

GUIDE TO TAX AND BENEFITS WHEN YOU FOSTER A CHILD

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1. INTRODUCTION

This fact sheet is for people who are fostering or intending to foster a child or young person.

It looks at:-

- Tax
- National Insurance
- Benefits

The fact sheet does not cover the fostering allowances you could be paid for the child/children or young people you look after. Check with your local fostering team for further details of these.

This is a small section at the end of the fact sheet which looks at **residence orders, special guardianship, after care support and other forms of cash help** that local authorities can provide. Benefits for people who adopt children are covered by an additional fact-sheet "Guide to tax and benefits for adopters".

2. FOSTERING

Some children are placed with family members or friends under what is known as 'kinship care' arrangements. Some of these fall within the definition of fostering, if the child/children are officially looked-after by the local authority. If they are, then the next section is relevant. If the child isn't looked-after, then the support that the local authority provides may fall within the section at the end of this fact-sheet about residence orders etc.

3. TAX

Foster Care Relief

Since April 2003 the tax system for Foster Carers is called Foster Care Relief. Under this system you are exempt from paying tax on your fostering allowance, up to set limit. You need to tell Her Majesty's Revenue and Customs <http://www.hmrc.gov.uk/index.htm> (HMRC) what payments you receive and find out what tax, if any, you are required to pay.

Who does it apply to?

People who are paid to provide foster care to children or young people placed with them by the local authorities or an independent fostering provider. It does not include private fostering arrangements, or adult placement schemes.

How does the relief work?

HMRC will treat you as being self-employed for the 'work' you do as a Foster Carer.

There are two parts to the relief:

- Exemption – if your total income from foster care is less than the figure that HMRC allows, and
- An optional simplified method of calculating profits if your income from foster care is more than this figure.

What is the exemption?

If your total income from fostering is less than the qualifying amount in a tax year, your fostering income will be exempt (free) from income tax for that year. This means that, for tax purposes, you will be treated as having no profit or loss from foster care for that year.

Exemption only covers income from foster caring, income from other employment or investment income will be taxed in the normal way.

What are my total receipts from foster care?

Your total receipts from foster care are all of the payments (fees, salaries, reward payments, allowances etc) you receive from your local authority or independent fostering provider, including payments that have previously been treated as non-taxable.

What is the qualifying amount?

Your qualifying amount consists of:

- A fixed amount for each household - £10,000. If two or more Carers in the same household receive foster care receipts separately, they share

the £10,000 equally. If you are a foster Carer for less than a full year you claim a proportion of this plus,

- An amount per week, for each foster child placed with you:

£200 a week for a child aged under 11, and

£250 a week for a child aged 11 or older.

The qualifying amount is simply a way of seeing whether you made a profit from providing foster care. It does not affect your personal allowance for tax. If you are exempt, the full amount of your personal allowance see <http://www.hmrc.gov.uk/rates/it.htm> is available to use against other income.

What records will I need to keep?

You will need to keep records for six years.

You will need to keep a record of:

- Your total income for the year from your local authority or fostering agency,
and

- The number of weeks that you care for each child placed with you in the year. (A week runs from Monday to Sunday. Count any part of a week as a full week)

and

The age (or birthday) of each child

If you are not exempt and you intend to calculate your actual profit from foster care, rather than using the simplified method (see below), you will need to keep sufficient records to support your figures.

Example

Ross and Sally provide foster care for one 14 year old for the whole of the year and for one 8 year old for 10 weeks of the year. Their qualifying amount will be made up as follows:-

Fixed amount £10,000

Child 1 (52 x £250) £13,000

Child 2 (10 x £200) £2,000

Total - £25,000

If Ross and Sally's total income from foster care is less than the £25,000 figure, they won't have to pay income tax on the fostering income they get.

If their total income from foster care is more than £25,000, they can choose to calculate their tax by either calculating the profit (income minus actual expenses) or by using the simplified method (income minus £25,000).

Ross and Sally can't 'transfer' any unused allowances from the foster care scheme to their own income; but they can use their personal allowances to offset any tax due if their fostering income is above the £25,000 figure.

In parent and baby schemes, where only the parent is in foster care, but the local authority pays an amount which is intended to cover accommodation and care for both parent and baby. HMRC treat both parent and baby as being in foster care and you can claim a weekly amount for both parent and baby when calculating your qualifying amount.

If you are caring for disabled children, you may incur additional expenditure on the children in your care, different from normal maintenance costs. For example, you may need to buy special equipment for a disabled child. You can add expenditure of this kind to the qualifying amount.

