



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 7 **U.K.**

INCOME CHARGED UNDER THIS ACT: RENT-A-ROOM AND FOSTER-CARE RELIEF

CHAPTER 2 **U.K.**

FOSTER-CARE RELIEF

Introduction

803 Overview of Chapter 2 **U.K.**

- (1) This Chapter provides relief on income from the provision by an individual of foster care.

The relief is referred to in this Chapter as “foster-care relief”.

- (2) The form of relief depends on whether the individual's total foster-care receipts exceed the individual's limit (see sections 807 to 811).
- (3) If they do not, the income is not charged to income tax (see sections 812 to 814).
- (4) If they do, the individual may elect for an alternative method of calculating the income (see sections 815 to 819).
- (5) If the foster-care receipts are the receipts of a trade, special rules apply —
 - (a) if the period of account of the trade does not end on 5th April (see sections 820 to 823), and
 - (b) in relation to capital allowances (see sections 824 to 827).

Status: Point in time view as at 06/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 2. (See end of Document for details)

- (6) The provisions of this Chapter which are expressed to apply in relation to trades also apply in relation to professions and vocations.

804 Person who qualifies for relief U.K.

- (1) An individual qualifies for foster-care relief for a tax year if the individual—
- (a) has foster-care receipts for the tax year (see section 805), and
 - (b) does not derive any taxable income other than foster-care receipts from a relevant trade or arrangement.
- (2) “Taxable income” means receipts or other income in respect of which the individual is liable to income tax for the tax year.
- (3) A relevant trade or arrangement is one from which the individual derives foster-care receipts for the tax year.

Basic definitions

805 Meaning of “foster-care receipts” U.K.

- (1) For the purposes of this Chapter an individual has foster-care receipts for a tax year if—
- (a) the receipts are in respect of the provision of foster care,
 - (b) they accrue to the individual during the income period for those receipts (see subsections (2) and (3)), and
 - (c) the receipts would otherwise be brought into account in calculating the profits of a trade or chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).
- (2) If the receipts would otherwise be brought into account in calculating the profits of a trade, the income period is the basis period for the tax year (see Chapter 15 of Part 2).
- (3) Otherwise the income period is the tax year.

806 Meaning of providing foster care U.K.

- (1) For the purposes of this Chapter foster care is provided if an individual—
- (a) provides accommodation and maintenance for a child, and
 - (b) does so as a foster carer.
- (2) An individual is a foster carer if the child is placed with the individual under any of the following enactments, unless the individual is excluded by subsection (5).
- (3) The enactments are—
- (a) section 23(2)(a) or 59(1)(a) of the Children Act 1989 (c. 41) (provision of accommodation for children by local authorities or voluntary organisations),
 - (b) regulations under section 5 of the Social Work (Scotland) Act 1968 (c. 49),
 - (c) section 70 of the Children (Scotland) Act 1995 (c. 36), and
 - (d) Article 27(2)(a) or 75(1)(a) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (provision of accommodation for children by authorities or voluntary organisations).

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- (4) An individual is also a foster carer if—
- (a) the individual 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), and
 - (b) the child in respect of whom the accommodation is provided is being “looked after” by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c. 36),
- unless the individual is excluded by subsection (5).
- (5) The following are excluded individuals—
- (a) a parent of the child,
 - (b) an individual who is not a parent of the child but who has parental responsibility (or, in Scotland, parental responsibilities) in relation to the child,
 - (c) if the child is in care and there was a residence order in force with respect to the child immediately before the care order was made, an individual in whose favour the residence order was made, and
 - (d) (in Scotland) if the child is in care and there was a residence order or contact order in force with respect to the child immediately before the child was placed in care, an individual in whose favour the residence order or contact order was made.

807 Calculation of “total foster-care receipts” U.K.

For the purposes of this Chapter, in calculating an individual's “total foster-care receipts” for a tax year, no deduction is allowed for expenses or any other matter.

Individual's limit

808 The individual's limit U.K.

- (1) For the purposes of this Chapter an individual's limit for a tax year is the total of—
- (a) the fixed amount for the tax year or, if section 809 or 810 applies, the individual's share of that amount, and
 - (b) each amount per child for the individual for the tax year (see section 811).
- (2) For the purposes of this Chapter the fixed amount for a tax year is £10,000.
- (3) The Treasury may by order amend the sum for the time being specified in subsection (2).

809 Share of fixed amount: residence used by more than one foster carer U.K.

- (1) This section applies if in a tax year—
- (a) the residence used to provide the foster care from which an individual's foster-care receipts for the tax year are derived is also used by another individual to provide foster care, and
 - (b) the other individual also has foster-care receipts for the tax year.
- (2) Each individual's share of the fixed amount for the tax year is the fixed amount divided by the total number of individuals who—

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- (a) use the residence in the tax year to provide foster care, and
 - (b) have foster-care receipts for the tax year.
- (3) In this section “residence” means—
- (a) a building, or part of a building, occupied or intended to be occupied as a separate residence, or
 - (b) a caravan or houseboat.
- (4) If a building, or part of a building, designed for permanent use as a single residence is temporarily divided into two or more separate residences, it is still treated as a single residence.

