



HM Revenue
& Customs

What happens if we have paid you too much tax credit?

CODE OF PRACTICE
COP26

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This booklet covers:

- what to do if you are having difficulty repaying an overpayment, and
- the reasons you might be able to dispute our decision to recover an overpayment.

Introduction

Tax credits are based on your household income and personal circumstances for the whole of the tax year (6 April to 5 April). If you tell us about a change in your income or circumstances, we work out the revised amount of tax credits for that tax year. If the changes result in you being awarded less tax credits overall, then there may be an overpayment.

In this booklet, unless we say otherwise, we use the word “overpayment” for:

- an amount owed to us after the end of the tax year and which we normally recover in the following tax year, and
- an in-year reduction to tax credit payments to help avoid an overpayment at the end of the tax year.

If you need help, contact us. If you would like independent help, you can ask a friend, a professional adviser or an organisation like Citizens Advice to help you. You can ask them to talk to us on your behalf, but we cannot do this without your permission. Call us and we will tell you how to give your permission.

 **At any time you
can call us on
0845 300 3900**

Asking for more time to pay

You have reduced my payments. What can I do if this causes me financial difficulties?

Call us on **0845 300 3900** and tell us you would like additional tax credit payments. If we do increase your tax credit payments to help you budget, it will take you longer to repay the amount you owe us.

We will limit the reductions that we make to your tax credit payments to collect back the overpayment. These limits depend upon your tax credit entitlement and will apply to all overpayments we are collecting from the award for your current household. The limits will be the same as those that we use when collecting an overpayment from a previous year's award. See the section on page 7.

We will not normally increase your payments if your award has been reduced because we found out, during an enquiry or an examination, that you provided wrong information. However, if you face financial difficulties on the reduced payments we set, and wish us to reconsider your case, please call us on 0845 300 3900.

You have limited the reductions but I still can't manage. What can I do?

Call us on 0845 300 3900. We will ask you for more information about your circumstances before deciding whether to reduce the recovery rate further (see the next question for details of the information we will ask you about).

We may suggest an option for extending the period over which you pay back the overpayment by changing the rate at which you pay it back. In exceptional circumstances, we may write off all or part of an overpayment if it would cause you or your family hardship to pay it back.

You sent me a notice asking me to make a direct payment within 30 days. I need more time. What can I do?

Call us on 0845 302 1429 as soon as possible so we can make arrangements for you to pay back in equal instalments over 12 months.

If you need a longer period, please let us know when you call. We will want to know:

- your family circumstances, in particular young children, and anyone chronically ill or disabled,
- your income now and in the future,
- your living expenses, (for example, rent, gas or electricity bills),
- your savings, investments and other assets,
- your other debts, (for example, mortgage repayments),
- how long it will take you to pay back the overpayment, and
- any earlier payments to us.

When we have all your information, we may offer you a longer repayment period, or we may delay starting to collect the overpayment from you.

In exceptional circumstances, we may write off all or part of an overpayment if it would cause you or your family hardship to pay it back.

Disagreeing with recovery of an overpayment

Make sure:

- you have all the information about your tax credit award to hand before you contact us, and
- that you want to dispute the overpayment - not just ask for more time to pay.

In which circumstances will you write off an overpayment?

For us to write off an overpayment you must be able to show that the overpayment happened because:

- we made a mistake, and
- it was reasonable for you to think your payments were right.

This means that you must have checked your award notice when you received it.

If you ask us to reconsider our decision to recover an overpayment, amongst other things, we will:

- check our calculations are correct and based on the information that you gave us,
- check that we did not instruct your employer to pay the wrong amount of Working Tax Credit,
- check that we did not delay in using the information you provided,
- look for any incorrect or missing details on your award notices that we would have expected you to spot and to tell us about, and
- consider your reasons for believing that your payments were right.

We will take the same approach where another Government Department made the mistake that led to the overpayment. We would consider whether it was reasonable for you to think your payments were right, following the mistake by the other Government department.

