

Status: Point in time view as at 10/07/2003.

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SCHEDULES

SCHEDULE 36

Section 176

FOSTER CARERS

PART 1

INTRODUCTION

Introductory

- 1 (1) This Schedule provides relief on income from the provision by an individual of foster care (see paragraph 4).
- (2) The form of relief available depends on whether his total foster care receipts (see paragraph 5) exceed his limit (see paragraphs 6 to 9).
- (3) If they do not, paragraph 10 provides for the income to be exempt from income tax.
- (4) If they do, the individual may elect for an alternative method of calculating the income (see paragraphs 11 to 14).

Individuals qualifying for relief

- 2 (1) An individual qualifies for relief under this Schedule for a year of assessment for which the following conditions are met.
- (2) The first condition is that the individual has foster care receipts (see paragraph 3).
- (3) The second condition is that the individual does not derive any taxable income, other than foster care receipts, from any relevant trade, profession or vocation, or from any relevant foster care arrangement.
- (4) For the purposes of sub-paragraph (3)—
- (a) “taxable income” means receipts or other income in respect of which the individual is chargeable to tax for the year of assessment;
- (b) a relevant trade, profession or vocation, or a relevant foster care arrangement, is one from which the individual derives any foster care receipts for that year.
- (5) In this Schedule, “foster care arrangement” means an arrangement by which an individual provides foster care otherwise than as part of a trade, profession or vocation carried on by that individual.

Meaning of “foster care receipts”

- 3 (1) For the purposes of this Schedule, receipts are “foster care receipts” of an individual for a year of assessment if—
- (a) they are receipts in respect of the provision of foster care,

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- (b) apart from this Schedule, they would be chargeable—
 - (i) under Case I or II of Schedule D as the profits of a trade, profession or vocation, or
 - (ii) under Case VI of Schedule D as the profits of one or more foster care arrangements, and
 - (c) they accrue to the individual during the income period for those receipts specified below.
- (2) In the case of receipts which would, apart from this Schedule, be chargeable under Case I or II of Schedule D as the profits of a trade, profession or vocation, the income period for those receipts is the basis period of the trade, profession or vocation for the year of assessment (see sections 60 to 63 of the Taxes Act 1988).
- (3) In the case of receipts which would, apart from this Schedule, be chargeable under Case VI of Schedule D as the profits of one or more foster care arrangements, the income period for those receipts is the year of assessment.

Meaning of “provision of foster care”

- 4 (1) In this Schedule, the “provision of foster care” means the provision of accommodation and maintenance for a child by an individual who—
- (a) is a person falling within any of sub-paragraphs (2) to (4), and
 - (b) is not a person who is excluded by sub-paragraph (5).
- (2) A person falls within this sub-paragraph if he is a person with whom the child has been placed under—
- (a) section 23(2)(a) of the Children Act 1989 (c. 41) (provision of accommodation and maintenance for children by local authorities), or
 - (b) section 59(1)(a) of that Act (provision of accommodation for children by voluntary organisations).
- (3) A person falls within this sub-paragraph if—
- (a) he is a person who is approved as a foster carer by a local authority or a voluntary organisation in accordance with regulations under section 5 of the Social Work (Scotland) Act 1968 (c. 49) (as at 9th April 2003, see regulation 7 of the Fostering of Children (Scotland) Regulations 1996 (S.I. 1996/3263)) and is providing accommodation for the child who is being “looked after” by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36), or
 - (b) he is a person with whom the child has been placed—
 - (i) under regulations under section 5 of the Social Work (Scotland) Act 1968 (as at 9th April 2003, see regulations 14 and 16 of the Fostering of Children (Scotland) Regulations 1996 (S.I. 1996/3263)), or
 - (ii) pursuant to a supervision requirement under section 70 of the Children (Scotland) Act 1995.
- (4) A person falls within this sub-paragraph if he is a person with whom the child has been placed under—
- (a) Article 27(2)(a) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (provision of accommodation and maintenance for children by authorities), or

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- (b) Article 75(1)(a) of that Order (provision of accommodation for children by voluntary organisations).
- (5) The persons who are excluded are—
- (a) a parent of the child;
 - (b) a person who is not a parent of the child but who has parental responsibility, or (in Scotland) parental responsibilities, in relation to the child;
 - (c) where the child is in care and there was a residence order in force with respect to him immediately before the care order was made, a person in whose favour the residence order was made;
 - (d) in Scotland, where the child is in care and there was a residence order or a contact order in force with respect to him immediately before he was placed in care, a person in whose favour the residence order or contact order was made.