810 Share of fixed amount: income period not a year U.K.

- (1) This section applies if in a tax year an individual's income period for the individual's foster-care receipts is a period other than a year.
- (2) The individual's share of the fixed amount for the tax year is—

$$\frac{AS \times D}{365}$$

where—

AS is the fixed amount or (if section 809 applies) the individual's share of the fixed amount, and

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

811 The amount per child U.K.

- (1) An individual's amount per child for a tax year is found by multiplying—
 - (a) the number of weeks during the income period for the tax year in which the individual provides foster care for the child, by
 - (b) the weekly amount for the 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 other weeks.
- (3) The Treasury may by order amend any amount for the time being specified in subsection (2).
- (4) If an individual provides foster care for a child during an income period for only part of a week, the part is treated as a whole week.
- (5) If an income period begins or ends during a week, the week is treated as falling within the income period ending during the week.

But if there is no such income period, the week is treated as falling within the income period beginning during the week.
- (6) A week is a period of 7 days beginning with a Monday.

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Relief if amount does not exceed limit

812 Full foster-care relief: introduction U.K.

Sections 813 and 814 (which give the full form of foster-care relief) apply if—

- (a) an individual qualifies for foster-care relief for a tax year,
- (b) the individual's total foster-care receipts for the tax year do not exceed the individual's limit for the tax year, and
- (c) sections 822 and 823 do not apply (accounting date for trade not 5th April).

813 Full foster-care relief: trading income U.K.

- (1) This section applies if the individual's foster-care receipts for the tax year would otherwise be brought into account in calculating the profits of a trade.
- (2) The profits or losses of the trade for the tax year are treated as nil.

814 Full foster-care relief: income chargeable under Chapter 8 of Part 5 U.K.

- (1) This section applies if the individual's foster-care receipts for the tax year would otherwise be chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).
- (2) For each arrangement from which those receipts arise, the amount of—
 - (a) those receipts arising in the tax year from the arrangement, less
 - (b) any expenses associated with them,is treated as nil.

Alternative calculation of profits if amount exceeds limit

815 Alternative calculation of profits: introduction U.K.

Sections 816 and 817 (which provide for an alternative method of calculating profits) apply if—

- (a) an individual qualifies for foster-care relief for a tax year,
- (b) the individual's total foster-care receipts for the tax year exceed the individual's limit for the tax year,
- (c) sections 822 and 823 do not apply (accounting date for trade not 5th April), and
- (d) an election by the individual has effect to apply the alternative method of calculating profits for the tax year (see sections 818 and 819).

816 Alternative calculation of profits: trading income U.K.

- (1) This section applies if the individual's foster-care receipts for the tax year are the receipts of a trade.
- (2) The profits of the trade for the tax year are—
 - (a) the individual's total foster-care receipts for the tax year, less
 - (b) the individual's limit for the tax year.

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817 Alternative calculation of profits: income chargeable under Chapter 8 of Part 5 U.K.

- (1) This section applies if the individual has foster-care receipts for the tax year which are chargeable to income tax under Chapter 8 of Part 5 (income not otherwise charged).
- (2) The amount charged for the tax year arising from all the arrangements from which the receipts are derived is—
 - (a) the individual's total foster-care receipts for the tax year, less
 - (b) the individual's limit for the year.

818 Election for alternative method of calculating profits U.K.

- (1) An individual may elect for the alternative method of calculating profits given in sections 816 and 817 to apply if—
 - (a) the individual qualifies for foster-care relief for a tax year,
 - (b) the individual's total foster-care receipts for the tax year exceed the individual's limit for the tax year, and
 - (c) sections 822 and 823 do not apply (accounting date for trade not 5th April).
- (2) An election under this section—
 - (a) must specify the tax year for which it is made, and
 - (b) has effect for that year (unless withdrawn by notice given by the individual).
- (3) An election or notice of withdrawal under this section must be made or given to the Inland Revenue on or before—
 - (a) the first anniversary of the normal self-assessment filing date for the tax year for which the election is made, or
 - (b) such later date as the Inland Revenue may, in a particular case, allow.

819 Adjustment of assessment U.K.

- (1) This section applies if—
 - (a) an individual does not make an election under section 818 for a tax year on or before the date for making the election, and
 - (b) an adjustment is made after that date to the profits from the individual's provision of foster care on which the individual is liable to tax for the tax year.
- (2) The individual may make an election under this section to apply the alternative method of calculating profits given in sections 816 and 817 for the tax year.
- (3) The election—
 - (a) must specify that tax year, and
 - (b) has effect for that tax year (unless withdrawn by notice given by the individual).
- (4) An election or notice of withdrawal under this section must be made or given to the Inland Revenue on or before—
 - (a) the first anniversary of the normal self-assessment filing date for the tax year in which the adjustment is made, or
 - (b) such later date as the Inland Revenue may, in a particular case, allow.

