

2010 No. 751

TAX CREDITS

The Tax Credits (Miscellaneous Amendments) Regulations 2010

Made - - - - *11th March 2010*

Laid before Parliament *15th March 2010*

Coming into force - - *6th April 2010*

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(2), (8) and (9), 8(2), 9(6), 11, 12(3) and (4), 13(2), 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 4(1)(b), 17(10), 21, 24(7) and (8), 65(2), (7) and (9) and 67 of that Act(c).

Citation and commencement

1. These regulations may be cited as the Tax Credits (Miscellaneous Amendments) Regulations 2010 and shall come into force on 6th April 2010.

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

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

3. In regulation 2(2) (interpretation) after the definition of “registered pension scheme”(e) insert—

“Saving Gateway account” has the meaning given by section 1 of the Saving Gateway Accounts Act 2009(f);”.

4. In regulation 10 (investment income) after item 13 of Table 4 insert—

14 Any income arising from or payment made	The whole amount.
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(a) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to “prescribed”.
 (b) Section 4(1) was amended by paragraph 145 of Schedule 24 to the Civil Partnership Act 2004 (2004 c. 33).
 (c) 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”.
 (d) S.I. 2002/2006; relevant amending instruments are S.I. 2004/762, 2006/745, 2006/766 and 2009/2887.
 (e) “registered pension scheme” is defined in regulation 2(2) of S.I. 2002/2006 and was inserted under S.I. 2006/745.
 (f) 2009 c. 8.

in respect of a Saving Gateway account.	
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- 5.—(1) Regulation 19 (general disregards in the calculation of income) is amended as follows.
- (2) In item 3 of Table 6—
- (a) immediately preceding paragraph (a)(iii) omit the word “or” and insert—
- “(ia) an employment programme specified in regulation 75(1)(a)(ii)(dd) of the JSA Regulations(a) (Community Task Force);”, and
- (b) after paragraph (a)(iii) insert—
- “or
- (iv) the Backing Young Britain programme pursuant to arrangements made under section 2 of the Employment Act(b);”.
- (3) In item 2 of Table 7—
- (a) omit the word “or” immediately preceding paragraph (d)(iv),
- (b) in paragraph (d)(iv)(c) for “Jobseeker’s Allowance Regulations 1996” substitute “JSA Regulations”,
- (c) immediately preceding paragraph (e)(d) insert—
- “(v) the Community Task Force specified in regulation 75(1)(a)(ii)(dd) of the JSA Regulations; or”, and
- (d) in paragraph (e) for “Jobseeker’s Allowance Regulations (Northern Ireland) 1996” substitute “JSA (NI) Regulations”(e).

Amendment of the Tax Credits (Claims and Notifications) Regulations 2002

- 6.—(1) The Tax Credits (Claims and Notifications) Regulations 2002(f) are amended as follows.
- 7.—(1) Amend regulation 11 (circumstances in which claims are treated as made) as follows.
- (2) In paragraph (2) before “both persons” insert “either person or”.
- (3) Amend paragraph (3) as follows—
- (a) in sub-paragraph (a) for “31st July next following the end of the tax year to which the claim relates” substitute “the date specified on the section 17 notice” and for “preceding that date” substitute “following the period to which the section 17 notice relates”,
- (b) delete sub-paragraph (aa),
- (c) in sub-paragraph (b)—
- (i) for “31st July next following the end of the tax year to which the claim relates” substitute “the date specified on the section 17 notice”,
- (ii) after “6th April” omit “next”,
- (iii) for “the end of the tax year to which the claim relates” substitute “the period to which the section 17 notice relates”,
- (d) in sub-paragraph (c)—

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- (a) Regulation 19(2) provides that in regulation 19 “the JSA Regulations” means the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207); regulation 75(1)(a)(ii)(dd) of those Regulations was inserted by regulation 2(3) of the Social Security (Community Task Force) Regulations 2010 (S.I. 2010/354).
- (b) 1973 c. 50: section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19) and amended by Part 1 of Schedule 7 to the Employment Act 1989 (c. 38) and section 47 of the Trade Union Reform and Employment Rights Act 1993 (c. 19).
- (c) Paragraph (d)(iv) was inserted by S.I. 2009/697.
- (d) Paragraph (e) was inserted by S.I. 2009/2887.
- (e) Regulation 19(2) provides that in regulation 19 “the JSA (NI) Regulations” means the Jobseeker’s Allowance (Northern Ireland) Regulations 1996 (S.R. (NI) 1996 No 198).
- (f) S.I. 2002/2014; relevant amending instruments are S.I. 2004/762, 2005/2919, 2008/604 and 2009/697.