Meaning of “total foster care receipts”

- 5
- (1) For the purposes of this Schedule, an individual’s “total foster care receipts” for a year of assessment or (as the case may be) a period of account are all of the individual’s foster care receipts for that year or period.
 - (2) In calculating an individual’s total foster care receipts, no deduction is allowed for any expenses or any other matter.

The individual’s limit

- 6
- The individual’s limit for a year of assessment is the total of—
- (a) the individual’s share of the fixed amount for that year (see paragraph 7), and
 - (b) each amount per child for that individual for that year (see paragraph 8).

The individual’s share of the fixed amount

- 7
- (1) The fixed amount is £10,000.
 - (2) If, in a year of assessment, no adjustment falls to be made in the case of an individual—
 - (a) under sub-paragraph (3), or
 - (b) under sub-paragraph (4),the individual’s share of the fixed amount for that year is the fixed amount.
 - (3) If, in a year of assessment,—
 - (a) the residence used to provide the foster care from which an individual’s foster care receipts for that year are derived is also used by one or more other individuals for the provision of foster care, and
 - (b) that other individual, or those other individuals, also have foster care receipts for that year,each individual’s share of the fixed amount for that year is that amount divided by the total number of individuals who use the residence in that year for the provision of foster care and have foster care receipts for that year. This sub-paragraph is subject to sub-paragraph (4).

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- (4) If, in a year of assessment, the individual's income period for his foster care receipts is a period other than a year, the individual's share of the fixed amount for that year of assessment is found by multiplying the amount that would be his share (apart from this sub-paragraph) by—

$$\frac{D}{365}$$

where D is the number of days in the individual's income period.

- (5) In this paragraph “residence” means—
- (a) a building, or part of a building, which is occupied or intended to be occupied as a separate residence, or
 - (b) a caravan or houseboat.
- (6) If a building or part of a building is designed for permanent use as a single residence, but is temporarily divided into two or more separate residences, it is still treated as a single residence.

The amount per child

- 8 (1) An individual's amount per child for a year of assessment is found by multiplying—
- (a) the number of weeks during the income period for that year in which the individual provides foster care for that child, by
 - (b) the weekly amount for that child.
- (2) The weekly amount for a child is—
- (a) £200 for a week throughout which the child is under 11 years old, and
 - (b) £250 for a week—
 - (i) in which the child reaches the age of 11, or
 - (ii) throughout which the child is 11 years old or over.
- (3) Where in the case of any week an individual provides foster care for a child during an income period for part only of the week, that part of a week counts as a whole week for the purposes of this paragraph.
- (4) Where an income period begins or ends during a week, that week is to be counted for the purposes of this paragraph as falling within the income period which ends during the week (unless there is no such income period, in which case it falls within the income period which begins during the week).
- (5) In this paragraph “week” means any period of seven days beginning with a Monday.

Power to alter amounts

- 9 The Treasury may by order amend the amounts for the time being specified in paragraph 7(1) and 8(2).

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PART 2

THE EXEMPTION AND THE ALTERNATIVE METHODS OF CALCULATION

The exemption

- 10 (1) This paragraph applies to an individual for a year of assessment for which—
- (a) the individual qualifies for relief under this Schedule,
 - (b) his total foster care receipts do not exceed his limit, and
 - (c) paragraph 15 (cases where accounting date for trade, profession or vocation is other than 5th April) does not apply.
- (2) If the individual's foster care receipts for the year of assessment are the receipts of a trade, profession or vocation, the profits or losses from that trade, profession or vocation for the year are to be treated as nil.
- (3) If, in a case falling within sub-paragraph (2), the individual would, apart from that sub-paragraph, be entitled to a deduction for the year under section 63A(1) or (3) of the Taxes Act 1988 (overlap profits and overlap losses), the individual is entitled to that deduction notwithstanding that sub-paragraph.
- (4) Sub-paragraph (5) applies if the individual's foster care receipts for the year of assessment are receipts from one or more foster care arrangements.
- (5) For each foster care arrangement from which those receipts arise, the amount of—
- (a) the receipts arising in the year of assessment from the arrangement, less
 - (b) any expenses associated with those receipts,
- is to be treated as nil.

Alternative calculation of profits where amount is above the limit

- 11 The alternative method of calculating profits given in paragraphs 12 and 13 applies to an individual for a year of assessment for which—
- (a) the individual qualifies for relief under this Schedule,
 - (b) his total foster care receipts exceed his limit,
 - (c) paragraph 15 (cases where accounting date for trade, profession or vocation is other than 5th April) does not apply, and
 - (d) an election by him under paragraph 14 has effect.

