

2010 No. 2914

TAX CREDITS

**The Tax Credits (Miscellaneous Amendments) (No. 3)
Regulations 2010**

<i>Made</i>	- - - -	<i>7th December 2010</i>
<i>Laid before Parliament</i>		<i>8th December 2010</i>
<i>Coming into force</i>		
<i>For the purpose of regulation 11</i>		<i>6th April 2011</i>
<i>For all other purposes</i>		<i>31st December 2010</i>

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), 8, 10, 11, 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 4(1)(b), 24(7), 65(2), (7) and (9) and 67 of that Act(c).

Citation and commencement

1.—(1) These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) (No. 3) Regulations 2010.

(2) Regulation 11 of these Regulations comes into force on 6th April 2011 and all other regulations in these Regulations come into force on 31st December 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) omit the definition “the Service Pensions Order”.

(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; to which there are amendments not relevant to these Regulations.

4. In regulation 5 (pension income)—

- (a) omit item 5 of Table 2; and
- (b) omit item 7 of Table 2.

5. In Table 6 of regulation 19 (general disregards in the calculation of income) for item 12 substitute—

“12. Any payment in respect of travelling expenses—

- (a) in relation to England under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(a);
- (b) in relation to Wales under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(b);
- (c) in relation to Scotland, under regulation 3, 5, or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(c);
- (d) in relation to Northern Ireland, under regulation 5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(d); or
- (e) made by the Secretary of State for Health, the Scottish Ministers, the Welsh Ministers or the Department of Health, Social Services and Public Safety and which is analogous to a payment specified in paragraph (a), (b), (c) or (d).”.

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

6. The Tax Credits (Payments by the Commissioners) Regulations 2002(e) are amended as follows.

7. In regulation 8 (time of payment by way of a credit to a bank or other account)—

- (a) in paragraph (2) for “Subject to paragraph (2A)” substitute “ Subject to paragraphs (2A) and (2B)”; and
- (b) after paragraph (2A) insert—

“(2B) Notwithstanding the terms of any election under paragraph (2), the Commissioners may pay the tax credit or element either each week or every four weeks as appears to them to be appropriate.”.

Amendment of the Child Tax Credit Regulations 2002

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

9. In regulation 2(1) (interpretation), in the definition “qualifying body”(g) in paragraph (d) after “Council Regulation (EEC) No 1408/71” add “and Regulation (EC) No 883/2004(h) of the European Parliament and of the Council”.

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

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

-
- (a) S.I. 2003/2382.
 - (b) S.I. 2007/1104 (W.116).
 - (c) S.S.I. 2003/460.
 - (d) S.R. (NI) 2004 No 91.
 - (e) S.I. 2002/2173, amended by S.I. 2003/723; there are other amending instruments but none is relevant.
 - (f) S.I. 2002/2007, amended by S.I. 2008/2169; there are other amending instruments but none is relevant.
 - (g) The definition “qualifying body” was inserted by regulation 7(4) of S.I. 2008/2169.
 - (h) OJ No L 166, 30.4.04, p1-123.
 - (i) S.I. 2002/2005, amended by S.I. 2003/701 and 2009/2997; there are other amending instruments but none is relevant.

11. In regulation 4(1) (entitlement to basic element of working tax credit: qualifying remunerative work)—

- (a) immediately preceding sub-paragraph (c) of the second condition omit “or”;
- (b) in sub-paragraph (c) of that condition omit “in any other case”; and
- (c) at the end of sub-paragraph (c) insert—
 - “; or
 - (d) is aged at least 60 and undertakes not less than 16 hours work per week”.

12. In regulation 11(3) (second adult element)(a)—

- (a) immediately preceding sub-paragraph (b) omit “or”,
- (b) at the end of sub-paragraph (b) insert—
 - “, or
 - (c) satisfies paragraph (d) of the second condition in regulation 4(1) and is in receipt of the 50 plus element(b)”.

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

13. The Tax Credits (Claims and Notifications) Regulations 2002(c) are amended as follows.

14. In regulation 12(7) (circumstances in which claims are to be treated as made – notices containing provision under section 17(2)(b), (4)(b) and (6)(b) of the Act)(d)—

- (a) for “Paragraph (5) shall not apply” substitute “Paragraphs (3) and (5) shall not apply”;
- (b) immediately preceding paragraph (c) omit “or”;
- (c) for sub-paragraph (c) substitute—
 - “(c) in the case where, before the specified date, the person or persons to whom a notice under section 17 of the Act is given advise the Board that the person or persons do not wish to be treated as making a claim for tax credit for the tax year following that to which the notice relates; or”; and
- (d) after sub-paragraph (c) insert—
 - “(d) in the case where there has been a previous single claim to which a notice under section 17 of the Act relates—
 - (i) a relevant notification is given to the person by whom the claim was made; and
 - (ii) the person fails to make a relevant request; and
 - (e) in the case where there has been a previous joint claim to which a notice under section 17 of the Act relates—
 - (i) a relevant notification is given to the persons by whom the claim was made; and
 - (ii) they fail to make a relevant request.”.

