

2002/2008

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

TC (Income Thresholds & Determination of Rates)

Made by the Treasury under TCA 2002 ss 8(1)–(3), 13(2) and (3), 65(1) and (7) and 67

Made 30 July 2002

Coming into force in accordance with regulation 1

## Commentary—

*Simon's Taxes* E2.241–E2.244.

## HMRC Manuals—

Tax Credit Technical Manual TCTM7000–7050, 7APPX3 (calculation of awards, including income thresholds).

## [MAIN

### 1 Citation, commencement and effect

(1) These Regulations may be cited as the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 and shall come into force—

- (a) for the purpose of enabling claims to be made, on 1st August 2002;
- (b) for the purpose of enabling decisions on claims to be made, on 1st January 2003; and
- (c) for all other purposes, on 6th April 2003.

(2) These Regulations shall have effect for the tax year beginning with 6th April 2003 and subsequent tax years.

### 2 Interpretation

In these Regulations—

“the Act” means the Tax Credits Act 2002;

“the income threshold” has the meaning given by section 7(1)(a) of the Act;

“period of award” shall be construed in accordance with section 5 of the Act;

“the relevant income” has the meaning given by section 7(3) of the Act;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.

## Modifications—

Universal Credit (Transitional Provisions) Regulations, SI 2013/386 reg 17(1), (2), Schedule paras 29, 30 (modification of this regulation in respect of awards of universal credit and terminations of awards of tax credit in the same year).

Universal Credit (Transitional Provisions) Regulations, SI 2014/1626 reg 4 (modification of this regulation in respect of awards of universal credit and terminations of awards of tax credit in the same year).

### 3 Manner in which amounts to be determined for the purposes of section 7(1)(a) of the Act

(1) This regulation prescribes the manner in which amounts are to be determined for the purposes of section 7(1)(a) of the Act.

(2) In the case of a person or persons entitled to working tax credit, the amount in relation to that tax credit is [£6,420]<sup>1</sup>.

(3) In the case of a person or persons entitled to child tax credit, the amount in relation to that tax credit is [£16,105]<sup>2</sup>.

#### **Note—**

Note that the proposed reductions to the income thresholds in paras (2) and (3), announced by the Chancellor in the 8 July 2015 Budget and set out in the Draft Tax Credits (Income Thresholds and Determination of Rates) (Amendment) Regulations 2015, were subsequently abandoned.

#### **Amendments—**

- 1 Figure in para (2) substituted by the Tax Credits Up-rating Regulations, SI 2008/796 reg 4(1)–(3) with effect from 6 April 2008. These Regulations have effect in relation to awards of tax credits for the tax year beginning on 6 April 2008 and subsequent tax years.
- 2 Figure in para (3) substituted by the Tax Credits Up-rating Regulations, SI 2015/541 reg 4(1), (2) with effect in relation to awards of tax credits for the tax year beginning on 6 April 2015 and subsequent tax years. Previous figure was £16,010.

#### **4 Social security benefits prescribed for the purposes of section 7(2) of the Act**

[(1)] 3 [Subject to paragraph (2),]<sup>3</sup> the following are social security benefits prescribed for the purposes of section 7(2) of the Act in relation to child tax credit and working tax credit—

- (a) income support under Part 7 of the Social Security Contributions and Benefit Act 1992 other than income support to which a person is entitled only by virtue of regulation 6(2) and (3) of the Income Support (General) Regulations 1987;
  - (b) income support under Part 7 of the Social Security Contributions and Benefit (Northern Ireland) Act 1992 other than income support to which a person is entitled only by virtue of regulation 6(2) and (3) of the Income Support (General) Regulations (Northern Ireland) 1987;
  - (c) an income-based jobseeker's allowance within the meaning of the Jobseekers Act 1995 or the Jobseekers (Northern Ireland) Order 1995.
- [(d) state pension credit within the meaning of the State Pension Credit Act 2002 or the State Pension Credit Act (Northern Ireland) 2002.]<sup>1</sup>
- [(e) an income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.]<sup>2</sup>

[(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).]<sup>3</sup>

#### **Amendments—**

- 1 Sub-para (d) inserted by the Tax Credits (Miscellaneous Amendments No 2) Regulations, SI 2003/2815 reg 18 with effect from 26 November 2003.
- 2 Para (e) inserted by the Employment and Support Allowance (Consequential Provisions) (No 3) Regulations, SI 2008/1879 reg 23 with effect from 27 October 2008.
- 3 Para (1) designated as such, and in para (1) words inserted at beginning, and para (2) inserted, by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2010/751, regs 16, 17(1), (2) with effect from 6 April 2010.

