

## SCHEDULES

### SCHEDULE 3

#### Calculation of income

### PART 4

#### Residual income

#### CHAPTER 1

#### Residual income of an eligible student

#### **Calculation of eligible student's residual income**

**10.** — For the purposes of calculating an eligible student's household income under Part 2, the student's residual income is calculated as follows—

The eligible student's taxable income in respect of the current academic year.

*Plus*

Income payable to the eligible student under a pension arrangements order during the current academic year, net of income tax.

*Minus*

The aggregate of the deductions set out in paragraph 11 (unless already deducted for the purposes of determining the student's taxable income).

#### **Deductions for the purpose of calculating residual income of an eligible student**

**11.** — For the purposes of calculating an eligible student's residual income, the deductions are—

*Deduction A*

Remuneration paid to the eligible student in the current academic year for work done during any academic year of the course, but not remuneration in respect of any—

- (a) period of leave taken by the student, or
- (b) other period during which the student is relieved of a duty to attend work,

so that the student may undertake the course.

*Deduction B*

The gross amount of any premium or sum paid by the eligible student during the current academic year in relation to a pension in respect of which—

- (a) relief is given under section 188 of the Finance Act 2004 <sup>M1</sup>, or

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- (b) where the student's income is computed for the purposes of the income tax legislation of [F1 a member State], relief would be given if that legislation made provision equivalent to the Income Tax Acts,

but not including any sum paid as a premium under a policy of life assurance.

#### Textual Amendments

- F1** Words in Sch. 3 para. 11 substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **32(4)(a)**

#### Marginal Citations

- M1** 2004 c.12; section 188 was amended by the Finance Act 2007 (c. 11), sections 68 and 114 and Schedules 18, 19 and 27, the Finance Act 2013 (c. 29), section 52 and the Finance Act 2014 (c. 26), Schedule 7.

### Income of eligible student received in currency other than sterling

**12.**—(1) Where the eligible student receives income in a currency other than sterling, the value of the income is—

- (a) the amount of sterling the eligible student receives for the income, or  
 (b) where the student does not convert the income into sterling, the value of the sterling which the income would purchase using the HMRC exchange rate.

(2) The HMRC exchange rate <sup>M2</sup> is the rate published by HM Revenue and Customs for the month corresponding to the month in which the income is received.

#### Marginal Citations

- M2** See <https://www.gov.uk/government/collections/exchange-rates-for-customs-and-vat>.

## CHAPTER 2

### Residual income of persons other than an eligible student

#### Persons to whom this chapter applies

**13.** This Chapter makes provision for the calculation of a person's ("P's") residual income where P means the following—

- (a) where P's income is aggregated under Step 1 in paragraph 3(1) for the purpose of calculating an eligible student's household income—  
 (i) the parent of the eligible student,  
 (ii) the eligible student's partner, or  
 (iii) the eligible student's parent's partner,  
 as the case may be;  
 (b) the adult dependant of an eligible student for the purposes of calculating the amount of grant for dependants payable to the student (see regulation 77).

#### Calculation of residual income of persons other than eligible student

**14.** P's residual income is calculated as follows—

P's taxable income for the applicable financial year.

*Plus*

Income payable to P under a pension arrangements order during the applicable financial year, net of income tax.

*Minus*

The aggregate of the deductions set out in paragraph 15 (unless already deducted for the purposes of determining P's taxable income).

### **Deductions for the purpose of calculating residual income of persons other than eligible student**

**15.**—(1) For the purposes of calculating P's residual income, the deductions are— *Deduction A* The gross amount of any premium or sum paid by P in respect of a pension during the applicable financial year, in relation to which—

- (a) relief is given under section 188 of the Finance Act 2004, or
- (b) where P's income is computed for the purposes of the income tax legislation of [<sup>F2</sup>a member State], relief would be given if that legislation made provision equivalent to the Income Tax Acts,

but not including any sum paid as a premium under a policy of life assurance. *Deduction B* Where paragraph 18 applies, a sum equivalent to Deduction A provided that this sum does not exceed the deductions which would be made if the whole of P's income were in fact income for the purposes of the Income Tax Acts. *Deduction C* £1,130, where P—

- (a) is an eligible student in respect of the current academic year but is also the parent of an eligible student, or
- (b) holds a statutory award in respect of the same period.