Alternative calculation of profits: income from trade etc

- 12 (1) This paragraph applies if—
- (a) the alternative method of calculating profits applies to an individual for a year of assessment, and
 - (b) his foster care receipts for the year are the receipts of a trade, profession or vocation.
- (2) The profits of the year of assessment of the trade, profession or vocation from which the individual's foster care receipts arise are—
- (a) the amount of the foster care receipts for the year arising from the trade, profession or vocation, less
 - (b) the individual's limit for the year.

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Alternative calculation of profits: income charged under Case VI of Schedule D

- 13 (1) This paragraph applies if—
- (a) the alternative method of calculating profits applies to an individual for a year of assessment, and
 - (b) his foster care receipts for the year are receipts from one or more foster care arrangements.
- (2) The amount of the profits of the year of assessment from all of the foster care arrangements from which the individual's foster care receipts arise is—
- (a) the sum of the foster care receipts for the year from each foster care arrangement from which those receipts arise, less
 - (b) the individual's limit for the year.

Election for alternative method

- 14 (1) An individual may elect—
- (a) for the alternative method of calculating profits given in paragraph 12 or 13 to apply if the conditions specified in paragraph 11(a), (b) and (c) are met, and
 - (b) for the alternative method of calculating profits given in sub-paragraph (5) of paragraph 15 to apply if the conditions specified in paragraphs (a) and (b) of sub-paragraph (4) of that paragraph are met.
- (2) An election under this paragraph has effect for the year of assessment for which it is made.
- (3) Subject to sub-paragraphs (5) and (6), an election under this paragraph must be made on or before the election deadline for the year of assessment to which it relates.
- (4) The election deadline for a year of assessment is—
- (a) the first anniversary of the 31st January next following that year of assessment, or
 - (b) such later date as the Board may in any particular case allow.
- (5) If—
- (a) an individual does not make an election under this paragraph for a year of assessment on or before the election deadline for that year, and
 - (b) an adjustment is made after that deadline to the profits from his provision of foster care on which he is chargeable to tax for that year,
- the individual may make an election under this paragraph for the year on or before the date specified in sub-paragraph (6).
- (6) That date is—
- (a) the first anniversary of the 31st January next following the year of assessment in which the adjustment is made, or
 - (b) such later date as the Board may in any particular case allow.
- (7) Any election under this paragraph must be made in writing to an officer of the Board.

Periods of account ending otherwise than on 5th April

- 15 (1) This paragraph applies to an individual for a year of assessment for which—

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- (a) the individual qualifies for relief under this Schedule,
 - (b) his foster care receipts are the receipts of a trade, profession or vocation, and
 - (c) the period of account in which his foster care receipts accrue ends on a day other than 5th April in that year of assessment.
- (2) If the individual's total foster care receipts for the period of account do not exceed the relevant limit for that period (see sub-paragraph (6) or (8)) the profits or losses from his trade, profession or vocation for the year of assessment are to be treated as nil.
- (3) If, in a case falling within sub-paragraph (2), the individual would, apart from that sub-paragraph, be entitled to a deduction for the year under section 63A(1) or (3) of the Taxes Act 1988 (overlap profits and overlap losses), the individual is entitled to that deduction notwithstanding that sub-paragraph.
- (4) Sub-paragraph (5) applies where—
 - (a) the individual's total foster care receipts for the period of account exceed the relevant limit for that period, and
 - (b) an election by him under paragraph 14 has effect.
- (5) The profits of the year of assessment of the trade, profession or vocation from which the individual's foster care receipts arise are—
 - (a) the amount of the foster care receipts arising from the trade, profession or vocation for the period of account, less
 - (b) the relevant limit for that period.
- (6) If the period of account in which the individual's foster care receipts accrue ends in the year 2003-04, "the relevant limit" for that period is found by aggregating—
 - (a) the individual's share of the fixed amount for the year 2003-04 (found in accordance with paragraph 7), and
 - (b) each amount per child for that individual for that period of account.
- (7) For the purposes of sub-paragraph (6), an individual's amount per child for the period of account is each amount that would be his amount per child by virtue of paragraph 8 for the year 2003-04 if that period of account were the income period for that year.
- (8) If the period of account in which the individual's foster care receipts accrue ends in a year subsequent to the year 2003-04, "the relevant limit" for that period is found by aggregating—
 - (a) the individual's share of the fixed amount for the year in which the period of account ends (found in accordance with paragraph 7), and
 - (b) for each of the years of assessment in which the period of account falls, each amount per child for that individual for each part of that period of account which falls within that year of assessment.
- (9) For the purposes of sub-paragraph (8), an individual's amount per child for a part of a period of account is each amount that would be his amount per child by virtue of paragraph 8 for the year of assessment in which the part of that period falls if that part of the period of account were the income period for that year.

