

**STUDENT SUPPORT INFORMATION NOTE
CLARIFICATION OF THE DEFINITION OF TAXABLE
INCOME IN THE STUDENT SUPPORT REGULATIONS**

TO:

HIGHER EDUCATION PRACTITIONERS
IN ENGLAND

STUDENT LOANS COMPANY

SSIN 04/15

10 July 2014

Dear Colleague

**HIGHER EDUCATION STUDENT SUPPORT IN ENGLAND IN 2014/15:
THE FURTHER AND HIGHER EDUCATION (STUDENT
SUPPORT)(AMENDMENT) REGULATIONS 2014 (S.I. 2014 No. 1766)**

The Further and Higher Education (Student Support)(Amendment) Regulations 2014 (“the 2014 Regulations”) were laid before Parliament on 7 July 2014. Provisions within these Regulations will come into force on 1 August 2014, subject to consideration by Parliament and will apply to students applying for support in relation to the 2014/15 academic year. In respect of Higher Education student support, these Regulations amend the Education (Student Support) Regulations 2011 (“the 2011 Regulations”) (S.I. 2011/ 1986 amended by S.I. 2012/1653), to clarify what constitutes ‘taxable income’ for the purposes of the main Household Income Assessment and the Dependants’ Grants Household Income Assessment.

The 2014 Regulations amend the 2011 Regulations to clarify that taxable income in the household income assessment and the dependants’ grants income assessment for higher education student support is defined as ‘total income’ in HM Revenue and Customs (HMRC) legislation, in line with policy intent and current practice. This is a technical change which maintains existing policy and Student Loans Company practice.

The 2014 Regulations also amend the 2011 Regulations to ensure that redundancy payments which are not treated as taxable income by HMRC are included as taxable income in the household income assessment and the dependants’ grants income assessment for higher education student support, in line with policy intent and current practice. This is a technical change which maintains existing policy and Student Loans Company practice. **Details of these changes and clarification on how taxable income is defined is provided in the Annex below:**

The main changes to the student support package for the 2015/16 academic year will be laid in Autumn 2014 through a separate set of amendment regulations to the 2011 Regulations.

Electronic copies of the Further and Higher Education (Student Support)(Amendment) Regulations 2014 (S.I. 2014 No. 1766) and the accompanying Explanatory Memorandum can be downloaded from the 'legislation.gov.uk' website at:

<http://www.legislation.gov.uk/ukxi/2014/1766/contents/made> (Regulations).

<http://www.legislation.gov.uk/ukxi/2014/1766/memorandum/contents>
(Memorandum).

Those organisations needing paper copies of the regulations and Explanatory Memorandum should phone, email or write to the Stationery Office (please see contact details below).

ORDERING COPIES OF THE STUDENT SUPPORT REGULATIONS

The Regulations can be ordered from The Stationery Office at:

TSO Orders/ Post Cash Dept
PO Box 29
Norwich
NR3 1GN
Telephone: 0870 600 5522
Email: customer.services@tso.co.uk
Online: www.tsoshop.co.uk

ENQUIRIES

If you have any queries about the Student Support Regulations, please contact, in the first instance, the Student Finance England Practitioner Support Team – telephone 0845 6020583; email SSIN_queries@slc.co.uk

ANNEX

The 2011 Regulations use a standard measure of income - 'taxable income' as the basis for calculating household income in the main household income assessment and dependants' income in the dependants' grants income assessment (for adult dependants' grant, childcare grant and parents' learning allowance). However, other deductions allowed by HMRC to arrive at income chargeable to tax e.g. for personal allowances, trade losses and redundancy payments, are not made when calculating 'taxable income' for student support purposes.

The use of 'taxable income' ensures that all students are treated equitably. Information on taxable income is easily available from a P60 or self-assessment tax form which ensures that the application process is not overly bureaucratic for over one million students who apply for student support each year. It also makes it easier to provide clear information to students on their likely entitlement to support and ensures Student Finance England can process the correct entitlement in time for the start of each academic year.

We are making a number of changes to the 2011 Regulations for the 2014/15 academic year to clarify what constitutes 'taxable income' for student support purposes. These changes do not change current policy or the implementation of this policy by the Student Loans Company.

1) **Changes to the Definition of taxable income – Regulation 42(1)(ge) and Schedule 4, paragraph 1(1)(o) of the 2011 Regulations.**

The definition of 'taxable income' has been changed to make it explicit that 'taxable income' for the purposes of the main student support household income assessment and dependants' grants income assessment is the total income on which a person is charged to income tax at Step 1 of the calculation in Section 23 of the Income Tax Act 2007. This means that deductions made from 'total income' by HMRC in respect of income tax reliefs at Step 2 of Section 23 (e.g. trade losses and pension contributions) and personal allowances at Step 3 of Section 23 are **not** made when calculating 'taxable income' as defined in Regulation 42(1)(ge)(i) and Schedule 4, paragraph 1(1)(o) of the 2011 Regulations.