What if I am not exempt?

If your total income from fostering is more than the qualifying amount, you can choose between paying tax on either:

- the actual profit from foster care, worked out using total income, with separate tax relief for allowable expenses or capital allowances, or
- total receipts less the qualifying amount (the simplified method).

It is usually better to use actual profits if your allowable expenses and allowances are more than the qualifying amount. This is because your taxable profit will be less than if you use the simplified method.

See HMRC factsheet for further information -

http://www.hmrc.gov.uk/budget2003/foster_carer_fs.pdf

Residence and Special Guardianship Orders

Payments under residence orders are non-taxable where local authorities make them on a discretionary basis, which is normally the case. If the local authority make the payments 'contractual' e.g. by formally agreeing to make payments to you in return for you agreeing to take on a new legal responsibility for the child, there will be a legal entitlement to receive the payments. HMRC would then generally regard such payments as taxable income.

Such payments will fall outside foster care relief, but HMRC have informed Fostering Network that contractual payments will be treated on the same basis as the simplified arrangements available to adult placement Carers (see below) so it is very unlikely that any tax will be due.

Payments made to Special Guardianship Order (SGO) holders will be treated by HMRC in the same way that they treat residence order allowances.

4. NATIONAL INSURANCE CONTRIBUTIONS

If you have a taxable profit, this is treated as your earnings from self-employment for National Insurance contributions purposes.

Class 2 Contributions

All self-employed people aged 16 and over, but below 60 (women) or 65 (men) must register to pay Class 2 National Insurance contributions.

Class 2 contributions count towards incapacity Benefit, Maternity Allowance.

5. STATE PENSION AND BEREAVEMENT BENEFITS

Small earnings exception

If foster caring is your only source of self-employed income and you have no taxable profits you can apply for the small earnings exception. (If you are exempt, under Foster Care Relief, that is you have no taxable profit).

You can also apply if your earnings from self-employment are low (see <http://www.hmrc.gov.uk/rates/nic.htm> for current rates).

If you get small earnings exception you can choose whether or not to pay Class 2 contributions.

Class 4 Contributions

If your taxable profits are above a certain level you will have to pay Class 4 contributions.

For current rates <http://www.hmrc.gov.uk/rates/nic.htm>

If you are exempt you will not have to pay Class 4 contributions.

Home responsibilities protection

Foster Carers who are not making National Insurance contributions need to protect their retirement pension through 'Home Responsibilities Protection'. You can get a form (CF411) from <http://www.hmrc.gov.uk/forms/cf411.pdf>

or any HMRC office.

Pension credit

Pension credit is available for people aged 60 and over. It contains no element for children. People aged 60 or over with children should be claiming child tax credit/working tax credit and you are in "qualifying work" (see child tax credit and working tax credit section below)

6. BENEFITS

You should tell your local Jobcentre Plus office that you are a Foster Carer if you are claiming benefits.

Child Benefit

You can claim Child Benefit for your own children, or other children that live with you, but not foster children.

To claim contact the Child Benefit Helpdesk on 0845 302 1444 (or 0845 302 1474 for textphone users). Or go to: www.hmrc.gov.uk/childbenefit/

Disability Living Allowance

Disability Living Allowance is a benefit paid to children and adults under 65 who have care or mobility needs as a result of disability or ill-health.

A child in foster care can still get Disability Living Allowance. It is usually paid to an adult with whom the child lives if he or she is under 16.

If you foster a child who is getting Disability Living Allowance contact the Disability Benefit Unit to make sure they know the child is living with you. They also need to know if you wish to act as the child's Appointee. You may need to discuss this with the local authority or fostering agency.

If you think your foster child could get Disability Living Allowance, phone the Benefits Enquiry Line (Freephone 0800 882 200 or e mail BEL-Customer-Services@dwp.gsi.gov.uk for a claim form for a person aged under 16.

Disability Living Allowance is paid on top of any benefits, tax credits or other income you may have. It may increase the amounts of some means-tested benefits such as Child Tax Credit, Housing Benefit and Council Tax Benefit (but not if it is paid for a foster child).

Carers Allowance

You can get Carers Allowance if you care for someone who receives the middle rate of the care component of Disability Living Allowance (or Attendance Allowance). This could be an adult, your own child, or a fostered child.

You must:

- care for them for 35 hours a week,
- not be a full-time student, and
- earn under £95.00 net a week (2008/9 amount).

Your fostering allowance shouldn't normally be taken as 'earnings'. You can get a Carers Allowance form from your nearest Jobcentre Plus Office, or by phoning the Carers Allowance Unit (01772 899655), or the Benefit Enquiry

Line (0800 882 200) or you can claim on-line on www.dwp.gov.uk/Carersallowance.