- (i) for “31st July next following the end of the tax year to which the claim relates” substitute “the date specified on the section 17 notice”,
 - (ii) for “31st January next following the end of the tax year to which the claim relates” substitute “31st January in the tax year following the period to which the section 17 notice relates”,
 - (iii) for “on 6th April preceding the date on which the declaration is made” substitute “on 6th April following the period to which the section 17 notice relates”.
- (4) In paragraph (4)—
- (a) at the end of sub-paragraph (a) omit “or”,
 - (b) after sub-paragraph (b) insert—
“; or
 - (c) in the case where the response to the notice referred to in paragraph (2) specifies that such response is not to be treated as a new claim for the tax year beginning 6th April following the period to which the section 17 notice relates.”.

8.—(1) Amend regulation 12(7) as follows.

(2) Omit the word “or” immediately preceding sub-paragraph (b).

(3) After sub-paragraph (b) insert—

“; or

- (c) in the case where the person or persons making a statement described in paragraph (4) state that it is not to be treated as a new claim for tax credit in respect of the tax year beginning 6th April following the period to which the section 17 notice relates.”.

9. In regulation 13(2) after “one member of a couple is treated by” insert “regulation 11 or”.

Amendment of the Tax Credits (Payments by the Commissioners) Regulations 2002

10.—(1) The Tax Credits (Payments by the Commissioners) Regulations 2002(a) are amended as follows.

(2) In regulation 11(1) (postponement of payment) for “paragraphs (2) and (3)” substitute “paragraphs (2), (2A), (3) and (3A)”.

(3) After regulation 11(2) insert—

“(2A) The circumstances specified in this paragraph are where—

- (a) a notice in writing has been given by the Commissioners to a person to notify a bank account or other account to which the Commissioners may make payment of a tax credit or element to which the person is entitled;
- (b) a period of eight weeks has elapsed since the day on which the Commissioners gave their notice; and
- (c) no bank account or other account has been notified to the Commissioners pursuant to their notice.”.

(4) After regulation 11(3) insert—

“(3A) The circumstances specified in this paragraph are where—

- (a) a notice under section 16(3) of the Tax Credits Act 2002 has been issued to the person, or either or both of the persons, to whom the tax credit or element was awarded, and
- (b) such person or persons have not provided the information or evidence requested in that notice by the date specified in such notice”.

(a) S.I. 2002/2173, amended by S.I. 2005/2200; there are other amending instruments but none is relevant.

- (5) After regulation 11(6) insert—
- “(7) The postponement of payment pursuant to the circumstances specified in paragraph (2A) shall cease at the earlier of the time when—
- (a) a bank account or other account is notified to the Commissioners; or
 - (b) the entitlement to the tax credit or element ceases in accordance with regulation 14.”.

(6) For regulation 14(1) substitute—

“(1) Subject to paragraph (3), where—

 - (a) payment of a tax credit or element is postponed pursuant to the circumstances specified in regulation 11(2A), and
 - (b) before the relevant time determined in accordance with this regulation, no bank account or other account is notified to the Commissioners by the person to whom a tax credit or element would have been paid if payment of it had not been postponed,

that person shall cease to be entitled to the tax credit or element for the remainder of the period of the award^(a) beginning on the day from which the Commissioners decide to postpone payment.”.

(7) Omit regulation 14(2) and (4).

(8) Before regulation 14(5) insert—

“(4A) Subject to paragraphs (4C) and (4E), the relevant time is the earlier of—

 - (a) three months after the time when the Commissioners decide to postpone payment of a tax credit or element; or
 - (b) immediately after the end of the relevant tax year^(b).

(4B) This paragraph applies where, before the time determined in accordance with paragraph (4A), the person entitled to payment of the tax credit or element—

 - (a) requests from the Commissioners authority to open an account for which such authority is required; and
 - (b) provides sufficient information from which the Commissioners can give that authority.

(4C) Subject to paragraph (4E), where paragraph (4B) applies, the relevant time is the later of—

 - (a) the time determined in accordance with paragraph (4A); and
 - (b) the expiry of the period of 3 weeks from the day on which the Commissioners give their authority following a request described in paragraph (4B)(a).