Section 23 of the Income Tax Act 2007 covering Income Tax Liability can be accessed on the legislation.gov.uk website at:

<http://www.legislation.gov.uk/ukpga/2007/3/section/23>

The definition of 'taxable income' has also been changed to make it explicit that the **whole amount** of a payment or benefit mentioned in Section 401(1) of the Income Tax (Earnings and Pensions) Act 2003 e.g. a redundancy payment, is taken into account for the purposes of defining 'taxable income' in the student support household income and dependants' grants income assessments. The amount of a redundancy payment exceeding £30,000 is included in the total income on which a person is charged to income tax at Step 1 of the calculation in Section 23 of the Income Tax Act 2007. However, the first £30,000 of affected

redundancy payments are not included in the total income on which a person is charged to income tax at Step 1 of Section 23. The definition of 'taxable income' as defined in Regulation 42(1)(ge)(i) and Schedule 4, paragraph 1(1)(o) makes it clear that the **total** amount of a redundancy payment is taken into account for the purposes of the household income assessment and dependants' grants income assessments for student support.

Consequential amendments are made to Regulation 42(1)(ge)(ii) and (iii) and Schedule 4, paragraph 1(1)(o)(ii) and (iii) of the 2011 Regulations to clarify that where the income tax legislation of a European Union (EU) member state or states applies, taxable income is the total income from all sources determined for the purposes of the legislation of that state, or where the legislation of more than one EU state applies, the state where the total income is the greater.

Schedule 4, paragraph 1(2) of the 2011 Regulations continues to exclude from the definition of taxable income at Regulation 42(1)(ge)(i) and Schedule 4, paragraph 1(1)(o)(i), any pension income **paid** to an ex-partner under an attachment order made under Section 23 the Matrimonial Causes Act 1973 or Part 1 of Schedule 5 of the Civil Partnership Act 2004. This means that this income will not be taken into account in the household income assessment for student support. Income **received** under a pension arrangement made under an attachment order pursuant to the above legislation will be treated as taxable income for the student support household income assessment.

2) Allowing Relief for Pensions Contributions

Schedule 4, paragraphs 4(1)(b) and 5(2)(a) of the 2011 Regulations provide that the gross amount of any premium or other sum paid to an eligible student in relation to a pension in respect of which relief is given (excluding a pension payable under a policy of life assurance) should be deducted from taxable income when determining residual income for the household income assessment for student support. Section 188 of the Finance Act 2004, as amended, continues to allow relief for all pension contributions, regardless of how that relief is claimed. Paragraphs 4(1)(b) and 5(2)(a) are amended to make explicit that where pension contributions have already been deducted at source when calculating total income (i.e. **before** Step 1 of section 23 of the Income Tax Act 2007), they should not be deducted for a second time from taxable income when calculating residual income.

Paragraphs 4(1)(b) and 5(2)(a) are also amended to remove obsolete references to section 273 of the Income and Corporation Taxes Act 1988 which provided relief relating to certain non-pension annuities provided to dependants. These references did not apply to reliefs for pensions and this section of the Income and Corporation Taxes Act 1998 has been repealed.

3) Deductions and exemptions for personal allowances.

The new definition of taxable income in Schedule 4, paragraph 1(1)(o)(i) of the 2011 Regulations makes it clear that taxable income for the purposes of the student support household income assessment is the total income on which a person is charged to income tax i.e. before personal allowances are deducted at Step 3 of Section 23 of the Income Tax Act 2007. Schedule 4, paragraph 5(1)(a) of the 2011 Regulations which stipulates that personal allowances are not deducted when determining taxable income, is no longer needed and is therefore removed.

Paragraph 5(1)(b) states that deductions and exemptions 'pursuant to any enactment or rule of law under which payments would otherwise under United Kingdom law form part of a person's income are not treated as such...' should not be deducted when determining taxable income. This paragraph is removed as it is not clear which payments and which rule of law it is referring to.

4) Business Partnerships

In a partnership, the partners provide the capital and share the responsibility of running the business on agreement between its members. The partners are liable for any debts of the business.

Where a partnership is in place, income and expenses for separate income streams are placed in separate partnership 'pots'. Then a partnership calculation looking at all the pots takes place, and is then divided between the partners to calculate the total income chargeable to tax for each partner at Step 1 of Section 23 of the Income Tax Act 2007.

Scenario 1

A full-time dependent student's parent is a shopkeeper who has set up a partnership. The shopkeeper's trading income (shop receipts) is placed into their trading income "pot", along with their expenses (costs of wholesale goods) from that source. If the shopkeeper has made an overall profit, this would form part of their total income at Step 1 of Section 23 of the Income Tax Act 2007.

The shopkeeper also works on Sunday as a gardener for a local firm. They are employed: all their employment income goes into their employment "pot" and this forms part of their total income at Step 1 of Section 23 of the Income Tax Act 2007.

If the shopkeeper had made a loss from the shop, their total income at Step 1 of Section 23 (and taxable income for the student support household income assessment) would only be their employment income. Trade losses are only deducted from total income at Step 2 of Section 23 of the Income Tax Act 2007.

If the shopkeeper had made a profit from the shop, total income at Step 1 of Section 23 of the Income Tax Act 2007 (and taxable income for the student support household income assessment) would be a total of the employment income plus the shop profit.

Scenario 2

A full-time dependent student's parents have set up a partnership which has two potential income sources - a furniture business and income from rented property. The student is applying for support for the 2014/15 academic year. In the 2012-13 financial year which is used to calculate taxable income, the furniture business made a loss of £28,000 and the income from rented property a profit of £40,000. This means for the purposes of calculating the total income chargeable to tax for each partner at Step 1 of Section 23 of the Income Tax Act 2007, the £28,000 loss is deducted from the £40,000 profit giving a partnership profit of £12,000, and each partners' share which is taken forward into Step 1 is £6,000. This is the total income charged to income tax and the taxable income assessed for student support.