

## **AVERAGING FOR CREATORS OF LITERARY OR ARTISTIC WORKS**

**This Help Sheet will help you to fill in the Self-employment or Partnership Pages of your Tax Return.**

Authors and artists who have fluctuating profits may pay a large amount of tax in a good year and little or no tax in a bad year. A new relief, introduced in the March 2001 Budget, allows such people to average their profits for successive tax years. This can reduce their total tax bill for the two years concerned. The new relief replaces previous reliefs for spreading of royalties and sums received for sale of works of art. The same sort of people will benefit but the new relief is simpler and more people will be able to claim.

Averaging will only help you if the top rate of tax you pay is different for each of the two years. For example:

- averaging will not help you if your top rate is 40% each year
- averaging may help you if you pay tax at the basic rate one year and higher rate the next
- averaging may help you if you are liable to tax one year but your income falls so you are not liable the next.

### **WHO CAN CLAIM?**

The relief is designed to help you if you make your profits from selling or allowing people to reproduce intellectual property or works of art which you create.

You can claim if :

- you are in business, either alone or in partnership; **and**
- your profits are wholly or mainly derived from literary, dramatic, musical or artistic works or designs; **and**
- the works were created by you personally or, if you carry on business in partnership, by you or one of your partners personally.

The profits must come from royalties or disposal of the works rather than from the provision of services. So authors can claim even if a small part of their income comes from sources other than royalties (for example, personal appearances). But architects cannot claim even though some of their income may come from the sale of material protected by copyright because their income is mainly derived from the services they provide.

'Literary works' includes works protected by copyright.

So computer software writers can claim if they make their income from royalties for reproduction of code written by them and protected by copyright. But people who are paid fees to write scripts or computer programs cannot claim because their income is derived from the service of writing rather than from the works concerned.

'Artistic works' includes paintings and sculptures but does not include works of craft, such as furniture.

People whose income from literary, etc. works is assessable under Case VI of Schedule D are not entitled to claim.

### **WHAT ARE THE CONDITIONS?**

You can claim to average your income for a pair of consecutive tax years if:

- the figure from box 3.83 of your Self-employment Pages or box 4.13 of your Partnership Pages (your profit with losses counting as nil) for the year with the poorer results is less than 75% of your figure for the year with better results; **and**
- you started self-employment before 6 April 2003, **and**
- you did not cease self-employment in 2004-05.

### **HOW DOES THE CLAIM WORK?**

First check if the difference between your profit for the good year and your profit for the poor year is more than 30% of your profit for the good year. If it is, then you revise your total tax and Class 4 NIC for the two years to the amount you would have paid if your profit for each year was half the total of your profits for the two years.

#### **Example 1**

Terry's results are

2004-05	profit	£10,000
2003-04	profit	<u>£40,000</u>
Total for the two years		£50,000

Terry claims averaging so his total tax for the two years is adjusted to what it would have been if his profits had been  $£50,000/2 = £25,000$  each year.

If the difference is between 30% and 25% of the profit for the better year then the relief is worked out differently. You can claim to have an adjustment added to your profit for the lower year and deducted from your profit for the higher year. You work out the adjustment by multiplying the difference by 3 and subtracting 75% of the profit for the higher year. Then you revise your total tax and Class 4 NIC for the two years to the amount you would have paid if your profits were the adjusted figures rather than the actual figures.

### Example 2

Nahid is a member of a partnership. Her results are

2004-05	profit	£50,000
2003-04	profit	£36,000

She has personal allowances and reliefs of £11,000 so she is liable at higher rate for 2004-05 but not for 2003-04.

The difference is £14,000 which is between £15,000 (30% of the higher profit) and £12,500 (25% of the higher profit).

The adjustment is:

3 x £14,000 (the difference )	£42,000
minus 75% of £50,000 (the higher profit)	<u>£37,500</u>
Adjustment	£ 4,500

Nahid claims averaging so her total tax for the two years is adjusted to what it would have been if her profits were:

2004-05	profit	£50,000 - £4,500	=	£45,500
2003-04	profit	£36,000 + £4,500	=	£40,500.

## WHAT DO I PUT ON MY SELF-EMPLOYED OR PARTNERSHIP PAGES?

You make your claim in your 2004-05 Return. You do not adjust your Return for the previous year (2003-04) and you should pay the tax and Class 4 NIC resulting from that Return.

The change in your tax and Class 4 NIC for 2003-04 is dealt with by an adjustment to your tax and Class 4 NIC for 2004-05.

Here's what you do.

**Step 1** Enter the increase or reduction in your profit for 2004-05 in box 3.81 of your Self-employed Pages or box 4.12 of your Partnership Pages, if you are a partner. Enter reductions in brackets. Enter the profit after the adjustment in box 3.83, or box 4.13 if you are a partner.

### Example 3

So the entries for the people in Examples 1 and 2 will be

	box 3.81	box 3.83
Terry	£15,000	£25,000
	box 4.12	box 4.13
Nahid	£(4,500)	£45,500

Use the new figure in box 3.83, or box 4.13 if you are a partner, to work out your 2004-05 tax and Class 4 NIC.

**Step 2** The next step is to make the adjustment for the previous year. You must work out how much the tax and Class 4 NIC for 2003-04 would have changed if you had amended that Return to the averaged profits. You will need to take account of any consequential changes (for example, because the change to profits would have changed the limits based on 'net relevant earnings' for tax relief on self-employed contributions to personal pension plans).

Depending upon whether the profit for 2003-04 goes down or up, the relief is given or the extra tax is charged by an adjustment to your tax liability for 2004-05.

If the adjustment is an **increase** enter it in box 18.4.

If the adjustment is a **decrease** enter it in box 18.5.

## HOW TO GET MORE HELP

If you have an accountant or tax adviser you may wish to discuss averaging with him or her. Or you can ask us for help by:

- ringing your own Inland Revenue office. The number is on page 1 of your Tax Return; **or**
- ringing the Helpline on **0845 9000 444**, **or**
- calling at an Inland Revenue Enquiry Centre - look under 'Inland Revenue' in the phone book to find the address of one near you.

*These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.*