

2003 No. 732

TAX CREDITS

**The Tax Credits (Definition and Calculation of Income)
(Amendment) Regulations 2003**

<i>Made</i> - - - -	<i>14th March 2003</i>
<i>Laid before Parliament</i>	<i>14th March 2003</i>
<i>Coming into force</i> - -	<i>6th April 2003</i>

The Treasury in exercise of the powers conferred upon them by sections 7(8) and (9), 65(1), (7) and (9) and 67 of the Tax Credits Act 2002(a) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Tax Credits (Definitions and Calculation of Income) (Amendment) Regulations 2003 and shall come into force on 6th April 2003.

Interpretation

2. In these Regulations “the principal Regulations” means the Tax Credits (Definition and Calculation of Income) Regulations 2002(b).

Amendment of the principal Regulations

3. Amend the principal Regulations as follows.

4. In regulation 2(2)—

(a) after the definition of “claim” insert—

““earnings” shall be construed in accordance with section 62 of the ITEPA;”;

(b) omit the definition of “emoluments”;

(c) after the definition of “the Independent Living (1993) Fund” insert—

““ITEPA” means the Income Tax (Earnings and Pensions) Act 2003(c);”;

(d) omit the definition of “Schedule E”.

5.—(1) Amend regulation 3 as follows.

(2) In paragraph (1), in Step Four—

(a) in the second sentence omit “, unless there has been a trading loss”; and

(b) in the third sentence for “subtract” substitute “subtract”.

(a) 2002 c. 21. Section 67 is cited because of the meaning ascribed to “prescribed”.

(b) S.I. 2002/2006.

(c) 2003 c. 1.

- (3) In paragraph (4)—
- (a) after “claimant who is” insert “, for income tax purposes”; and
 - (b) in sub-paragraph (a) for “but neither ordinarily resident nor domiciled” substitute “and domiciled but not ordinarily resident”.
- (4) In paragraph (5)—
- (a) for sub-paragraph (a) substitute—
 - “(a) any income arising outside the United Kingdom is to be taken into account, subject to any specific provision of these Regulations, regardless of the domicile or residence of the claimant; and”;
 - (b) in sub-paragraph (b) for “taxable”, in the first place where it occurs, substitute “taken into account”.
- (5) After paragraph (5) insert—
- “(5A) Any income is to be taken into account, subject to any specific provision of these Regulations, notwithstanding the provision of any Order in Council under section 788 of the Taxes Act (double taxation agreements)(a).”.
- (6) After paragraph (6) insert—
- “(6A) Income paid to a claimant in a currency other than sterling shall be converted into sterling at the average of the exchange rates applicable for the conversion of that currency into sterling in the period of 12 months ending on 28th March in the tax year in which the income arises.”.
- (7) In paragraph (7)—
- (a) omit “the amount of”;
 - (b) in sub-paragraph (a) at the beginning insert “the amount of”;
 - (c) in sub-paragraph (b) at the beginning insert “the grossed-up amount of”; and
 - (d) in sub-paragraph (c)—
 - (i) at the beginning insert “the amount of”;
 - (ii) in head (iii) for “Chapter 4 of that Part 14 of that Act;” substitute “Chapter 4 of Part 14 of that Act;”; and
 - (iii) at the end add—
 - “together with the amount of any tax relief due on those contributions.”.
- 6.—**(1) Amend regulation 4 as follows.
- (2) In paragraph (1)—
- (a) in sub-paragraph (a) for “emoluments” substitute “earnings”;
 - (b) in sub-paragraph (b) for “under section 19(1) or 153 of the Taxes Act;” substitute “by virtue of section 62 or section 72 of ITEPA;”;
 - (c) in sub-paragraph (c)—
 - (i) at the beginning insert “the cash equivalent of”; and
 - (ii) for “section 141 of the Taxes Act;” substitute “section 87 of ITEPA;”;
 - (d) in sub-paragraph (d)—
 - (i) at the beginning insert “the cash equivalent of”; and
 - (ii) for “section 142 of the Taxes Act;” substitute “section 94 of ITEPA;”;
 - (e) in sub-paragraph (e)—
 - (i) at the beginning insert “the cash equivalent of”; and
 - (ii) for “section 143 of the Taxes Act;” substitute “section 81 of ITEPA;”;

(a) Section 788(5) was amended by paragraphs 1 and 2 of Schedule 30 to the Finance Act 2000(c. 17).