(4D) This paragraph applies where a person to whom a notice described in regulation 11(2A)(a) has been given has a reasonable excuse—

 - (a) for not being able to take all necessary steps to obtain a bank account or other account before a time determined in accordance with paragraphs (4A) or (4C), or
 - (b) for not being able to notify to the Commissioners the bank account or other account before a time determined in accordance with paragraphs (4A) or (4C).

(4E) Where paragraph (4D) applies, the relevant time is the later of—

 - (a) the time determined in accordance with paragraph (4A);
 - (b) where paragraph (4B) applies, the time determined in accordance with paragraph (4C); and

(a) Regulation 2 of S.I. 2002/2173 defines “period of award”.

(b) Regulation 2 of S.I. 2002/2173 defines “the relevant tax year”.

- (c) the date by which the account can reasonably be expected to be notified to the Commissioners.”.

Amendment of the Tax Credits (Official Error) Regulations 2003

11. The Tax Credits (Official Error) Regulations 2003(a) are amended as follows.

12.—(1) In regulation 2(1) (interpretation) omit the definition of “tax year”.

(2) In regulation 3(3) (decision) for “the end of the tax year to which the decision relates” substitute “the date of the decision”.

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

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

14. In regulation 14(4)(b) (relevant child care charges) for “a local authority in Scotland” substitute “a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994”(c).

15.—(1) Amend paragraph 9 of Part 1 of Schedule 1 (disability which puts a person at a disadvantage in getting a job) as follows.

(2) In sub-paragraph (b) for “the Local Government (Scotland) Act 1994” substitute “section 2 of the Local Government etc. (Scotland) Act 1994”.

(3) In sub-paragraph (c) after “certified as blind” insert “or partially sighted” and after “is registered as blind” insert “or partially sighted”.

Amendment of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002

16. The Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(d) are amended as follows.

17.—(1) At the beginning of regulation 4 (social security benefits prescribed for the purposes of section 7(2) of the Tax Credits Act 2002) make the existing provision paragraph (1) and insert at the commencement of that paragraph “Subject to paragraph (2),”.

(2) After paragraph (1) of regulation 4 insert—

“(2) Paragraph (1) shall not apply in relation to working tax credit during the four-week period described in regulation 7D of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (ceasing to undertake work or working for less than 16 or 30 hours per week)(e).”.

(3) In step 10 of regulation 7(3) (determination of rate of working tax credit) for “70%” substitute “80%”.

Amendment of the Child Tax Credit Regulations 2002

18. The Child Tax Credit Regulations 2002(f) are amended as follows.

19. Amend regulation 8(2)(b)(ii) (prescribed conditions for a disabled or severely disabled child or qualifying young person) as follows—

(a) S.I. 2003/692.

(b) S.I. 2002/2005, to which there are amendments not relevant to these Regulations.

(c) 1994 c. 39.

(d) S.I. 2002/2008; relevant amending instruments are S.I. 2003/2815, 2008/1879 and S.R. (NI) 2008 No 412.

(e) Regulation 7D was inserted by S.I. 2007/968 and substituted by S.I. 2009/1829.

(f) S.I. 2002/2007, to which there are amendments not relevant to these Regulations.

- (a) after “certified as blind” insert “and in consequence is registered as blind”,
- (b) for “a local government area (as defined in the Local Government etc (Scotland) Act 1994)” substitute “a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994”.

Tony Cunningham

Dave Watts

11th March 2010

Two of the Lords Commissioners of Her Majesty’s Treasury

Bernadette Kenny

Dave Hartnett

10th March 2010

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 6th April 2010 and amend the Tax Credits (Definition and Calculation of Income) Regulations 2002 (“the Income Regulations”), the Tax Credits (Claims and Notifications) Regulations 2002 (“the Claims Regulations”), the Tax Credits (Payments by the Commissioners) Regulations 2002 (“the Payments Regulations”), the Tax Credits (Official Error) Regulations 2003 (“the Official Error Regulations”), the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (“the Entitlement Regulations”), the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 (“the Income Thresholds Regulations”) and the Child Tax Credit Regulations 2002 (“the Child Tax Credit Regulations”).

Regulations 2 to 5 amend the Income Regulations.

Regulation 3 introduces a definition of a Saving Gateway account, which is referred to in regulation 4.

Regulation 4 amends Table 4 in regulation 10, which lists payments that are disregarded in the calculation of investment income. It inserts a new sub-paragraph into Table 4, which provides that income or payments arising from, or made in respect of, a Saving Gateway account are disregarded in calculating investment income.

