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STATUTORY INSTRUMENTS

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**2008 No. 794**

**The Employment and Support Allowance Regulations 2008**

**PART 10**

**INCOME AND CAPITAL**

**CHAPTER 5**

**Participants in the self-employment route**

**Interpretation**

**100.** In this Chapter “special account” means, where a claimant was carrying on a commercial activity in respect of which assistance is received under the self-employment route, the account into which the gross receipts from that activity were payable during the period in respect of which such assistance was received.

**Treatment of gross receipts of participants in the self-employment route**

**101.** The gross receipts of a commercial activity carried on by a claimant in respect of which assistance is received under the self-employment route, are to be taken into account in accordance with the following provisions of this Chapter.

**Calculation of income of participants in the self-employment route**

**102.—**(1) The income of a claimant who has received assistance under the self-employment route is to be calculated by taking into account the whole of the monies in the special account at the end of the last day on which such assistance was received and deducting from those monies—

- (a) an amount in respect of income tax calculated in accordance with regulation 103 (deduction in respect of tax for participants in the self-employment route); and
- (b) any sum to which paragraph (4) refers.

(2) Income calculated pursuant to paragraph (1) is to be apportioned equally over a period which starts on the date the income is treated as paid under paragraph (3) and is equal in length to the period beginning with the day on which assistance was first received under the self-employment route and ending on the last day on which such assistance was received.

(3) Income calculated pursuant to paragraph (1) is to be treated as paid—

- (a) in the case where it is due to be paid before the first benefit week in respect of which the participant or the participant's partner first claims an income-related allowance following the last day on which assistance was received under the self-employment route, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid.

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(4) This paragraph refers, where applicable in each benefit week in respect of which income calculated pursuant to paragraph (1) is taken into account pursuant to paragraphs (2) and (3), to the sums which would have been disregarded under paragraph 7(1) of Schedule 7 had the income been earnings.

### **Deduction in respect of tax for participants in the self-employment route**

**103.**—(1) The amount to be deducted in respect of income tax under regulation 102(1)(a) (calculation of income of participants in the self-employment route) in respect of the period determined under regulation 102(2) is to be calculated as if—

- (a) the chargeable income is the only income chargeable to tax;
- <sup>F1</sup>(b) the personal reliefs applicable to the person receiving assistance under the self-employment route under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 are allowable against that income;]
- (c) the rate at which the chargeable income less the [<sup>F2</sup>personal reliefs] is assessable to income tax is the <sup>F3</sup>... basic rate<sup>F4</sup>, or in the case of a Scottish taxpayer, the Scottish basic rate,] of tax.

(2) For the purpose of paragraph (1), the [<sup>F5</sup>basic rate, or the Scottish basic rate, of tax to be applied and the amount of personal reliefs deductible are], where the period determined under regulation 102(2) is less than a year, to be calculated on a pro rata basis.

(3) In this regulation, “chargeable income” means the monies in the special account at the end of the last day upon which assistance was received under the self-employment route.

#### **Textual Amendments**

- F1** Reg. 103(1)(b) substituted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **6(4)(a)**
- F2** Words in reg. 103(1)(c) substituted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **6(4)(b)(i)**
- F3** Words in reg. 103(1)(c) omitted (27.10.2008) by virtue of [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/2428\)](#), regs. 1(2), **8(4)(a)**
- F4** Words in reg. 103(1)(c) inserted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **6(4)(b)(ii)**
- F5** Words in reg. 103(2) substituted (6.4.2016) by [The Social Security \(Scottish Rate of Income Tax etc.\) \(Amendment\) Regulations 2016 \(S.I. 2016/233\)](#), regs. 1, **6(4)(c)**

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