

Chapter 20 - Current Income - Self-employed

Introduction

20001 The amount of child support payable is based on the non-resident parent's (NRP's) gross weekly income. This chapter gives guidance on calculating gross weekly income for self-employed earners where the maintenance calculation is based on current income. See also [Chapter 18 - Historic Income](#), which explains when historic income should be used and see [Chapter 19 - Current Income - Employed](#) for when current income is calculated for an employed NRP.

This guidance explains

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When current income from self-employment should be considered

20002 It will be necessary to consider current income from self-employment when

1. Child Maintenance Service (CMS) is unable to request or obtain the required historic income information from Her Majesty's Revenue and Customs (HMRC)¹
2. the NRP requests that a supersession be made to take into account current income and has documentation covering a tax year or annual accounting period which is later than the HMRC data obtained and shows a difference of 25%¹
3. the NRP reports that they are self-employed, **or**
4. the NRP reports that they have ceased trading.

Note: if a maintenance calculation is based on self-employed current income, there is no duty upon the NRP to report a 25% increase in their income. However, where they do, CMS policy is to accept verbal evidence where the result of a reported change wouldn't materially benefit the person reporting it.

¹ CSMC Regs (NI) 2012, reg 33(2)

Current Income from self-employment

20003 Current income is the sum of the NRP's income

1. as an employee or office holder
2. from self-employment, **and**
3. from a pension.

20004 Current income from self-employment is to be determined from the NRPs profits at the effective date of the maintenance calculation and is to be calculated or estimated as a weekly amount in accordance with this guidance¹.

¹ CSMC Regs (NI) 2012, reg 36(1)

20005 Where payment is made in a currency other than sterling, Decision Makers (DMs) must disregard any banking charges payable for converting the payment to sterling¹ when calculating the current income of the NRP.

¹ CSMC Regs (NI) 2012, reg 36(2)

Taxable profits

20006 Taxable profits are used to determine current income for NRPs who are self-employed. In this chapter “profits”¹ means the profits of the NRP’s trade, profession or vocation as determined by HMRC for the most recently completed relevant period, or if no such period has been completed, the estimated profits².

¹ CSMC Regs (NI) 2012, reg 38(1); ² CSMC Regs (NI) 2012, reg 38(2)

20007 Where there is no completed relevant period, for example where an NRP is in their first year of trading, an estimation of the profits for the current relevant period is to be used.

Note: Taxable profits are determined in accordance with HMRC legislation¹ and may be reduced to take account of business expenses and suitable allowances for losses, depreciation etc. DMs will not be required to calculate the taxable profit figure but it will be necessary for the NRP to supply suitable evidence of their taxable profits. See [Chapter 97 - Evidence - Income](#) for more information on evidence of income from self-employment.

¹ Income Tax (Trading and Other Income) Act 2005, Part 2

The relevant period

20008 In this chapter “relevant period”¹ means a tax year or other period in respect of which the NRP should have reported their profits or losses to HMRC in a self-assessment return (SAR).

¹ CSMC Regs (NI) 2012, reg 38(4)

Note: explanations of other key terms used in this guidance can be found in [Chapter 18 - Historic Income](#). [Chapter 19 - Current Income - Employed](#), also includes general information on the application of Current Income in the maintenance calculation.

20009 Child support law requires current self-employed income to be calculated by reference to the most recently completed relevant period. This is usually a tax year in respect of which the NRP should report the profits or losses to HMRC in a SAR¹.

¹ CSMC Regs (NI) 2012, reg 38(4)

20010 A tax year runs from 6 April one year to 5 April the following year. SARs need to be submitted to HMRC by 31 October following the end of the

tax year if they are in paper format or 31 January following the end of the tax year if they are completed online.

20011 In some cases a NRP may not have been trading for a sufficient period to meet this requirement and may not yet have been required to submit a SAR declaring their self-employed trading income to HMRC. For more information on newly self-employed NRPs who have not yet been required to report their trading profits to HMRC, see paragraphs **20015 - 20018**.

20012 A self-employed person must complete a SAR for any tax year during which they were self-employed, even if they were only self-employed for part of the year. In such circumstances the relevant period may not be for a full 12 months.

20013 Where a submitted SAR covers a relevant period that is less than 12 months, DMs do not need to convert the profits for that period, to an annual figure. The CM system will calculate the gross weekly income based on the total profits reported to HMRC for the most recent relevant period.

¹ CSMC Regs (NI) 2012, reg 38(3)

20014 Where the NRP's trade, profession or vocation is carried out in partnership, the profits referred to in this guidance are only those attributable to the NRPs share of the partnership¹.