#### **[5 [Amounts prescribed for the purposes of section 7(3) of the Act]**

The amount prescribed—

- (a) for the purposes of section 7(3)(a) and (b) of the Act is [£2,500]<sup>2</sup>; and
- (b) for the purposes of section 7(3)(c) and (d) of the Act is £2,500.]<sup>1</sup>

#### **Amendments—**

- 1 Reg 5 and preceding heading substituted by the Tax Credits Up-rating Regulations, SI 2012/849 reg 4(1)–(3) with effect in relation to awards of tax credits for the tax year beginning on 6 April 2012 and subsequent tax years.
- 2 Figure in para (a) substituted by the Tax Credits (Income Thresholds and Determination of Rates) (Amendment) Regulations, SI 2016/393 reg 2 with effect in relation to awards of tax credits for the tax year beginning on 6 April 2016 and subsequent tax years. Figure was previously “£5,000”.

## **6 Manner of determining the rate at which a person is, or persons are, entitled to a tax credit**

Regulations 7, 8 and 9 make provision as to the manner of determining the rate (if any) at which a person is, or persons are, entitled to a tax credit in any case where—

- (a) the relevant income exceeds the income threshold; and
- (b) his or their entitlement does not arise by virtue of section 7(2) of the Act.

## **7 Determination of rate of working tax credit**

(1) In relation to a person or persons entitled to working tax credit, the rate shall be determined by finding the rate for each relevant period and, where necessary, adding together those rates.

(2) “Relevant period” means any part of the period of award throughout which—

- (a) the elements of working tax credit (other than the child care element) to which the person or persons may be entitled, remain the same; and
- (b) there is no relevant change of circumstances for the purposes of the child care element of working tax credit, within the meaning of regulation 16(1) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (change of circumstances for the purposes of child care element).

(3) The rate for each relevant period shall be found in accordance with the following steps—

*Step 1—finding the daily maximum rate for each element other than the child care element*

For each element of the tax credit (other than the child care element) to be included in the case of the person or persons entitled to the tax credit, find the daily maximum rate using the following formula—

$$\frac{MR}{N1}$$

where—

“MR” is the maximum rate in relation to that element for the tax year to which the claim for the tax credit relates;

“N1” is the number of days in that tax year.

*Step 2—finding the maximum rate for the relevant period for each element other than the child care element*

For each element of the tax credit to be so included, find the amount produced by multiplying the daily maximum rate (found under Step 1 and rounded up to the nearest penny) by the number of days in the relevant period.

*Step 3—finding the income for the relevant period*

Find the income for the relevant period by using the following formula—

$$\frac{I}{N1} \times N2$$

where—

“I” is the relevant income for the tax year to which the claim for the tax credit relates;

“N1” is the number of days in that tax year;

“N2” is the number of days in the relevant period.

*Step 4—finding the threshold for the relevant period*

Find the threshold for the relevant period using the following formula—

$$\frac{[? 6, 420]^1}{N1} \times N2$$

where—

“N1” is the number of days in that tax year;

“N2” is the number of days in the relevant period.

*Step 5—finding the amount of the reduction*

Find the amount which is [41%]<sup>2</sup> of the amount by which the income for the relevant period (found under Step 3 and rounded down to the nearest penny) exceeds the threshold for the relevant period (found under Step 4 and rounded up to the nearest penny).

*Step 6—reducing the elements of the tax credit (other than any child care element)*

If the amount found under Step 5 (rounded down to the nearest penny) is less than or equal to the total of the amounts found under Step 2 for the elements of the tax credit, deduct the amount found under Step 5 (rounded down to the nearest penny) from the total of those amounts found under Step 2.

*Step 7—finding the actual weekly child care costs for the relevant period*

Find the relevant child care charges for the relevant period in accordance with regulation 15 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002.

*Step 8—finding the actual child care costs for the relevant period*

Multiply the result of Step 7 by  $52/N1 \times N2$ .

Here N1 and N2 have the same meanings as in Step 3.

The result of this step is the amount of actual child care costs for the relevant period.