But if you want help paying back the overpayment as it will cause you financial difficulties, see the section "Asking for more time to pay" on page 2.

You gave me the wrong advice.

If one of our Helpline advisers, or a letter from us, **wrongly** tells you that your award is correct even though you contacted us:

- to tell us your award notice was wrong, or
- to tell us about an unexplained change to your payments, or
- to question how we had worked out your entitlement and
- an overpayment then occurs, we will not normally seek recovery of that overpayment.

We will usually check that you provided full information about your circumstances and income when you spoke to the Helpline so they could give you the correct advice. So please tell us the date and time you telephoned us when you complete form TC846 to say why you disagree with recovery of the overpayment.

Checking award notices and payments.

We expect you at least to have checked that the following details on your award notices (whether at the start of the award period, during the year or when the final award notice comes) were correct:

- whether the award is for you as an individual or as part of a couple,
- the hours you work,
- whether you receive Income Support or income-based Jobseeker's Allowance or Pension Credit,
- whether you, or anyone in your household, has a disability element,
- the number and age of any children in your household, childcare costs,
- your total household income for the period shown on the award notice.

You should also have checked the amounts going into your bank account. We would expect you to tell us if you received any payments that did not match what was shown on the award notices during the period that the overpayment arose.

We expect you to contact us to let us know about any incorrect information for your circumstances on the day the notice was issued. If you have a change to your circumstances or income, we expect you to contact us again.

We expect you to check that your final award notice correctly shows the details for that tax year.

If there is a dispute regarding an overpayment, we may check our call records to make sure that you contacted us to let us know of any changes or mistakes.

I misunderstood my award notice.

We will normally ask you to pay back the overpayment. If you had received an award notice that you did not understand, we would normally expect you, or someone on your behalf, to ask for advice.

I couldn't check my award notice or the payments going into my bank account.

Unless there were exceptional circumstances - for example a bereavement of a close relative or you were in hospital - we expect you to check that the personal details on your award notice are correct and that the payments you receive in your bank account match those shown on the award notice. When you complete form TC846 to give us the reasons you disagree with recovery of the overpayment, tell us the reasons that you could not check your award notice or the payments you received. We will then consider your reasons with the rest of the information you provide.

What do I send you to let you know about my dispute?

Complete form TC846 and return it to the Tax Credit Office. If you didn't get a copy of the form with this booklet, you can get it from www.hmrc.gov.uk/menus/tax_credits.htm or by calling us on 0845 300 3900.

What will you do when I dispute?

We will suspend recovery of the overpayment when we receive the form TC846 from you. We will write to you confirming that we are suspending recovery and telling you what happens next. We will decide whether you must pay back all or only part of the overpayment. We will give you this decision, along with our reasons, in writing. If we decide that part or all of the overpayment should be recovered after reviewing the information that you provide, we will start recovery again.

What can I do if you still think that the overpayment should be recovered?

If you are unhappy with a decision to recover the overpayment, and there is some new relevant information that you can provide, please write to us at the address at the back of this booklet, as soon as possible. We will suspend recovery of the overpayment again while we review the information you give us.

If you are still unhappy with the decision, or if there is no new relevant information, you may wish to contact a professional adviser or an organisation like Citizens Advice to consider what options are open to you to dispute the recovery, including any through the courts.

Causes of overpayments

What causes an overpayment after the end of the tax year?

An overpayment can happen if, for example:

- you delay telling us about a change in your circumstances, or
- we delay recording the change of circumstance that you told us about, or
- your income as a whole for 2005/06 is £2,500 more than your income in 2004/05, or
- your income as a whole for 2006/07 is £25,000 more than your income in 2005/06, or
- your award was not based on the right details.

If you want help understanding what may have caused your overpayment, call us on 0845 300 3900.

Paying back overpayments

How will you expect me to pay back an overpayment after the end of the tax year?

We will collect it back by one of the following methods:

- if you are still receiving tax credit payments, as the same household for which the overpayment arose, we will automatically reduce the amount we pay you (see the next question), or
- if you are no longer entitled to tax credits, we will ask you to make a direct payment to us, or
- if your tax credit award has ended, as your household has changed, we will ask you to make a direct payment to us.

