

SCHEDULE
NET WEEKLY INCOME

PART III
SELF-EMPLOYED EARNER

Figures submitted to the Inland Revenue

7.—(1) Subject to sub-paragraph (6) the net weekly income of the non-resident parent as a self-employed earner shall be his gross earnings calculated by reference to one of the following, as the Secretary of State may decide, less the deductions to which sub-paragraph (3) applies—

- (a) the total taxable profits from self-employment of that earner as submitted to the Inland Revenue in accordance with their requirements by or on behalf of that earner; or
- (b) the income from self-employment as a self-employed earner as set out on the tax calculation notice or, as the case may be, the revised notice.

(2) Where the information referred to in head (a) or (b) of sub-paragraph (1) is made available to the Secretary of State he may nevertheless require the information referred to in the other head from the non-resident parent and where the Secretary of State becomes aware that a revised notice has been issued he may require and use this in preference to the other information referred to in sub-paragraph (1)(a) and (b).

(3) This paragraph applies to the following deductions—

- (a) any income tax relating to the gross earnings from the self-employment determined in accordance with sub-paragraph (4);
- (b) any National Insurance contributions relating to the gross earnings from the self-employment determined in accordance with sub-paragraph (5); and
- (c) any premiums paid by the non-resident parent in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or a charge secured upon the parent's home, 75 per centum of the contributions payable.

(4) For the purpose of sub-paragraph (3)(a), the income tax to be deducted from the gross earnings shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of gross earnings equivalent to any personal allowance applicable to the earner by virtue of the provisions of Chapter I of Part VII of the Income and Corporation Taxes Act 1988 (personal relief) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the gross earnings remaining following the application of head (a) (the “remaining earnings”);
- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings related to a period greater or less than one year; and
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the gross earnings bears to the period of one year.

(5) For the purposes of sub-paragraph (3)(b), the amount to be deducted in respect of National Insurance contributions shall be the total of—

- (a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, (3) of the Contributions and Benefits Act or under section 11(1) or (3) of the Contributions and Benefits (Northern Ireland) Act; and
 - (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act, or under section 15(2) of the Contributions and Benefits (Northern Ireland) Act,
- at the rates applicable at the effective date.

(6) The net weekly income of a self-employed earner may only be determined in accordance with this paragraph where the earnings concerned relate to a period which terminated not more than 24 months prior to the relevant week.

(7) In this paragraph—

“tax calculation notice” means a document issued by the Inland Revenue containing information as to the income of the self-employed earner; and

“revised notice” means a notice issued by the Inland Revenue where there has been a tax calculation notice and there is a revision of the figures relating to the income of a self-employed earner following an enquiry under section 9A of the Taxes Management Act 1970(1) or otherwise by the Inland Revenue.

(8) Any request by the Secretary of State in accordance with sub-paragraph (2) for the provision of information shall set out the possible consequences of failure to provide such information, including details of the offences provided for in section 14A of the Act(2) for failing to provide, or providing false, information.

Figures calculated using gross receipts less deductions

8.—(1) Where—

- (a) the conditions of paragraph 7(6) are not satisfied; or
- (b) the Secretary of State accepts that it is not reasonably practicable for the self-employed earner to provide information relating to his gross earnings from self-employment in the forms submitted to, or as issued or revised by, the Inland Revenue; or
- (c) in the opinion of the Secretary of State, information as to the gross earnings of the self-employed earner which has satisfied the criteria set out in paragraph 7 does not accurately reflect the normal weekly earnings of the self-employed earner,

net income means in the case of employment as a self-employed earner his earnings calculated by reference to the gross receipts of the employment less the deductions provided for in sub-paragraph (2).

(2) The deductions to be taken from the gross receipts to calculate net earnings for the purposes of this paragraph are—

- (a) any expenses which are reasonably incurred and are wholly and exclusively defrayed for the purposes of the earner’s business in the period by reference to which his earnings are determined under paragraph 9(2) or (3);
- (b) any value added tax paid in the period by reference to which his earnings are determined in excess of value added tax received in that period;
- (c) any amount in respect of income tax determined in accordance with sub-paragraph (4);
- (d) any amount of National Insurance contributions determined in accordance with sub-paragraph (4); and

(1) 1970 c. 9. Section 9A was inserted by sections 180 and 199(1) and (2) of the Finance Act 1994 (c. 9) and amended by section 133 and Schedule 19, paragraph 2 of the Finance Act 1996 (c. 8).

(2) Section 14A is inserted by section 13 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

- (e) any premium paid by the non-resident parent in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or a charge secured upon the parent's home, 75 per centum of contributions payable.
- (3) For the purposes of sub-paragraph (2)(a)—
- (a) such expenses include—
 - (i) repayment of capital on any loan used for the replacement, in the course of business, of equipment or machinery, or the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and
 - (iii) any payment of interest on a loan taken out for the purposes of the business;
 - (b) such expenses do not include—
 - (i) repayment of capital on any other loan taken out for the purposes of the business;
 - (ii) any capital expenditure;
 - (iii) the depreciation of any capital assets;
 - (iv) any sum employed, or intended to be employed, in the setting up or expansion of the business;
 - (v) any loss incurred before the beginning of the period by reference to which earnings are determined;
 - (vi) any expenses incurred in providing business entertainment; or
 - (vii) any loss incurred in any other employment in which he is engaged as a self-employed earner.
- (4) For the purposes of sub-paragraph (2)(c) and (d), the amounts in respect of income tax and National Insurance contributions to be deducted from the gross receipts shall be determined in accordance with paragraph 7(4) and (5) of this Schedule as if in paragraph 7(4) references to gross earnings were references to taxable earnings and in this sub-paragraph "taxable earnings" means the gross receipts of the earner less the deductions mentioned in sub-paragraph (2)(a) and (b).

Rules for calculation under paragraph 8

9.—(1) This paragraph applies only where the net income of a self-employed earner is calculated or estimated under paragraph 8 of this Schedule.

(2) Where—

- (a) a non-resident parent has been a self-employed earner for 52 weeks or more, including the relevant week, the amount of his net weekly income shall be determined by reference to the average of the earnings which he has received in the 52 weeks ending with the relevant week; or
- (b) a non-resident parent has been a self-employed earner for a period of less than 52 weeks including the relevant week, the amount of his net weekly income shall be determined by reference to the average of the earnings which he has received during that period.

(3) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the Secretary of State, does not accurately reflect the normal weekly income of the non-resident parent in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of the non-resident parent to be determined more accurately and for this purpose the Secretary of State shall have regard to—

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- (a) the earnings from self-employment received, or due to be received, by him; and
- (b) the duration and pattern, or the expected duration and pattern, of any self-employment of that non-resident parent.

(4) Where a person has claimed, or has been paid, working families' tax credit or disabled person's tax credit on any day during the period beginning not earlier than 8 weeks before the relevant week and ending not later than the date on which the calculation is made, the Secretary of State may have regard to the amount of earnings taken into account in determining entitlement to those tax credits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating net income, notwithstanding the fact that entitlement to those tax credits may have been determined by reference to earnings attributable to a period other than that specified in subparagraph (2).

Income from board or lodging

10. In a case where a non-resident parent is a self-employed earner who provides board and lodging, his earnings shall include payments received for that provision where those payments are the only or main source of income of that earner.