Incapacity benefit

This has been abolished for new claims from October 2009, but is still in force for people who were claiming prior to that date. The presence of foster children can affect the ability to continue on this benefit, so it is essential you get advice!

Employment and Support Allowance

This benefit was introduced in October 2009 for disabled people. Fostering allowances are not counted as income for the purposes of paying this benefit.

7. MEANS-TESTED BENEFITS

The child you foster will not be counted as part of your household when any means-tested benefit for your family is calculated. Equally, fostering allowances are intended to cover the cost of maintaining a child, so they don't count as income for means-tested benefits.

The following are all means-tested benefits:

Income Support and Jobseeker's Allowance, Housing Benefit and Council Tax Benefit Fostering allowances do not count as income for any of these benefits.

The first time you spend caring does not count as work for either Income Support or Jobseeker's Allowance, although you will have to show that you are available for work if you want to claim Jobseeker's Allowance.

If you are a single foster parent you will be able to claim Income Support, and not be expected to sign on. However, in the weeks when you don't have a child placed with you, you may have to sign-on as unemployed unless you can claim income support for some other reason (as a lone parent for example).

Child Tax Credit and Working Tax Credit

HMRC assess and administer Child Tax Credit and Working Tax Credit. You can claim Tax Credits by contact the HMRC Tax Credit Helpline on 0845 300 3900 (0845 300 3909 for textphone users). www.hmrc.gov.uk has more information.

For tax credits purposes, your income from foster caring is your taxable profit. If you get the foster care exemption, your income from foster care will be nil. If you or your partner has any other taxable income, that income will be taken into account for Tax Credits. You can claim Child Tax Credit for your own children, but not for your foster children. It does not matter if you work in any

other way, or not. You may get some Child Tax Credit even if your household income is up to about £58,000 (or £66,000 if you have a baby under one).

You can claim Working Tax Credit if you or your partner is 'in qualifying paid work' for:

- at least 16 hours a week if you have a child of your own, or
- 30 hours a week if you do not.

Some other working people who are over 50, or who have disability can also claim if they work at least 16 hours.

Example:

Ross and Sally (see above) provide foster care for one 14-year-old for the whole of the year and one 8-year-old for 10 weeks of the year. They have one child of their own. Their qualifying amount for foster care tax relief is £25,000. Their income from fostering is £16,000 and Ross has a job which pays £14,000 a year.

As Ross and Sally's total income from foster care is less than the £25,000 figure, they won't have to pay income tax on the fostering income they get.

They can claim child tax credit (as they have one child of their own) and working tax credit (based on their work as Foster Carers or Ross's job) but the tax credits will only be assessed on the £14,000 figure, which means they get a higher rate of payment. Because fostering is treated as work by HMRC, but not as work by the DWP, some Foster Carers can choose whether to claim income support or working tax credit. Get specialist advice via your Social Worker if you think this might apply to you (for example if you are a single person or couple who are fostering and you have no other employment).

Any payments that you get from the local authority because you have a residence order or SGO will be ignored in full when tax credits are calculated.

8. CONTINUING CARE

Some young people continue to stay with their foster parents after they become 18. They will be able to claim benefits in their own rights, such as job seekers allowance and income support (even if still in education in some circumstances) and should be able to claim Housing Benefit if you have a commercial rent agreement with them. If the young person is studying or on Income Support, income based JSA or most training schemes, their presence in your home will not normally affect any Housing or Council Tax Benefit you get until they become 25. However, the income you get from "renting" might affect any means-tested benefits and tax credits that you get and should be declared, even if you are not paying tax on it (see below).

The foster tax relief as described above no longer applies once the young person reaches 18. Payments under the Leaving Care Act for children who have left foster care will fall outside foster care relief, but HMRC have told Fostering Network that the simplified arrangements for adult placement care

will apply instead. This means that the taxable profit is your total income from the local authority less the following fixed expenses.

- £400 per week for the first young person who lives with you at any one time, and
- £250 per week for the second and third person at any one time.

If the total of these fixed allowances is more than your income from the local authority, HMRC will treat your taxable profit as nil. See www.hmrc.gov.uk for more details. Another option is the "Rent a Room" method. The taxable profit is your total income from the local authority over £4,250. If your receipts are £4,250 or less, your taxable profit is treated as being nil. If your receipts are more than £4,250, you will pay tax on the amount by which they exceed £4,250, with no separate relief for allowable expenses or capital allowances.