- (f) for sub-paragraph (f) substitute—
 “(f) any amount chargeable to tax under Chapter 3 of Part 6 of ITEPA;”;
- (g) in sub-paragraph (g) for the words following “income tax” substitute “by virtue of section 660 of ITEPA;”;
- (h) in sub-paragraph (h) for “statutory maternity pay” substitute “statutory maternity pay, statutory paternity pay or statutory adoption pay”;
- (i) in sub-paragraph (i) for the words following “for that year” substitute “under section 120 or section 149 of ITEPA;”;
- (j) for sub-paragraph (j) substitute—
 “(j) any sum to which section 225 of ITEPA applies;”.

(3) For paragraph (3) substitute—

“(3) If the cash equivalent of an employment-related benefit is to be treated as earnings from a claimant’s employment under any provision of Chapter 10 of Part 3 of ITEPA, other than sections 211 to 215, it is to be taken into account in computing his employment income.

Here “employment-related benefit” has the meaning given in section 201 of ITEPA.

This paragraph does not apply to an employment which is lower paid employment for the purposes of Chapter 11 of Part 3 of ITEPA.”.

(4) In Table 1—

- (a) in the heading after “Payments” insert “and benefits”;
- (b) in item 1 for “Schedule 11A to the Taxes Act” substitute “Chapter 7 of Part 4 of ITEPA”;
- (c) for item 2 substitute —

“2A. The payment or reimbursement of expenses incurred in the provision of transport to a disabled employee (as defined in section 246(4) of ITEPA) by his employer, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 246 of ITEPA.

2B. The provision to a disabled employee (as defined in section 246(4) of ITEPA) by his employer of a car, the provision of fuel for the car, or the reimbursement of expenses incurred in connection with the car, if no liability to income tax arises in respect of that provision or reimbursement (as the case may be) by virtue of section 247 of ITEPA.

2C. The payment or reimbursement of expenses incurred on transport, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 248 of ITEPA.”;

- (d) in item 5 for the words following “family or household,” substitute “in respect of which no liability to income tax arises by virtue of Chapter 5 of Part 4 of ITEPA.”;
- (e) in item 6 for “falling within section 200A of the Taxes Act.” substitute “in respect of which no liability to income tax arises by virtue of section 240 of ITEPA.”;
- (f) for item 7 substitute—

“7. Food, drink and mess allowances for the armed forces and training allowances payable to members of the reserve forces in respect of which no liability to income tax arises by virtue of section 297 or 298 of ITEPA.”;

- (g) in item 8 for the words following “as an employee,” substitute “if section 89 of ITEPA applies to the vouchers.”;
- (h) in item 9 for the words following “coal itself,” substitute “in respect of which no liability to income tax arises by virtue of section 306 of ITEPA.”;
- (i) in item 10 for the words following “long service,” substitute “if, or to the extent that, no liability to income tax arises in respect of it by virtue of section 323 of ITEPA.”;

(j) in item 11 for “to which Extra Statutory Concession A84 applies.” substitute “in respect of which no liability to income tax arises by virtue of section 304 of ITEPA.”;

(k) after item 11 insert—

“11A. The payment or reimbursement of reasonable expenses incurred by an employee who has a permanent workplace at an offshore installation, on transfer transport, related accommodation and subsistence or local transport, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 305 of ITEPA.

For the purposes of this item, expressions which are defined in section 305 of ITEPA have the same meaning here as they do there.

11B. Payment of an allowance to a person in employment under the Crown in respect of which no liability to income tax arises by virtue of section 299 of ITEPA.

11C. The payment or reimbursement to an employee of any sum in connection with work-related training, or individual learning account training (as respectively defined in sections 251 and 256 of ITEPA) if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of any provision of Chapter 4 of Part 4 of ITEPA.

11D. The provision for an employee of a non-cash voucher or a credit-token, to the extent that liability to income tax does not arise in respect of that voucher or credit-token (as the case may be), under Chapter 4 of Part 4 of ITEPA, by virtue of any provision of Chapter 6 of that Part.

11E. The provision for an employee of free or subsidised meal vouchers or tokens (within the meaning of section 317(5) of ITEPA), if no liability to income tax arises in respect of that provision by virtue of section 317 of ITEPA.”;

(l) in item 12 for the words following “specified in” substitute “sections 321 and 322 of ITEPA.”;

(m) in item 13, for the words following “his employer” substitute “in respect of which no liability to income tax arises by virtue of section 245 of ITEPA.”;

(n) in item 14 for the words following “to obtain goods,” substitute “in respect of which no liability to income tax arises by virtue of section 270 or 324 of ITEPA.”;

(o) after item 14 insert—

“14A. Any payment or reimbursement of expenses incurred in connection with an employment-related asset transfer (as defined in section 326(2) of ITEPA), if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 326 of ITEPA.