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Periods of account not ending on 5th April

820 Periods of account not ending on 5th April **U.K.**

Sections 822 and 823 (which deal with the period of account of a trade not ending on 5th April) apply if—

- (a) an individual qualifies for foster-care relief for a tax year,
- (b) the individual's foster-care receipts for the tax year are the receipts of a trade, and
- (c) the period of account in which those receipts accrue does not end on 5th April in the tax year.

821 Meaning of “relevant limit” **U.K.**

- (1) For the purposes of sections 822 and 823 the “relevant limit” for a period of account in which the individual's foster-care receipts accrue is found by adding—
 - (a) the fixed amount for the tax year in which that period ends or (as the case may be) the individual's share of the fixed amount for that year (found in accordance with sections 808 to 810), and
 - (b) for each of the tax years in which the period of account falls, each amount per child for the individual for each part of the period of account falling in that tax year.
- (2) For this purpose an individual's amount per child for a part of the period of account is each amount that would be the individual's amount per child under section 811 for the tax year in which the part falls if that part were the income period for that year.

822 Full relief **U.K.**

- (1) This section applies if the individual's total foster-care receipts for the period of account do not exceed the individual's relevant limit for the period.
- (2) The profits or losses of the trade for the tax year are treated as nil.

823 Alternative method of calculating profits **U.K.**

- (1) This section applies if—
 - (a) the individual's total foster-care receipts for the period of account exceed the individual's relevant limit for the period, and
 - (b) the individual makes an election under this section.
- (2) The profits of the trade for the tax year are—
 - (a) the individual's total foster-care receipts for the period of account, less
 - (b) the individual's relevant limit for the period.
- (3) Sections 818(2) and (3) and 819 (adjustment of assessment) apply for the purposes of an election under this section as they apply for the purposes of an election under those sections.

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Capital allowances for foster carers carrying on trade

824 Capital allowances: introduction **U.K.**

- (1) In this group of sections (that is, this section and sections 825 to 827) an individual is a “relevant individual” if in a tax year—
 - (a) the full foster-care relief in section 813 or 822 (trading income), or
 - (b) the alternative method of calculating profits under section 816 or 823 (trading income),
 applies to the individual for the tax year.
- (2) In this group of sections a period is a “relevant chargeable period” of a relevant individual if—
 - (a) it is a chargeable period of the individual, and
 - (b) it corresponds to the income period for the individual's foster-care receipts in the tax year for which the individual is a relevant individual.
- (3) Expressions—
 - (a) which are used in CAA 2001 and in this group of sections, but
 - (b) which are not otherwise defined in this Chapter,
 have the same meaning in this group of sections as in CAA 2001.

825 Carried forward unrelieved qualifying expenditure **U.K.**

- (1) This section applies if—
 - (a) there is available qualifying expenditure in a relevant pool for a relevant chargeable period of a relevant individual,
 - (b) the expenditure is unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period under section 59 of CAA 2001, and
 - (c) the previous chargeable period was not a relevant chargeable period.
- (2) “Relevant pool” means a pool containing expenditure incurred on the provision of plant or machinery wholly or partly for the provision of foster care by the relevant individual.
- (3) CAA 2001 applies 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 the period because of that event, and
 - (c) the total of the receipts equals the amount of the unrelieved qualifying expenditure carried forward.
- (4) Section 13 of CAA 2001 (use for qualifying activity of plant or machinery provided for other purposes) applies 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 provision of foster care such of the plant or machinery on which the unrelieved qualifying expenditure was incurred as the individual still owns on that day, and
 - (b) the individual owns the plant or machinery as a result of incurring capital expenditure on its provision for other purposes.

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826 Excluded capital expenditure **U.K.**

Capital expenditure (“excluded capital expenditure”) does not constitute qualifying expenditure for the purposes of CAA 2001 if it is—

- (a) incurred by a relevant individual in a relevant chargeable period, and
- (b) incurred on the provision of plant or machinery wholly or partly for the provision of foster care by the individual.

827 Excluded capital expenditure: subsequent treatment of asset **U.K.**

If a relevant individual incurs excluded capital expenditure in a relevant chargeable period, section 13 of CAA 2001 applies as if, on the first day of the first subsequent chargeable period which is not a relevant chargeable period—

- (a) the individual brings into use for the provision of foster care such of the plant or machinery on which the expenditure was incurred as the individual still owns on that day, and
- (b) the individual owns the plant or machinery as a result of incurring capital expenditure on its provision for other purposes.

Overlap profit

828 Overlap profit **U.K.**

- (1) This section applies if the profits or losses of a trade for a tax year are calculated in accordance with section 813, 816, 822 or 823.
- (2) Nothing in this Chapter is to be read—
 - (a) as preventing a deduction for overlap profit under section 205 or 220 in calculating the profits or losses of the trade for the tax year, or
 - (b) as preventing overlap profit from arising by reference to profits of the trade calculated for the tax year in accordance with section 816 or 823 (alternative calculation of profits).
- (3) “Overlap profit” has the same meaning in this section as it has in Chapter 15 of Part 2 (see section 204).

Status:

Point in time view as at 06/04/2005.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 2.