) pursuant to sections 32 and 33 of the Finance Act 1991(5) (relief for vocational training); or
- (p) pursuant to section 59 of and Schedule 10 to the Finance (No. 2) Act 1992(6) (relief for letting furnished accommodation in owner occupier homes).

4. There shall be left out of account, in computing a person's total income for the purposes of these Regulations, any allowance paid to them by an adoption agency pursuant to a scheme approved by the Scottish Ministers under section 51(5) of the Adoption (Scotland) Act 1978(7) and any contribution paid to them by a local authority pursuant to section 50 of the Children Act 1975(8).

5.—(1) Where any income of a person includes a maintenance payment, their income for the purposes of these Regulations shall be computed as though such payment were part of their total income, whether or not such payment or any part of it would be included in their total income for tax purposes.

(2) Where any person makes a maintenance payment, their income for the purposes of these Regulations shall be computed as though such payment were not part of their total income, whether or not such payment or any part of it would be deductible for tax purposes.

(3) For the purposes of sub-paragraphs (1) and (2) above, "maintenance payment" means a periodical payment (not including an instalment of a lump sum) which—

- (a) is made under an order made by a court (whether in the United Kingdom or elsewhere) or under a written agreement or in accordance with a maintenance assessment under the Child Support Acts 1991 and 1995(9) and the Child Support, Pensions and Social Security Act 2000(10), and
- (b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—
 - (i) to or for the benefit of the other party and for the maintenance of the other party; or
 - (ii) to the other party for the maintenance by the other party of any child of the said parties; or
 - (iii) to a child of the said parties for the child's own maintenance, benefit or education; and

(3) 1989 c. 26; section 54 was amended by the Finance Act 1994, Schedule 10, paragraphs 2 and 4 the Finance Act 1996 (c. 8) section 129; and the Finance (No. 2) Act 1997 (c. 58) section 17.

(4) 1990 c. 29; section 25 was amended by the Finance (No. 2) Act 1992 (c. 48), section 26(2); the Finance Act 1993 (c. 34), section 67(2); the Finance Act 1995 (c. 4), section 74 and Schedule 17, paragraph 26; the Finance Act 1998 (c. 36) section 48; and the Finance Act 2000 (c. 17), section 39 and Schedule 40.

(5) 1991 c. 31; section 32 was amended by the Finance Act 1994, section 84 and Schedule 26; the Finance Act 1996 (c. 8) sections 129 and 144; the Education (Scotland) Act 1996 (c. 43) section 36 and Schedule 5; the Education Act 1997 (c. 44) section 57 (subject to transitional provisions contained in article 4 of S.I.1997/1468); and the Finance Act 1999 (c. 16) section 59 and Schedule 20; section 33 was amended by the Finance (No. 2) Act 1992, Schedule 18, Part VII; the Finance Act 1996 (c. 8), sections 129 and 132 and Schedule 18, paragraph 14; and the Finance Act 1999 section 59 and Schedule 20.

(6) 1992 c. 48, Schedule 10 was amended by the Finance Act 1995 (c. 4) section 39 and Schedule 6; and the Finance Act 1996 (c. 8) section 135 and Schedule 21.

(7) 1978 c. 28; section 51 was amended by the Children (Scotland) Act 1995 (c. 36) section 98 and Schedule 2, paragraph 24.

(8) 1975 c. 72; section 50 was amended by the Children (Scotland) Act 1995 (c. 36), section 105 and Schedule 4, paragraph 36.

(9) 1991 c. 48 and 1995 c. 34.

(10) 2000 c. 19.

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- (c) is due at a time when the said parties are not a married couple living together, and in that connection a married woman shall be treated as living with her husband unless they are separated under an order of a court of competent jurisdiction or by deed of separation.