14B. Any payment of expenses incurred by an employee in connection with a taxable car if no liability to income tax arises in respect of the payment by virtue of section 239(2) of ITEPA.”; and

(p) after item 15 insert—

“16. A payment made by the Department for Work and Pensions by way of Job Grant, Return to Work Credit or under the Employment Retention and Advancement Project, being, in each case, a payment under section 2 of the Employment Act.”.

(5) In paragraph (5) for the words from “calculating” to the end of the paragraph substitute “calculating earnings by virtue of any provision of sections 336 to 344, or section 346, 347, 351, 352, 362, 363, 367, 368, 370, 371, 373, 374, 376, 377 or 713 of ITEPA”.

7.—(1) Amend regulation 5 as follows.

(2) For paragraph (1) substitute—

“(1) In these Regulations, except where the context otherwise require, “pension income” means—

- (a) any pension to which section 577 or 629 of ITEPA applies;
- (b) any pension to which section 569 of ITEPA applies;
- (c) any voluntary annual payment to which section 633 of ITEPA applies;
- (d) any pension or annuity to which section 580 of ITEPA applies;
- (e) any unauthorised personal pension payment to which section 601 of ITEPA applies;
- (f) any periodical payment to which section 619 of ITEPA applies;
- (g) any annuity paid from a fund to which section 590 of ITEPA applies;
- (h) any unauthorised payment from a retirement benefits scheme to which section 583 ITEPA applies;
- (i) any annuity to which section 595 of ITEPA applies;
- (j) any income withdrawal to which section 598 of ITEPA applies;
- (k) any annuity to which section 605 of ITEPA applies;
- (l) any annuity to which section 609, 610 or 611 of ITEPA applies; and
- (m) any payment to which section 623 of ITEPA applies.”.

(3) In paragraph (2) for “payment mentioned” substitute “payment or benefit mentioned”.

(4) In Table 2—

- (a) in the heading for “Pensions and other payments” substitute “Pensions, other payments and benefits”;
- (b) in item 1 for “section 315 of the Taxes Act”, in both places where it appears, substitute “section 641 of ITEPA”;
- (c) in item 2 for “section 317 of that Taxes Act” substitute “section 638 of ITEPA”;
- (d) in item 3—
 - (i) for “section 318 of the Taxes Act” substitute “section 639 of ITEPA”; and
 - (ii) for the entry in Column 2 substitute—
- (e) in item 4—
 - (i) for “section 318(2)” substitute “section 639 of ITEPA”; and
 - (ii) for the entry in column 2 substitute—

“The amount treated as falling within section 639 of ITEPA by virtue of section 640(2) of that Act.”;

(f) in item 9 for the entry in column 2 substitute—

“The exempt amount of the pension calculated in accordance with section 644(3) of ITEPA.”; and

(g) at the end add the following entries—

“10. A lump sum on which no liability to income tax arises by virtue of section 637 of ITEPA.	The amount of the lump sum.
11. Coal or smokeless fuel provided as mentioned in section 646(1) of ITEPA, or an allowance in lieu of such provision.	The amount on which no liability to income tax arises by virtue of that section.”.

- (5) At the end of the regulation add—
- “(3) From the amount of pension income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing pension income (as defined in ITEPA) under section 713 of that Act.”.
- 8.**—(1) Amend regulation 7 as follows.
- (2) In paragraph (1) omit sub-paragraph (b).
- (3) In Table 3—
- (a) in item 13 for “section 151(1) of the Taxes Act” substitute “section 665 of ITEPA”;
- (b) in item 15 after “Industrial injuries benefit” insert “(except industrial death benefit)”;
- (c) in item 16 for “section 151A of the Taxes Act” substitute “section 674 of ITEPA”;
- (d) after item 20 insert—
- “20A. Statutory adoption pay under Part 12ZB of the Contributions and Benefits Act(a).”; and
- (e) after item 21 insert—
- “21A. Statutory paternity pay under Part 12ZA of the Contributions and Benefits Act(b).”.
- (4) Omit paragraph (5).
- (5) After paragraph (5) insert—
- “(5A) From the amount of social security income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing social security income (as defined in ITEPA) under section 713 of ITEPA.”.
- 9.** In regulation 10, in Table 4 renumber items 10, 11 and 12 respectively as items 9, 10 and 11.
- 10.** In regulation 12(3)—
- (a) in paragraph (b)—
- (i) omit “or section 196”;
- (ii) after “the Taxes Act applies” insert “or to which sections 567(5) and 617 of ITEPA apply”; and
- (iii) for “that section” substitute “the relevant provision”; and
- (b) in paragraph (c) for head (ii) substitute—
- “(ii) section 681 of ITEPA;”.
- 11.**—(1) Amend regulation 19 as follows.
- (2) In Table 6—
- (a) after item 14 insert—
- 14A. Any payment made under the “Supporting People” programme—
- (a) in England and Wales, under section 93 of the Local Government Act 2000(c);
- (b) in Scotland, under section 91 of the Housing (Scotland) Act 2001(d); or