If your total receipts are more than £4,250, the Rent a Room method may be less favourable for you.

9. OTHER TYPES OF FINANCIAL INFORMATION

Residence orders

If informal Carers (sometimes known as kinship Carers) take out a residence order for a child who is not 'looked-after', the local authority can pay them a discretionary residence order allowance. If you get child tax credit then this is in addition to the child benefit and child tax credit that you can claim, and any pension credits, income support and jobseekers allowance, that you may be entitled to. The residence order allowance won't count as income when child tax credits are calculated or if the Carer is getting income support or jobseekers allowance just for themselves.

However, if you are getting income support or Job Seekers Allowance that includes an amount for the children, most of the residence order allowance payment will count as income. This is also the case if you are not in receipt of Child Tax Credit where it also counts as income for Housing benefit and council tax benefit up to £52.59 (or £101.31 if disabled) So it is best to seek advice before agreeing to payment this way instead of under Section 17 (see below).

Section 17 money

Local authorities have discretion to provide cash help in exceptional circumstances under Section 17 of the Children Act to help 'children in need'. They might use this power, for example, to help a young person of 16-17 to pay their rent, as an alternative to 'looking-after' them. It can also be used to help families to take in a child without formally fostering them.

Section 17 payments are completely ignored when benefits or tax credits are calculated. A child who is living with someone who gets Section 17 money for them will be treated as part of that person's family for benefit purposes. This means that child benefit, child tax credit etc will all be payable.

Special Guardianship

Special Guardianship was introduced in December 2005. It provides greater security for the child than long-term fostering offers, without the absolute legal severance from the birth family that stems from an adoption order. Local authorities cannot place a child for Special Guardianship. However, they can encourage existing Foster Carers to apply for a Special Guardianship order. Financial support can be given by the local authority as a single payment to meet a one-off cost, or payments in instalments or at periodic intervals.

Because a child subject to Special Guardianship is no longer 'looked after', the Carer can claim benefits such as child benefit and child tax credit for the child. Local authorities usually take into account any benefits or tax credits that are claimed when making their assessment of how much additional financial support to give however.

Any financial support payments to special guardians is disregarded when assessing the Carer's entitlement to pension credit, child tax credit, income support and jobseekers allowance, if you are in receipt of Child Tax Credit. If you do not receive CTC then the special guardianship allowance will count as income for income support, job seekers allowance, housing benefit and council tax benefit up to £52.59 (or £101.31 if disabled). You should seek advice if you do not received CTC and are applying for a special guardianship allowance when in receipt of benefit.

Guardian's Allowance (not to be confused with Special Guardianship)

This is an allowance paid by Jobcentre plus to someone who looks after a child and satisfies one of the following rules:

- They are entitled to claim child benefit for the child and both of the child's parents are dead.
- One of the child's parents is dead and the claimant shows that they are unaware of the other parent's whereabouts.
- One of the child's parents is dead and the other is in prison (or detained in hospital) for more than two years.

Foster Carers cannot claim this as they are not entitled to child benefit for fostered children. However, if the child is not looked after, a claim may be possible.

Disabilities Facilities Grant

The DFG is a grant which is administered by local councils for adaptations to property to meet the needs of people with disabilities. The upper limit is £25,000 in England and £30,000 in Wales, but help is means-tested so a person in full-time work will often have to make a contribution. However, since 31 December 2005, there is no means-test where an application for a DFG is made by the parent or guardian or a disabled child or young person. Since 2 April 2001, Foster Carers have been able to apply for disabled facilities grants (DFG) in the same way as natural and adoptive parents but

they are usually required to certify that the child will live in the dwelling for a certain amount of time.

10. USEFUL NUMBERS AND LINKS

Department for Work and Pensions

<http://www.dwp.gov.uk/>

Department for Work and Pensions

Benefit Enquiry Line: 0800 882 200

Child Benefit Helpdesk: 0845 302 1444

Carer's Allowance Unit: 01772 899655

Disability Benefits Enquiries: 0845 882 200

Income Support/JSA 0800 055 6688

Social Fund 0845 8500 032

Her Majesty's Revenue and Customs

<http://www.hmrc.gov.uk/index.htm>

Newly Self-Employed Helpline: 0845 915 4515

Self-Employed Helpline: 0845 915 46 55

Tax Credits Helpline: 08453 003 900

With thanks to Adam Smith, Area Benefits Officer, East Kent for his assistance with this guidance, which is based on the CCInform website information.

Due for publication by BAAF in 2009 – guide to benefits for foster carers, by Adam Smith