How much will you reduce my payments by when you are collecting an overpayment from a previous year's award?

We automatically reduce payments to recover a previous year's overpayment. The maximum amounts depend on your circumstances and are:

- 10% for those entitled to the maximum award, and
- 100% for those entitled to only the family element of Child Tax Credit, and
- 25% for those entitled to Child Tax Credit above the family element, or Working Tax Credit below the maximum.

Call us on 0845 300 3900 if you want help understanding which recovery rate applies to you.

If the reduced payments cause you financial difficulties, see the section "Asking for more time to pay" on page 2. If you dispute recovery of the overpayment, because it arose due to a mistake by us, see the section "Disagreeing with recovery of an overpayment" on page 3.

Why have my tax credit payments gone down during the tax year?

Your tax credit payments can go up or down if your circumstances or your income change during the tax year.

After you tell us about a change in your circumstances or a change in your income, we work out the new amount of tax credit payments you are due and issue a new award notice. If the changes mean you are awarded less tax credits, we automatically:

- reduce your payments, or
- stop paying you tax credits for the rest of the year, if we have already paid you as much as, or more than, you are entitled to.

We reduce your payments to help avoid an overpayment after the end of the tax year. Your tax credit payments can also go down if we begin to recover an overpayment from a previous year.

If you tell us about a change of circumstances and we find you are not entitled to tax credits at all, we will stop paying you tax credits for the rest of the year.

Joint claims

Because you and your partner must make a joint claim for tax credits, we can ask either of you to pay back an overpayment on the joint claim, even if you and your former partner have now split up.

There is an overpayment on a joint claim with my former partner. Who will you ask to pay back the overpayment?

Our first step will be to ask both of you jointly to pay us the money. We will send letters to both of you showing the total amount due. Where we do not have an address for one of you, we will make every effort to trace him or her.

You can ask us to consider whether there should be a difference between what you and your former partner are asked to repay. We will take into account the circumstances, income and expenses of each of you in reaching a decision. Where, for example, you ask us to consider a difference between your and your former partner's ability to pay, we may ask:

- each of you to pay us different amounts of the overpayment, or
- one of you to pay us the full amount.

In law, both partners are jointly responsible to pay the full amount unless we send out new notices saying otherwise.

Appeal rights

You can appeal against your Child Tax Credit or Working Tax Credit notice and any penalty we have imposed in connection with your tax credits claim. We will always tell you if you have a right of appeal on the notice that sets out the decision.

If you want more information, please ask for our leaflet WTC/AP 'How to appeal against a tax credits decision or award.' This is available on our website at http://www.hmrc.gov.uk/leaflets/wtc_ap.htm or by calling 08459 000404 or from any HM Revenue & Customs Enquiry Centre.

You cannot appeal against our decision to recover an overpayment although you may have other options available to you, see the section 'What can I do if you still think that the overpayment should be recovered?' on page 6.

Making a complaint

If you have a complaint about the way we have handled your tax credits claim or award, please tell us straight away. Please send any complaints to the address at the back of this booklet.

For more information about making a complaint, or taking cases to the Adjudicator or the Parliamentary Ombudsman, please see our leaflet COP1 'Putting things right. How to complain.' This is available on our website at <http://www.hmrc.gov.uk/leaflets/cop1.htm> or by calling 08459 000404 or from any HM Revenue & Customs Enquiry Centre.

Contacting us

- Call us between 0800 and 2000, seven days a week.

Helpline **0845 300 3900**

Minicom/Textphone 0845 300 3909

If you prefer to speak in Welsh 0845 302 1489

If you are living overseas and cannot get through on the Helpline number shown, please call 00 44 28 9080 8316.

- Visit any HM Revenue & Customs Enquiry Centre - you may need to make an appointment to see an adviser.

- Write to

Tax Credit Office

Preston

PR1 0SB.

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

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