(a) Part 12ZB was inserted by section 4 of the Employment Act 2002 (c. 22). See also paragraph (6) of regulation 7 of the principal Regulations in respect of the construction of statutory references in relation to Northern Ireland.

(b) Part 12ZA was inserted by section 2 of the Employment Act 2002.

(c) 2000 c.22. Section 93 was amended by section 136 of the Adoption and Children Act 2002 (c. 38).

(d) 2001 asp 10.

- (c) in Northern Ireland, under Article 4 of the Housing Support Services (Northern Ireland) Order 2002^(a).” and
 - (b) in item 15 for “Any payment of a voucher” substitute “Any payment or a voucher”.
- (3) In Table 8—
- (a) in each of items 3 and 4, in column 2—
 - (i) renumber the words after “if” as paragraph (a) of that item; and
 - (ii) at the end add—
 - “; or
 - (b) excluded from profits or gains by paragraph 11 of that Schedule^(b).”.
 - (b) renumber the second item numbered 5 as item 6, and renumber the item following it as item 7.

Jim Fitzpatrick
John Heppell

14th March 2003

Two of the Lords Commissioners of Her Majesty’s Treasury

^(a) S.I. 2002/3154 (N.I. 8).

^(b) Paragraph 11 was amended, for chargeable periods ending after 5th April 2001, by paragraph 86(3) of the Capital Allowances Act 2001 (c. 2).

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 principal Regulations”), mainly as a consequence of the enactment of the Income Tax (Earnings and Pensions) Act 2003 (c. 1: “ITEPA”). ITEPA replaces the provisions of the Income and Corporation Taxes Act 1988 (c. 1) on the taxation of employment income, pension income and social security income.

Regulation 1 provides for citation and commencement and regulation 2 for interpretation.

Regulation 3 introduces the amendments to the principal Regulations.

Regulation 4 amends regulation 2 of the principal Regulations, inserting definitions of “earnings” and “ITEPA” and deleting references to “Schedule E” and “emoluments”, which are rendered obsolete by ITEPA.

Regulation 5 amends regulation 3 of the principal Regulations. It clarifies the operation of the rules on calculating trading income, changes the method of calculation in respect of claimants who are not domiciled, resident and ordinarily resident in the United Kingdom, and makes it clear that income which is exempt from UK taxation by virtue of a double taxation agreement is to be taken into account in calculating income for tax credits purposes. Finally, it provides a method of calculating the amount of a claimant’s income where it is paid to him in a currency other than sterling.

Regulation 6 amends regulation 4 of the principal Regulations to reflect the new statutory provisions relating to the taxation of employment income in ITEPA. In addition it provides new disregards in respect of the provision of transport or payment of expenses on transport, credit-tokens and vouchers, and vouchers free or subsidised meals on which no liability for income tax arises. It also provides disregards for certain new payments made by the Department for Work and Pensions under section 20 of the Employment and Training Act 1973 (c. 50), and permits a deduction in respect of payroll giving.

Regulation 7 amends regulation 5 of the principal Regulations to reflect the new statutory provisions relating to the taxation of pension income in ITEPA. It also provides disregards for tax-free lump sums, and for free coal (and allowances in lieu) for former colliery workers and their widows and a deduction in respect of payroll giving.

Regulation 8 amends regulation 7 of the principal Regulations (social security income) to provide disregards for statutory adoption pay and statutory paternity pay, and a deduction in respect of payroll giving.

Regulation 9 makes a correction to Table 4 in regulation 10 of the principal Regulations.

Regulation 10 amends regulation 12 of the principal Regulations to reflect the new statutory provisions on foreign income contained in ITEPA.

Regulation 11 amends regulation 19 of the principal Regulations. It adds a new general disregard in Table 6 in respect of payments under the Supporting People programme run by the Office of the Deputy Prime Minister. It extends the disregard in Table 8 in respect of income arising from payments to claimants who are providing accommodation on a temporary basis under social services legislation, and makes a drafting correction to that Table.

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