*Step 9—finding the prescribed maximum child care costs for the relevant period*

Divide whichever of the maxima in regulation 20(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 is applicable by 7, round the result up to the nearest penny and multiply the resulting figure by the number of days in the relevant period.

The result of this is the prescribed maximum child care costs for the relevant period.

*Step 10—finding the child care element for the period*

Take the lesser of the results of Steps 8 and 9.

Multiply that figure by [70%]<sup>1</sup> and round the result up to the nearest penny.

The result of this step is the maximum rate of the child care element for the relevant period.

*Step 11—reducing the elements of the tax credit (including any child care element)*

If the amount found under Step 5 (rounded down to the nearest penny) exceeds the total of the amounts found under Step 2 for the elements of the tax credit—

- (a) deduct the excess from the amount found under Step 10 for any child care element; and
- (b) reduce the total of the amounts found under Step 2 for the other elements of the tax credit to nil.

*Step 12—finding the rate for the relevant period*

Add together—

- (a) the total of the amounts found under Step 2 for the elements of the tax credit (other than any child care element) after reduction in accordance with Step 6 or Step 11; and
- (b) the amount found under Step 10 for any child care element after any reduction in accordance with Step 11.

This is the rate for the relevant period.

- (4) “Child care element” has the meaning given by section 12(2) of the Act.

**Commentary—**

*Simon's Taxes* E2.242.

**Note—**

In para (3), note that the proposed reduction to the income threshold in Step 4 and the proposed increase in the withdrawal rate in Step 5, announced by the Chancellor in the 8 July 2015 Budget and set out in the Draft Tax Credits (Income Thresholds and Determination of Rates) (Amendment) Regulations 2015, were subsequently abandoned.

**HMRC Manuals—**

Tax Credit Technical Manual TCTM7010–7050, 7APPX4 (steps in calculation of award, with worked example).

**Modifications—**

Universal Credit (Transitional Provisions) Regulations, SI 2013/386 reg 17(1), (2), Schedule paras 29, 31 (modification of this regulation in respect of awards of universal credit and terminations of awards of tax credit in the same year).

Universal Credit (Transitional Provisions) Regulations, SI 2014/1626 reg 4 (modification of this regulation in respect of awards of universal credit and terminations of awards of tax credit in the same year).

**Amendments—**

- 1 Figure in Step 10 substituted by the Tax Credits Up-rating Regulations, SI 2011/1035 reg 4(1), (4) with effect in relation to awards of tax credits for the year beginning on 6 April 2011. This amendment continues to have effect in relation to awards of tax credits for the tax year beginning on 6 April 2012 and subsequent tax years (SI 2012/849 reg 5(c)).
- 2 In para (3), figure in Step 5 substituted by the Tax Credits Up-rating Regulations, SI 2012/849 reg 4(1), (4) with effect in relation to awards of tax credits for the tax year beginning on 6 April 2012 and subsequent tax years.

**8 Determination of rate of child tax credit**

(1) In relation to a person or persons entitled to child tax credit, the rate shall be determined by finding the rate for each relevant period and, where necessary, adding together those rates.

(2) “Relevant period” means—

- (a) in the case of a person or persons entitled to child tax credit only, any part of the period of award throughout which the maximum rate at which he or they may be entitled to the tax credit remains the same;
- (b) in the case of a person or persons entitled to both child tax credit and working tax credit, any part of the period of award throughout which the maximum rate of child tax credit to

which he or they may be entitled remains the same and both sub-paragraphs (a) and (b) of regulation 7(2) are met.

(3) The rate for each relevant period shall be found in accordance with the following steps—

*Step 1—finding the daily maximum rate for each element*

For each element of the tax credit to be included in the case of the person or persons entitled to the tax credit, find the daily maximum rate using the following formula—

$$\frac{MR}{N1}$$

where—

“MR” is the maximum rate in relation to that element for the tax year to which the claim for the tax credit relates;

“N1” is the number of days in that tax year.

*Step 2—finding the maximum rate for the relevant period for each element*

For each element of the tax credit to be so included, find the amount produced by multiplying the maximum rate (found under Step 1 and rounded up to the nearest penny) by the number of days in the relevant period.

*Step 3—finding income for the relevant period*

Find the income for the relevant period by using the following formula—

$$\frac{I}{N1} \times N2$$

where—

“I” is the relevant income for the tax year to which the claim for the tax credit relates;

“N1” is the number of days in that tax year;

“N2” is the number of days in the relevant period.

