



Low Incomes Tax Reform Group
Case Commentary on CTC 643/2005 – R(TC)1/06- (Commissioner Levenson)

Keywords

The relationship between Disability Living Allowance (DLA) and Working Tax Credit (WTC); the implementation of WTC in 2002 which replaced Disabled Person's Tax Credit (DPTC) and the effect thereof; WTC correctly calculated on the basis of a daily rate; lack of transitional protection.

An outline of the facts and issues

- a) The claimant was in receipt of the higher rate mobility and lowest rate care component of DLA and working 20 hours a week when awarded WTC for the tax year 2003/04.
- b) DLA stopped on 01/08/03.
- c) HMRC revised its award of WTC from that date as they concluded the claimant no longer qualified for the disability element of tax credits. HMRC determined that the claimant should no longer be treated as engaged in qualifying remunerative work as required by Regulation 4(1) and Regulation 9 (4) (Case C) of the [WTC \(Entitlement and Maximum Rate\) Regulations 2002](#).
- d) The claimant argued regulations only required that she had been in receipt of DLA at the date of claim for WTC. She also argued that under the provisions for DPTC entitlement would have continued for the whole year even if entitlement to DLA had ceased. She considered that the same rules should continue to apply.

- e) HMRC contended her entitlement to WTC could only be established in respect of each day on which she was entitled to DLA. It argued strongly that WTC should be calculated on a daily basis.

Commissioner Levenson's decision

1. The Commissioner stated that it was clear from the wording of the relevant regulations that on days on which DLA was not payable, the claimant did not fall within Case C and therefore did not satisfy the requirements of Regulation 9 (1)(c). Hence, HMRC's daily rate argument was correct.
2. The Tax Credits Act 2002 created WTC and expressly repealed DPTC and any related provisions. As there were no transitional provisions any previous rules relating to DPTC could not be relied upon.