

**2011 No. 721**

**TAX CREDITS**

**The Tax Credits (Miscellaneous Amendments) Regulations 2011**

*Made* - - - - *10th March 2011*

*Laid before Parliament* *11th March 2011*

*Coming into force* - - *6th April 2011*

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs.

The powers exercised by the Treasury are those contained in sections 7(8) and (9), 12(3) and (4), 65(1), (7) and (9) and 67 of the Tax Credits Act 2002(a).

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those contained in sections 65(2), (7) and (9) and 67 of, and paragraph 9(2) of Schedule 5 to, that Act(b).

**Citation and commencement**

1. These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) Regulations 2011 and shall come into force on 6th April 2011.

**Amendment of the Tax Credits (Definition and Calculation of Income) Regulations 2002**

2.—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(c) are amended as follows.

(2) In regulation 2(2) (interpretation) immediately before the definition of “qualifying young person” insert—

““qualifying care receipts” has the meaning given to that expression by section 805 of the Income Tax (Trading and Other Income) Act 2005(d);”.

(3) In Table 6 of regulation 19 (general disregards in the calculation of income) for item 9(e) substitute—

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- (a) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to “prescribed”.
- (b) By virtue of section 65(2), the powers in section 4(1) were exercisable by the Board. The Board is defined in section 67 as the Commissioners of Inland Revenue. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, insofar as is appropriate in consequence of section 5, a reference to the Commissioners of Inland Revenue shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 67 is cited because of the meaning it ascribes to “prescribed”.
- (c) S.I. 2002/2006; relevant amending instruments are S.I. 2003/2815 and 2006/766.
- (d) Section 805 of the Income Tax (Trading and Other Income) Act 2005 (c. 5) was amended by paragraph 5 of Schedule 1 to the Finance (No 3) Act 2010 (c. 33).
- (e) Item 9 was substituted by S.I. 2003/2815 and amended by S.I. 2006/766.

“9 Any payment by way of qualifying care receipts to the extent that those receipts qualify for relief under Chapter 2 of Part 7 of the Income Tax (Trading and Other Income) Act 2005(a).”.

### **Amendment of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002**

3.—(1) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b) are amended as follows.

(2) Amend regulation 14(2) (meaning of child care) as follows.

(3) In sub-paragraph (b)—

- (a) at the end of paragraph (ii) omit “or”, and
- (b) omit paragraph (iii)(c).

(4) In sub-paragraph (c)—

- (a) omit paragraph (iv) (and the “or” at the end of it)(d), and
- (b) at the end of paragraph(v) insert—

“; or

(vi) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where, but for the fact that the child is too old, the care would fall within one of the descriptions in paragraph (2C);”.

(5) In sub-paragraph (f)—

- (a) in paragraph (i) for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010(e);
- (b) for paragraph (ii) substitute—

“(ii) by a person in circumstances where, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010(f), the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010;”;

- (c) omit paragraph (v)(g);
- (d) at the end of paragraph (vi) omit “or”; and
- (e) at the end of paragraph (vii) insert—

“; or

(viii) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where, but for the fact that the child is too old, the care would fall within one of the descriptions in paragraph (2D).”.

(6) After paragraph (2B) insert—

“(2C) The descriptions referred to in paragraph (2)(c)(vi) are—

- (a) child minding or day care for the purposes of Part 11 of the Children (Northern Ireland) Order 1995(h); and
- (b) qualifying child care for the purposes of the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006(i).

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- (a) The relevant amendments to Chapter 2 of Part 7 of the Income Tax (Trading and Other Income) Act 2005 were made by Schedule 1 to the Finance (No 3) Act 2010.
  - (b) S.I. 2002/2005; relevant amending instruments are S.I. 2004/1276, 2004/2663, 2006/766, 2008/604 and 2009/2887.
  - (c) Paragraph (2)(b)(iii) was substituted by S.I. 2009/2887.
  - (d) Paragraph (2)(c)(iv) was amended by S.I. 2009/2887.
  - (e) 2010 nawm 1.
  - (f) S.I. 2010/2839 (W. 233).
  - (g) Paragraph (2)(f)(v) was amended by S.I. 2009/2887.
  - (h) S.I. 1995/755.
  - (i) S.R. 2006 No 64.

- (2D) The descriptions referred to in paragraph (2)(f)(viii) are—
- (a) child minding, or day care, for the purposes of Part 2 of the Children and Families (Wales) Measure 2010; and
  - (b) qualifying child care for the purposes of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007(a).”.

**Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003**

4.—(1) The Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003(b) are amended as follows.

(2) In regulation 2 (interpretation), in the definition “qualifying family”, for sub-paragraphs (a) and (b) substitute—

- “(a) that has a relevant income of £16,190 or less, and
- (b) one member of which is a person who—
  - (i) is receiving child tax credit, and
  - (ii) is not eligible for working tax credit;”.

(3) In regulation 3 (prescribed functions relating to health)—

- (a) omit sub-paragraphs (c), (d) and (e); and
- (b) after sub-paragraph (b) insert—

“(ba) the provision of benefits by or on behalf of the Secretary of State or the Department of Health, Social Services and Public Safety under a scheme established pursuant to section 13 of the Social Security Act 1988(c) or article 13 of the Social Security (Northern Ireland) Order 1988(d) in so far as such a scheme relates to the health of pregnant women, mothers or children.”.

*Angela Watkinson*  
*James Duddridge*

10th March 2011

Two of the Lords Commissioners of Her Majesty’s Treasury

*Steve Lamey*  
*Dave Hartnett*

9th March 2011

Two of the Commissioners for Her Majesty’s Revenue and Customs

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(a) S.I. 2007/226.  
(b) S.I. 2003/731; to which there are amendments not relevant to these Regulations.  
(c) c. 7; section 13 was substituted by section 185 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).  
(d) S.R. (NI) 1988 No 594; article 13 was substituted by the Food Benefit Schemes (Northern Ireland) Order 2003 (S.I. 2003/3202 (N.I.19)).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) (“the Income Regulations”), the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”) and the Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003 (S.I. 2003/731) (“the Information Regulations”).

Regulation 2 amends regulation 2(2) of the Income Regulations and substitutes item 9 in Table 6 of regulation 19 of those Regulations. Table 6 contains descriptions of sums that are disregarded in the calculation of income for the purposes of Tax Credits. Following the amendment to Chapter 2 of Part 7 of the Income Tax (Trading and other Income) Act 2005 (“ITTOIA”) by Schedule 1 to the Finance (No 3) Act 2010 (c. 33), the disregard in item 9 in respect of receipts from the provision of foster care is substituted so that receipts from the provision by an individual of qualifying care that qualifies for relief from income tax by virtue of Chapter 2 of Part 7 of ITTOIA is disregarded in the calculation of income for the purposes of Tax Credits.

Regulation 14(2)(b) of the Entitlement Regulations is amended, so that care provided for a child in Scotland by a foster carer is not child care for the purposes of the calculation of the maximum rate.

Regulation 14(2)(c) of the Entitlement Regulations is amended, so that care provided for a child in Northern Ireland by a foster parent is child care, for the purposes of the calculation of the maximum rate of Tax Credits, only where the child in question is not being fostered by that foster parent and the care provided would, if the child were younger, fall within one of the descriptions contained in new regulation 14(2C) (which is inserted by regulation 3(6) of these Regulations).

Regulation 14(2)(f) of the Entitlement Regulations is amended, in relation to care provided in Wales that qualifies as child care for the purposes of the calculation of the maximum rate of Tax Credits as follows.

Regulation 14(2)(f)(i) is amended so that child care provided for a child by persons registered under Part 2 of the Children and Families (Wales) Measure 2010 (2010 nawm 1) qualifies as child care for the purposes of the calculation of the maximum rate of Tax Credits.

Regulation 14(2)(f)(ii) is amended so that child care provided to a child in circumstances where, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010 (S.I. 2010/2839 (W. 233)), the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010.

Regulation 14(2)(f)(viii) is added, so that care provided for a child by a foster parent is child care, for the purposes of the calculation of the maximum rate of Tax Credits, only where the child in question is not being fostered by that foster parent and the care provided would, if the child were younger, fall within one of the descriptions contained in new regulation 14(2D) (which is inserted by regulation 3(6) of these Regulations).

Regulation 4 amends the Information Regulations. These allow information relating to Tax Credits to be provided by the Commissioners for Her Majesty’s Revenue and Customs to the Department of Health for the purposes of functions relating to health. Regulation 4(2) redefines “qualifying family” with a new income threshold and uses child tax credit alone as the other qualifying factor. Regulation 4(3) replaces references to milk tokens, free vitamins, dried milk and related health matters with a reference to any scheme established under either section 13 of the Social Security Act 1988 (c. 7) or under article 13 of the Social Security (Northern Ireland) Order 1988 (S.R. (NI) 1988 No 594) in so far as such scheme relates to the health of pregnant women, mothers, or children.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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£4.00