¹ CSMC Regs (NI) 2012, reg 38(5)

Example

NRP Joe is a partner in the building firm JDS Builders. His partners are Darren and Steve. Joe owns a 50% share of the business while Darren and Steve each have a 25% share. They report to HMRC profits totalling £20,000 for the most recently completed tax year. For the purpose of the maintenance calculation, Joe's share of the profit for the relevant period totals £10,000.

Newly self-employed NRPs

20015 An NRP is considered to be newly self-employed if they commenced trading after the start of the latest tax year and have not yet completed a relevant period. See para **20008** for an explanation of the relevant period. For CM purposes an NRP is no longer considered to be newly self-employed once their first SAR has been submitted to HMRC.

20016 Where an NRP who is newly self-employed has requested a maintenance calculation based on their current income, they will be required to provide an estimation or projection of their taxable profits up to the end of

the current relevant period. See [Chapter 97 - Evidence - Income](#) for more information on evidence of income from self-employment and para **20057** for information on calculating an annual income figure for newly employed NRPs.

20017 If the NRP fails to provide sufficient evidence or information to support their estimate of current self-employed income then the historic income figure will continue to be used for the purposes of the maintenance calculation.

20018 Where there is no historic income, DMs should consider making an estimate of current income. If there is insufficient information available for the DM to estimate current earnings, for example because the NRP's occupation is not known, a default maintenance decision (DMD) must be considered. Refer to [Chapter 24 - Estimating Current Income](#) and [Chapter 26 - Default Maintenance Decisions](#).

NRP ceases self-employment

20019 If an NRP requests for their current income to be assessed on the basis that their business has ceased trading, they will need to provide a declaration to confirm this. If the NRP provides the required declaration that they have ceased trading at the effective date of the relevant calculation the profits from that business will be taken as nil for the purposes of calculating current (self-employed) income.

Note: income from this business may be included in the historic figure and the current income figure will still need to exceed the historic figure by 25% if current income is to continue to be used.

20020 Where evidence provided by the NRP confirms that the business has ceased trading and it is accepted that the income from that business is nil, DMs will need to establish whether the NRP has income from another source. If not, DMs should consider whether the NRP is in receipt of a prescribed benefit, in which case a supersession based on the flat or nil rate should be considered. See [Chapter 25 - Rates and Rules](#) for further guidance.

NRP is both employed and self-employed

20021 An NRP may report that they have income both from employment and self-employment. If details of the NRP's income have been provided by HMRC, a second request to HMRC will be made to provide a breakdown of the NRP's income from each source.

20022 If the NRP has both employed and self-employed income and reports that their self-employment status has ceased but their employed income is to

continue, the DM will need to gather details of the current employed income in order to determine whether there is a 25% change in the total level of income. For more information on reported changes to current income see [Chapter 19 - Current Income - Employed](#).

Pre-initial calculation – NRP requests current self-employed income

20023 Where there has been an application from a PWC and HMRC have provided a historic income figure, the NRP will be sent a provisional calculation before the full maintenance calculation is completed. The provisional calculation is an informal notification that tells the NRP what their maintenance liability is likely to be, based on historic income obtained from HMRC and subject to any additional relevant information (for example the number of relevant other children) that the NRP may provide. It also provides the NRP with an opportunity to notify if their current income is at least 25% different to their historic income figure.

NRP requests current income and self-employment is continuing

20024 If the NRP reports that their current income from self-employment is at least 25% lower than the historic income figure provided in the provisional calculation, the DM will need to consider the figure supplied by HMRC for the most recent complete tax year against the reported current income.

20025 If HMRC have supplied information in relation to the most recent complete tax year and the NRP cannot provide a more recent SAR, the DM should complete the initial maintenance calculation using the HMRC historic income information.

20026 If HMRC have supplied income information which is older than the most recent complete tax year and the NRP has completed a SAR for the most recent tax year, a change to current income based on the SAR may be considered.

NRP requests current income and is newly self-employed

20027 Where the NRP reports that their current income from new self-employment is at least 25% different to the historic income figure provided in the provisional calculation refer to paragraphs **20015** to **20018**.

NRP requests current income because self-employment has ceased

20028 Where the NRP reports that their current income is at least 25% different to the historic income figure provided in the provisional calculation, because self-employment has ceased refer to paragraphs **20019** to **20020**.

Post-initial calculation – NRP reports self-employed income is different to that used in the maintenance calculation

20029 An NRP may report that their self-employed income is different to that used in the maintenance calculation and request that a supersession be completed. The request may apply whether the existing maintenance calculation is based on historic OR current income.

Note: self-employed NRPs are only required by law to report a change to their current income if the existing liability is Nil because their gross weekly income is below £7 and where a change has occurred which would result in the nil rate no longer applying.