*Step 4—finding the threshold for the relevant period*

Find the amount produced by the following formula—<sup>3</sup>

$$\frac{[16, 105]}{N1} \times N2$$

where—

“N1” is the number of days in that tax year;

“N2” is the number of days in the relevant period.

The threshold for the relevant period is—

- (a) in the case of a person or persons entitled to child tax credit only, that amount;
- (b) in the case of a person or persons entitled to both child tax credit and working tax credit—
  - (i) that amount; or

- (ii) if greater, the lowest amount of income for the relevant period (found under Step 3) which, disregarding regulation 9, would result in a determination in accordance with regulation 7 providing for no rate of working tax credit in his or their case for that period.

*Step 5—finding the amount of the reduction of the elements of the tax credit ...2*

Find the amount (if any) which is [41%]<sup>1</sup> of the amount by which the income for the relevant period (found under Step 3 and rounded down to the nearest penny) exceeds the threshold for the relevant period (found under Step 4 and rounded up to the nearest penny).

*Step 6—reducing the elements of the tax credit ...2*

If the amount found under Step 5 (rounded down to the nearest penny) is less than the total of the amounts found under Step 2 for the elements of the tax credit ...2, deduct the amount found under Step 5 (rounded down to the nearest penny) from the total of those amounts.

*Step 7—reducing the elements of the tax credit ...2 to nil*

If the amount found under Step 5 (rounded down to the nearest penny) is equal to or exceeds the total of the amounts found under Step 2 for the elements of the tax credit ...2, reduce the total of those amounts to nil.

...2

*[Step 8]—2 finding the rate for the relevant period*

[The rate for the relevant period is the total of the amounts found under Step 2 for the elements of the tax credit after any reduction in accordance with Step 6 or Step 7.]<sup>2</sup>

- (4) “The family element” means the family element of child tax credit within the meaning given by section 9(3) of the Act.

## **Commentary—**

*Simon's Taxes* E2.243.

## **Note—**

In para (3), note that the proposed reduction to the income threshold in Step 4 and the proposed increase in the withdrawal rate in Step 5, announced by the Chancellor in the 8 July 2015 Budget and set out in the Draft Tax Credits (Income Thresholds and Determination of Rates) (Amendment) Regulations 2015, were subsequently abandoned.

## **HMRC Manuals—**

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## **Modifications—**

Universal Credit (Transitional Provisions) Regulations, SI 2013/386 reg 17(1), (2), Schedule paras 29, 32 (modification of this regulation in respect of awards of universal credit and terminations of awards of tax credit in the same year).

Universal Credit (Transitional Provisions) Regulations, SI 2014/1626 reg 4 (modification of this regulation in respect of awards of universal credit and terminations of awards of tax credit in the same year).

## **Amendments—**

- 1 In para (3), in Step 5, figure substituted by the Tax Credits Up-rating Regulations, SI 2011/1035 reg 4(1), (5) with effect in relation to awards of tax credits for the year beginning on 6 April 2011. This amendment continues to have effect in relation to awards of tax credits for the tax year beginning on 6 April 2012 and subsequent tax years (SI 2012/849 reg 5(c)).
- 2 In para (3), in the headings before Steps 5, 6, 7, and in Steps 6, 7, words revoked, Steps 8, 9, 10 revoked, Step 8 (previously Step 11) renumbered as such, and in renumbered Step 8 words substituted, by the Tax Credits Up-rating Regulations, SI 2012/849 reg 4(1), (5) with effect in relation to awards of tax credits for the tax year beginning on 6 April 2012 and subsequent tax years.
- 3 In para (3), figure in Step 4 substituted by the Tax Credits Up-rating Regulations, SI 2015/541 reg 4(1), (3) with effect in relation to awards of tax credits for the tax year beginning on 6 April 2015 and subsequent tax years. Previous figure was £16,010.

## **9 Cases in which there is no rate of tax credit**

(1) In the case of a person or persons entitled to working tax credit only or child tax credit only, where the rate at which the person or persons would be entitled to the tax credit (as determined in accordance with regulation 7 or 8) would be less than £26.00, there is no rate in his or their case.

(2) In the case of a person or persons entitled to both working tax credit and child tax credit, where the total of the rates at which the person or persons would be entitled to the tax credits (as determined in accordance with regulations 7 and 8) would be less than £26.00, there are no rates in his or their case.

### **Commentary—**

*Simon's Taxes* **E2.244.**