Regulation 5 amends Tables 6 and 7 of regulation 19 of the Income Regulations, which deals with general disregards in calculating income. The changes provide that payments in respect of the Community Task Force and the Backing Young Britain programme are disregarded in calculating income. A technical change is also made to the reference to the Jobseeker’s Allowance Regulations 1996 and the Jobseeker’s Allowance Regulations (Northern Ireland) 1996, since these terms are already defined in the Income Regulations.

Regulations 6 to 9 amend the Claims Regulations. Regulation 7(2) provides that where a joint claim was previously made, a response to a final notice can now be made by either of the claimants. Regulation 7(3) amends regulation 11(3) to alter the circumstances in which a claim for tax credits is treated as being made. Regulations 7(4) and 8 introduce provisions into regulations 11(4) and 12(7) respectively, which allow a person or persons to specify in a response to a final notice in respect of a tax year that the person or persons no longer wish to claim tax credits for the following tax year. Regulation 9 is a consequential amendment, following the amendment made by regulation 7(2).

Regulation 10(2) inserts paragraph (2A) into regulation 11 of the Payment Regulations, so that the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) may postpone payment of a tax credit or an element of tax credit to a person who fails to notify a bank account or other account into which the credit may be paid. Regulation 11(7) of the Payment Regulations (which is inserted by regulation 10(5) of these Regulations) provides that payment may be postponed until a bank account or other account is notified to the Commissioners or the entitlement to the credit ceases in accordance with regulation 14 of the Payment Regulations.

Regulation 10(4) inserts paragraph (3A) into regulation 11 of the Payment Regulations. The circumstances in which the Commissioners may postpone payment of a tax credit or element of a tax credit specified in this paragraph are where a person or persons to whom such credit has been awarded fail to provide information or evidence requested by the Commissioners by a notice under section 16(3) of the Tax Credits Act 2002 (c. 21) by the date specified in the notice.

Regulation 10(6) substitutes regulation 14(1) of the Payment Regulations so that where the payment of a tax credit or an element of tax credit has been postponed pursuant to regulation 11(2A), a person’s entitlement to it will cease for the remainder of the period of the award, beginning on the day the Commissioners decide to postpone payment if the person fails to notify a bank account or other account to the Commissioners before the relevant time.

Regulation 10(7) and (8) omits regulation 14(2) and (4) of the Payment Regulations and inserts paragraphs (4A) to (4E) of regulation 14, which determined the relevant time for the purposes of regulation 14(1).

Regulations 11 and 12 amend regulation 3(3) of the Official Error Regulations, to provide that if a decision of the Commissioners needs to be revised as a result of an internal error, any such revision can be made up to five years following the date of the decision. There is a consequential amendment to regulation 2(1) of the Official Error Regulations omitting the definition of “tax year”, since this description is no longer used in the Official Error Regulations.

Regulations 13 to 15 amend the Entitlement Regulations.

Regulation 14 amends regulation 14(4)(b) (which relates to child care charges) so that it refers to a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

Regulation 15 amends paragraph 9 of Part 1 of Schedule 1 to the Entitlement Regulations (which relates to disabilities which put a person at a disadvantage in getting a job). Paragraph 9(b) is amended so that it refers to section 2 of the Local Government etc. (Scotland) Act 1994. Paragraph 9(c) is amended to make it clear that it applies to persons who are partially sighted as well as blind.

Regulations 16 and 17 amend the Income Thresholds Regulations. By virtue of the insertion of regulation 4(2) of the Income Thresholds Regulations, a person who is entitled to working tax credit during the four-week period described in regulation 7D of the Entitlement Regulations is, in relation to the social security benefits referred to in regulation 4 of the Income Thresholds Regulations, subject to the income test in section 7(1) of the Tax Credits Act 2002. In regulation 7 of the Income Threshold Regulations, step 10 of the formula determining the rate of working tax credit is amended to align the calculation of the maximum rate of the child care element with that in regulation 20(2) of the Entitlement Regulations as amended by the Tax Credit Up-rating Regulations (S.I. 2006/963).

Regulations 18 and 19 amend regulation 8(2)(b)(ii) of the Child Tax Credit Regulations, so that it refers to a person in Scotland who has been certified as blind, and in consequence is registered as blind, in a register maintained by, or on behalf of, a local government area as defined in section 2 of the Local Government etc. (Scotland) Act 1994 .

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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