
STATUTORY INSTRUMENTS

2013 No. 379

The Employment and Support Allowance Regulations 2013

PART 10

Income and earnings

Deduction of tax and contributions for self-employed earners

84.—(1) Subject to paragraph (2), the amount to be deducted in respect of income tax under regulation 83(1)(b)(i), (2)(b)(i) or (8)(a)(i) (calculation of net profit of self-employed earners) is to 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 less only the personal allowance to which the claimant is entitled under sections 35 and 38 to 40 of the Income Tax Act 2007 (personal reliefs)(1) as is appropriate to the claimant's circumstances.

(2) If the period determined under regulation 77 is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under paragraph (1) are to be calculated on a pro rata basis.

(3) The amount to be deducted in respect of National Insurance contributions under regulation 83(1)(b)(i), (2)(b)(ii) or (8)(a)(ii) is to be the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, (3) of the Contributions and Benefits Act(2) at the rate applicable at the date of claim except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year in which the date of claim falls; but if the assessment period is less than a year, the amount specified for that tax year is to be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts)(3) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits applicable for the tax year in which the date of claim falls; but if the assessment period is less than a year, those limits are to be reduced pro rata.

(4) In this regulation—

“assessment period” means the period mentioned in regulation 77 over which the weekly amount of the claimant's earnings is to be determined;

“basic rate” has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);

(1) 2007 c.3. Section 35 was amended by section 4 of the Finance Act 2009 (c.10) and sections 3 and 4 of the Finance Act 2012 (c.14). Section 38 was amended by S.I. 2011/2926. Section 40 was amended by paragraph 55 of Schedule 9 to the Finance Act 2008 (c.9).

(2) Section 11 was amended by paragraph 12 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2) and S.I. 2012/807.

(3) Section 15 was amended by paragraph 420 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c.5), sections 2 and 3 of the National Insurance Contributions Act 2002 (c.19), section 13 of the Limited Liability Partnerships Act 2000 (c.12) and S.I.s 2011/938 and 2012/807.

“chargeable income” means—

- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (2)(a) or, as the case may be, (3) of regulation 83;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.