
STATUTORY INSTRUMENTS

1987 No. 1973

The Family Credit (General) Regulations 1987

PART IV

INCOME AND CAPITAL

CHAPTER IV

SELF-EMPLOYED EARNERS

Earnings of self-employed earners

21.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment and shall include any allowance paid under section 2 of the Employment and Training Act 1973(1) to the claimant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

(2) Where a claimant is employed in providing board and lodging accommodation for which a charge is payable, any income consisting of payments of such a charge shall only be taken into account under this Chapter as earnings if it forms a major part of the total of the claimant’s weekly income less any sums disregarded under Schedule 2.

Calculation of net profit of self-employed earners

22.—(1) For the purposes of regulation 15 (normal weekly earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(2), his share of the net profit derived from that employment less—
 - (i) an amount in respect of income tax and social security contributions payable under the Social Security Act calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and
 - (ii) one-half of any qualifying premium payable.

(2) There shall be disregarded from a claimant’s net profit any sum, where applicable, specified in Schedule 1.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) or (10) applies, be calculated by taking into account the earnings of the employment over the assessment period, less—

(1) 1973 c. 50; section 2 was amended by sections 9 and 11 and Schedule 2, Part II, paragraph 9 and Schedule 3 of the Employment and Training Act 1981 (c. 57).
(2) S.I.1975/529.

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
 - (b) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the Social Security Act, calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and
 - (c) one-half of any qualifying premium payable.
- (4) For the purposes of paragraph (1)(b) the net profit of the employment shall, except where paragraph (10) applies, be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.
- (5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(a) or (4) in respect of—
- (a) any capital expenditure;
 - (b) the depreciation of any capital asset;
 - (c) any sum employed, or intended to be employed, in the setting up or expansion of the employment;
 - (d) any loss incurred before the beginning of the assessment period;
 - (e) the repayment of capital on any loan taken out for the purposes of the employment;
 - (f) any expenses incurred in providing business entertainment.
- (6) A deduction shall be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—
- (a) the replacement in the course of business of equipment or machinery; and
 - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- (7) An adjudication officer shall refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where he is not satisfied that the expense has been defrayed or given the nature and the amount of the expense that it has been reasonably incurred.
- (8) For the avoidance of doubt—
- (a) a deduction shall not be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
 - (b) a deduction shall be made thereunder in respect of—
 - (i) the excess of any VAT paid over VAT received in the assessment period;
 - (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;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the Social Security Act, calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and

(b) one-half of any qualifying premium payable.

(10) Where the earnings of a claimant are estimated under paragraph (2) of regulation 15 (normal weekly earnings of self-employed earners), his net profit shall be calculated by taking into account his estimated earnings from the employment less the amount of the deductions likely to be made under sub-paragraphs (a) to (c) of paragraph (3) in respect of those earnings.

(11) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

(12) In this regulation “qualifying premium” means any premium or other consideration payable under an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the claimant of a life annuity in old age or the provision of an annuity for his partner or for any one or more of his dependants and in respect of which relief from income tax may be given.

Deduction of tax and contributions for self-employed earners

23.—(1) The amount to be deducted in respect of income tax under regulation 22(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income, and as if that income were assessable to income tax at the basic rate of tax in the year of assessment in which the claim was made, less only the personal relief to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970 (personal relief) as is appropriate to his circumstances; but, if the assessment period is less than a year the amount of the personal relief deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 22(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 7(1) or, as the case may be, (4) of the Social Security Act(3) where the claimant’s chargeable income is less than the amount for the time being specified in section 7(5) of that Act(4) (small earnings exception); and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 9 of that Act(5) (Class 4 contributions recoverable under Tax Acts) in respect of profits or gains equal to the amount of that income.

(3) In this regulation “chargeable income” means—

- (a) except where sub-paragraph (b) or (c) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 22;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment; or
- (c) where the earnings of the claimant are estimated under paragraph (2) of regulation 15 (normal weekly earnings of self-employed earners), his estimated earnings from the employment less any expenses likely to be deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 22.

(3) Section 7(1) was amended by section 2(4) of the Education (School-Leaving Dates) Act 1976 (c. 5), section 17(1) of the Health and Social Security Act 1984 (c. 48) article 3 of S.I. 1986/25 and article 3 of S.I. 1987/46.

(4) Section 7(5) was amended by article 3 of S.I. 1986/25 and S.I. 1987/46.

(5) Section 9 was amended by sections 4 and 65 of, and Schedule 5 to, the Social Security Pensions Act 1975 (c. 60), by the Social Security Contributions Act 1982 (c. 2) section 1 and S.I. 1986/25.

Status: *This is the original version (as it was originally made).*