#### **Textual Amendments**

**F2** Words in Sch. 3 para. 15 substituted (31.12.2020) by The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1302), regs. 1(3), **32(4)(b)**

### **Applicable financial years: calculating residual income of persons other than eligible student**

**16.**—(1) This paragraph specifies the applicable financial year for the purposes of calculating P's residual income.

(2) Unless sub-paragraph (3) or (5) applies, the applicable financial year is PY-1.

[<sup>F3</sup>(3) The applicable financial year is CY if the Welsh Ministers are satisfied that—

- (a) where P is one of two persons whose residual incomes are aggregated under paragraph (b) (i) or (ii) of List A in paragraph 3(1), the aggregate of the residual incomes of P and the other person for CY is likely to be at least 15% lower than the aggregate of the residual incomes of P and the other person for PY-1, or
- (b) in any other case, P's residual income for CY is likely to be at least 15% lower than P's residual income for PY-1.]

(4) Sub-paragraph (5) applies where the applicable financial year for the previous academic year was the financial year beginning immediately before the first day of the previous academic year.

[<sup>F4</sup>(5) Where this sub-paragraph applies—

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- (a) the applicable financial year is CY if the Welsh Ministers are satisfied that—
- (i) where P is one of two persons whose residual incomes are aggregated under paragraph (b)(i) or (ii) of List A in paragraph 3(1), the aggregate of the residual incomes of P and the other person for CY is likely to be at least 15% lower than the aggregate of the residual incomes of P and the other person for PY, or
  - (ii) in any other case, P's residual income for CY is likely to be at least 15% lower than P's residual income for PY;
- (b) otherwise, the applicable financial year is PY.]

#### Textual Amendments

- F3** Sch. 3 para. 16(3) substituted (2.3.2020) by The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/142), regs. 1(2), **6(a)**
- F4** Sch. 3 para. 16(5) substituted (2.3.2020) by The Education (Student Support) (Miscellaneous Amendments) (Wales) Regulations 2020 (S.I. 2020/142), regs. 1(2), **6(b)**

#### Income from business or profession

17.—(1) Sub-paragraph (2) applies where—

- (a) the applicable financial year for the purposes of calculating P's residual income is PY-1, and
- (b) the Welsh Ministers are satisfied that P's income is wholly or mainly derived from the profits of a business or profession carried on by P.

(2) Where this paragraph applies, P's residual income is P's income for the earliest period of twelve months ending in PY-1 in respect of which accounts are kept relating to P's business or profession.

#### Treatment of income not treated as income for income tax purposes

18.—(1) Sub-paragraph (3) applies where P is in receipt of any income which, for any of the reasons set out in sub-paragraph (2), does not form part of P's income for the purposes of the Income Tax Acts or the income tax legislation of [<sup>F5</sup>a member State].

(2) The reasons are— *Reason 1*

- (a) P is not resident or domiciled in the United Kingdom, or
- (b) P's income is computed for the purposes of the income tax legislation of [<sup>F5</sup>a member State] and P is not resident or domiciled in that member State.

*Reason 2*

- (a) P's income does not arise in the United Kingdom, or
- (b) P's income does not arise in the member State in which P's income is computed for the purposes of that State's income tax legislation.

*Reason 3* The income arises from an office, service or employment, income from which is exempt from tax.

(3) P's taxable income is to be taken to include the income described in sub-paragraph (1) as if it were part of P's income for the purposes of the Income Tax Acts or the income tax legislation of [<sup>F5</sup>a member State], as the case may be.

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**Textual Amendments**

- F5** Words in Sch. 3 para. 18 substituted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **32(4)(c)**

**P's income in currency other than sterling**

**19.**—(1) Where P's income is computed for the purposes of the income tax legislation of [<sup>F6</sup>a member State], P's residual income is to be calculated in accordance with this Part in the currency of that member State and is to be taken to be the sterling value of that income determined in accordance with the relevant HMRC rate.

(2) The relevant HMRC rate is the exchange average rate issued by HM Revenue and Customs for the calendar year ending immediately before the end of PY-1.

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**Textual Amendments**

- F6** Words in Sch. 3 para. 19(1) substituted (31.12.2020) by [The Education \(Student Finance\) \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1302\)](#), regs. 1(3), **32(4)(d)**

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