20030 Where the request is based on a change of circumstances since the effective date of the calculation, the NRP's request should be treated as an application for a supersession of the maintenance calculation. If the request is based on circumstances which existed at the effective date of the calculation, and is made within 30 + 2 days of the notification of the maintenance calculation, it should be treated as an application for a revision. The time-limit for making an application for a revision may be extended. Refer to [Chapter 42 - Revisions](#) and [Chapter 43 - Supersessions](#) as appropriate.

NRP does not provide evidence

20031 If the NRP does not provide evidence of their current income for a more recent relevant period than the period currently used to complete the maintenance calculation, the DM should make a decision to refuse to supersede the calculation.

NRP provides evidence

20032 If the NRP is able to provide evidence of a more recent relevant period than the one used to complete the maintenance calculation and that evidence confirms that their current income is at least 25% different to the

historic income figure, the DM should make a decision to supersede the maintenance calculation.

Parent with care (PWC) requests current income

20033 A PWC may ask for current income to be considered after the maintenance calculation has been completed, if they believe the NRP's income from self-employment has changed by 25% or more from the income used in the current maintenance calculation. They may also apply for the decision to be revised on the basis that the original decision failed to take current income information into account.

20034 PWCs may not have full evidence of changes to a NRP's income. DMs should not ask the NRP for evidence of their current income unless the PWC provides reasonable grounds to believe that

1. the change is likely to be at least 25%, **and**
2. the NRP will have evidence that relates to a more recent relevant period.

20035 If the DM is satisfied there are no reasonable grounds as described above, the PWC's request should be refused.

Note: This is not a decision that carries appeal rights, as it is not a refusal to revise or supersede the maintenance calculation. The PWC has made an application which has been deemed unsuccessful due to insufficient information. The NRP will not need to be notified of the decision in these circumstances. For more information, refer to [Chapter 42 - Revisions](#) and [Chapter 43 - Supersessions](#).

20036 If the DM is satisfied that the PWC has reasonable grounds, evidence of the NRP's self-employed income for the most recent tax year should be obtained. See [Chapter 97 - Evidence - Income](#) for more information on evidence of current income.

Current Income self-employed changes initiated by Child Maintenance Service (CMS)

20037 DMs must initiate consideration of a NRP's current income if HMRC have no historic income details or have been unable to accept or respond to a request for historic income.

20038 HMRC may be unable to respond to a request for historic income because

1. a major IT failure has resulted in the historic income information being unavailable, or
2. the case is being managed under exceptional case handling procedures, **or**
3. the NRP is in receipt of a prescribed benefit which would result in a flat rate liability.

Identifying the annual taxable profits figure

20039 The types of income taken into account as current income should mirror the types of income used for historic income as far as possible, to make the assessment as to whether there has been a change in income of at least 25% meaningful. This means that current income should be based on the most recent total taxable profits for the relevant period from self-employment.

20040 Taxable profits are the result of applying allowable business expenses to the gross receipts of a business, and after allowing other offsets, for example for capital allowances and loss relief. DMs will not have to perform these calculations. The NRP should be asked to submit a completed SAR for the most recently completed tax year which must be for a period later than the one used for the current maintenance calculation.

20041 The SAR should apply to the accounting period of the business which ends in the tax year in question.

Example

NRP Lynsey, whose business accounting period runs from 01 January to 31 December 2017 will include taxable profits for that period in the SAR for the 2017 to 2018 tax year. This return would have to be with HMRC by 31 January 2019 at the latest if it is made online.

20042 The SAR should show the receipts of the business and all the expenses incurred in running that business in the relevant period, and which are allowed by HMRC. The return will give the taxable profits which is calculated by deducting those expenses from the receipts. If the business has made a loss, the taxpayer should enter a “nil” amount for taxable profits on their SAR.

NRP does not have a self-assessment tax return (SAR)

20043 Evidence of self-employed current income should be in the form of a completed, submitted SAR. There may be occasions where a NRP does not have this and only has a full set of business accounts for a 12-month period later than the one used for the current maintenance calculation. In such circumstances the NRP should be advised that CMS can only consider the profits figure in the accounts once it is submitted to HMRC.

20044 Once the DM has determined the NRP's current income, they will need to confirm whether it is at least 25% different to the existing income figure. If the NRP pays relievably pension contributions, an amount determined by the DM as representing the weekly average of those contributions must be deducted from the income figure before making the comparison. For more information, see deductions for pension contributions, refer to paragraphs **20049** to **20056**.

NRP has more than one business

20045 Taxpayers with more than one business are required to complete a supplementary SAR for each business. The taxable profits from each business should be added together.