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PART 3

CAPITAL ALLOWANCES

Introductory

- 16 (1) Paragraphs 17 to 19 make provision for the application of the Capital Allowances Act 2001 (c. 2) (“CAA 2001”) in relation to—
- (a) a relevant individual, and
 - (b) a relevant chargeable period of that individual.
- (2) For this purpose, a “relevant individual” is an individual who, in a year of assessment, satisfies the conditions in sub-paragraphs (3) and (4).
- (3) The first condition is that in the year of assessment the individual would, apart from this Schedule, have foster care receipts chargeable—
- (a) under Case I or II of Schedule D as the profits of a trade, profession or vocation, or
 - (b) under Case VI of Schedule D as the profits of one or more foster care arrangements.
- (4) The second condition is that—
- (a) the exemption in paragraph 10 or (as the case may be) 15(2) applies to the individual for the year of assessment, or
 - (b) the individual has elected for the alternative method of calculating profits in paragraph 12, 13 or (as the case may be) 15(5) to apply to him for the year of assessment.
- (5) A period is a “relevant chargeable period” of a relevant individual if—
- (a) it is a chargeable period of the individual,
 - (b) it corresponds to an income period for the individual’s foster care receipts in a year of assessment, and
 - (c) that year of assessment is a year in which the individual satisfies the conditions in sub-paragraphs (3) and (4).

Provisions applying in relation to carried forward unrelieved qualifying expenditure

- 17 (1) This paragraph applies in any case where—
- (a) there is any available qualifying expenditure in a relevant pool for a relevant chargeable period of a relevant individual,
 - (b) that expenditure is unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period under section 59 of CAA 2001, and
 - (c) that previous chargeable period was not a relevant chargeable period.
- (2) In any such case, CAA 2001 has effect in relation to the relevant individual’s available qualifying expenditure in the pool for the relevant chargeable period as if—
- (a) a disposal event occurred immediately after the beginning of the period,
 - (b) disposal receipts fall to be brought into account in the pool for that period by reason of that event, and
 - (c) the total of those disposal receipts equals the amount of the unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period under section 59 of CAA 2001.

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- (3) In any such case, section 13 of CAA 2001 (use for qualifying activity of plant and machinery provided for other purposes) shall apply as if, on the first day of the first subsequent chargeable period which is not a relevant chargeable period,—
- (a) the relevant individual brings into use for the purposes of his provision of foster care such of the plant or machinery on which the unrelieved qualifying expenditure was incurred as he still owns on that day, and
 - (b) he owns that plant or machinery as a result of having incurred capital expenditure on its provision for purposes other than those of the provision of foster care.
- (4) In this paragraph “relevant pool” means a pool containing expenditure incurred on the provision of plant or machinery wholly or partly for the purposes of the provision of foster care by the relevant individual.

Expenditure incurred in a relevant chargeable period not qualifying expenditure

- 18 Capital expenditure (“excluded capital expenditure”) which is incurred—
- (a) by a relevant individual,
 - (b) in a relevant chargeable period, and
 - (c) on the provision of plant or machinery wholly or partly for the purposes of the provision of foster care by the individual,
- does not constitute qualifying expenditure for the purposes of CAA 2001.

Excluded capital expenditure: subsequent treatment of asset

- 19 Where a relevant individual incurs excluded capital expenditure in a relevant chargeable period, section 13 of CAA 2001 shall apply as if, on the first day of the first subsequent chargeable period which is not a relevant chargeable period,—
- (a) he brings into use for the purposes of his provision of foster care such of the plant or machinery on which the expenditure was incurred as he still owns on that day, and
 - (b) he owns that plant or machinery as a result of having incurred capital expenditure on its provision for purposes other than those of the provision of foster care.

Interpretation of this Part

- 20 Expressions which—
- (a) are used in this Part, and
 - (b) are used in CAA 2001, but
 - (c) apart from this paragraph, are not defined in this Schedule,
- have the same meaning in this Part as in that Act.

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PART 4

SUPPLEMENTARY

Interpretation

21 In this Schedule—

“CAA 2001” means the Capital Allowances Act 2001 (c. 2);

“excluded capital expenditure” is to be construed in accordance with paragraph 18;

“foster care arrangement” has the meaning given in paragraph 2(5);

“foster care receipts” is to be construed in accordance with paragraph 3;

“income period” is to be construed in accordance with paragraph 3(2) and (3);

“profits” includes gains;

“provision of foster care” has the meaning given in paragraph 4;

“relevant chargeable period” is to be construed in accordance with paragraph 16(5);

“relevant individual” is to be construed in accordance with paragraph 16(2);

“total foster care receipts” is to be construed in accordance with paragraph 5.

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