Note: a loss can be offset against other income, including taxable profits for another business for the same tax year.

Example

NRP Sandra has 2 businesses and has completed a self-assessment supplementary return for each of them for the latest tax year:

1. the return for business 1 (Sandra's Hair and Beauty) gives a profit of £35,000
2. the return for business 2 (Sandra's Home and Gift's) gives a loss of £10,000.

Sandra's total taxable profits for that tax year are £35,000 less £10,000 = £25,000.

Deductions from current self-employed income

20046 Where the NRP has made relievably pension contributions from their self-employed income during the relevant period, an amount representing the weekly average of those contributions should be deducted from the current income figure calculated¹.

20047 If evidence of the relievable pension contributions is not included within the income evidence provided, the NRP must be asked to provide additional evidence. For more information, see [Chapter 97 - Evidence - Income](#).

20048 If a NRP reports that they are a self-employed general practitioner (GP) and making relievable pension contributions to the National Health Service (NHS) Superannuation Scheme as both an employee and an employer, the total amount of contributions made by the NRP should be deducted from their total current income.

Deductions in respect of private pension contributions

20049 Where the NRP has made relievable contributions to a private pension scheme, the amount to be deducted from any self-employed profits is the 'gross' amount. This means the amount of the contributions, plus any income tax relief due on them. These amounts will normally be shown separately on the pension provider's annual statement.

20050 If the pension provider's annual statement shows a single amount, DMs should assume that this is the gross amount. If a NRP disputes this, they must provide confirmation from their pension provider.

20051 Where evidence of pension payments is taken from bank statements, rather than an annual pension statement, the following factors must be considered.

NRP was a basic rate taxpayer during the relevant tax year

20052 In this case, the gross amount of their pension contributions will be $\text{£ Amount of contributions} \times 100 / 80$ (this reflects the current basic income tax rate of 20%).

NRP was a higher or additional rate tax payer during the relevant tax year

20053 In this case, Tax relief is only given by the pension provider at the basic rate of income tax. The remainder must be claimed by the taxpayer from HMRC.

20054 The 'grossed up' amount of the pension contributions that should be deducted from the NRP's income will be the total of

1. £ Amount of contributions x 100 / 80 (this reflects the current basic income tax rate of 20%), **and**
2. £ Amount of additional tax relief allowed by HMRC.

20055 Higher or additional rate tax payers who want pension contributions to be deducted from their income must submit the normal evidence required PLUS a copy of the HMRC tax calculation notice, which will provide the amount of additional tax relief allowed.

20056 If the NRP fails to provide this evidence, DMs should only allow tax relief at the basic rate.

Example

NRP Luke is required to support one qualifying child Emily. HMRC confirm an income figure of £60,000 for the tax year 2010 to 2011. Luke claims he paid £3,000 to his personal pension scheme during that tax year.

Luke submitted an annual statement from his pension provider, confirming they received £3,000 in payments from Luke and that they have added £750 in income tax relief at the basic rate of 20%.

Luke also submits a tax calculation notice from HMRC, which shows additional relief of £750 for the balance of tax relief at the higher income tax rate (40% higher income tax rate – 20% basic income tax rate already covered by the pension provider).

The total amount to be deducted for pension contributions from Luke's income for the purpose of the maintenance calculation will therefore be: £3,000 (amount of contributions) + £750 (basic rate income tax relief) + £750 (balance of higher rate income tax relief) = £4,500.

The income figure to be used in the maintenance calculation will therefore be £60,000 - £4,500 = £55,500.

Calculating an annual income figure when the NRP is newly self-employed

20057 When the NRP is newly self-employed, the DM may be required to calculate the annual income based on the information supplied by the NRP. The information may relate to a partial period and an annual figure is required.

Example

NRP Miles reported on 2 September 2018 that they have just commenced self-employment and they will operate in line with HMRC tax years. The next tax year ends on 5 April 2019. Miles provides

evidence that their estimated annual profits for this period will be £12,000.

From 2 September 2018 to 5 April 2019 is 30 weeks and 6 days. This is a total of 216 days. $(£12,000/216) \times 7 = £388.888889$. This is Miles' weekly profit.

The DM will need to convert the weekly rate to a daily rate and then calculate the annual figure. $(£388.888889/7) \times 365 = £20,277.78$. This is Miles' annual profit and the amount that the DM will use.

The same calculation should also be applied to any pension calculations that Miles makes during this period.

Note: when calculating the annual current income figure any “rounding” should only be carried out at the end of the calculation and not while establishing the income figure for a lesser period. For more information on Rounding see [Chapter 25 - Rates and Rules](#).