15. After regulation 12(7) insert—

- “(8) In this regulation—
 - (a) “relevant notification” means a written notification to a person or persons by whom a claim for tax credit was made which—

(a) Regulation 11 was substituted by S.I. 2003/701.
(b) The 50 plus element is defined in regulation 18 of S.I. 2002/2005.
(c) S.I. 2002/2014, amended by S.I. 2010/751; there are other amending instruments but none is relevant..
(d) “The Act” is defined in regulation 2 of S.I. 2002/2014.

- (i) is given by the Board at least 35 days before the Board gives notice under section 17 of the Act to the person or persons;
 - (ii) states the date on which it is given;
 - (iii) advises that the Board intends to give such a notice to the person or persons; and
 - (iv) advises that this regulation will not have effect to treat the person or persons as making a claim for tax credit for the tax year following that to which the notice relates unless a relevant request is made;
- (b) “relevant request” means a request made to the Board by a person or persons to whom a relevant notification is given that—
- (i) is made in response to the relevant notification within 30 days of the date on which it is given; and
 - (ii) requests that the person or persons will be treated by virtue of this regulation as making a claim for tax credit for the tax year following that to which the notice relates;
- (c) “specified date” means the date specified for the purposes of section 17(2) and (4) of the Act or, where different dates are specified, the later of them.”.

*Michael Fabricant
Brooks Newmark*

7th December 2010

Two of the Lords Commissioners of Her Majesty’s Treasury

*Mike Eland
Dave Hartnett*

7th December 2010

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

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) (“the Income Regulations”), the Tax Credits (Payments by the Commissioners) Regulations 2002 (S.I. 2002/2173) (“the Payments Regulations”), the Child Tax Credit Regulations 2002 (S.I. 2002/2007) (“the Child Tax Credit Regulations”), the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”) and the Tax Credits (Claims and Notifications Regulations) 2002 (S.I. 2002/2014) (“the Claims Regulations”).

Regulations 2 to 4 amend the Income Regulations to omit items 5 and 7 of Table 2 contained in regulation 5(2) of the Income Regulations so that certain pensions under the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883) (“the Service Pensions Order”) are removed from the list of pensions, other payments and benefits that are disregarded in the calculation of pension income determined in accordance with regulation 5. The amendments, together with the consequential omission of the definition of “Service Pensions Order” in regulation 2(2) of the Income Regulations arise from the revocation of the Service Pensions Order by the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606).

Regulation 5 substitutes item 12 of Table 6 in regulation 19 of the Income Regulations so the payments in respect of travelling expenses described in that item are disregarded from the calculation of income for the purposes of regulation 3 of those Regulations.

Regulations 6 and 7 amend regulation 8 of the Payments Regulations by inserting paragraph (2B) and making paragraph (2) subject to that paragraph as well as paragraph (2A) so that, notwithstanding an election by a person to whom payment of tax credit or element is to be made to have such payment made each week or every 4 weeks, the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) may make the payment either each week or every four weeks as appears to them to be appropriate.

Regulations 8 and 9 amend paragraph (d) of the definition of “qualifying body” in regulation 2(1) of the Child Tax Credit Regulations, so that it also refers to Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ No L 166 30.4.04, p1-123).

Regulation 11 amends regulation 4(1) of the Entitlement Regulations to add a new category of person who may satisfy the second condition in paragraph (1) of regulation 4. This new category is a person who is aged at least 60 and undertakes at least 16 hours work per week.

Regulation 12 amends paragraph (3) of regulation 11 of the Entitlement Regulations to introduce a further exception to paragraph (2) of Regulation 11. This exception is a person who satisfies the conditions of new regulation 4(1)(d) (age 60 and works at least 16 hours per week) and who is also in receipt of the 50 plus element (which is referred to in regulation 3(1)(f) of the Entitlement Regulations).

Regulations 13 and 14 amend regulation 12 of the Claims Regulations (which sets out the circumstances in which a person or persons to whom a notice (a “section 17 notice”) under section 17 of the Tax Credits Act 2002 (c. 21) (“the Act”) is given will be treated, by virtue of that regulation, as making a claim for tax credit for the tax year following that to which the notice relates). Following the amendment to paragraph (7) to include a reference to paragraph (3), regulation 12 will not treat a person or persons as making a claim for tax credit where the circumstances described in any of the cases in paragraph (7) apply. The circumstances of the case described in sub-paragraph (c) are amended so that any person or persons to whom a section 17 notice is given may inform the Commissioners before the specified date that the person or persons do not wish to be treated as making a claim for tax credit for the tax year following that to which the notice relates. The insertion of sub-paragraphs (d) and (e) into paragraph (7) provide that no claim for tax credit pursuant to regulation 12 will be treated as made where a person or persons by

whom a previous claim for tax credit has been made do not make a relevant request in response to a relevant notification given to them.

Regulation 15 inserts new paragraph (8) into regulation 12 of the Claims Regulations. It defines “relevant notification”, “relevant request” and “specified date” for the purpose of regulation 12.

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.

© Crown copyright 2010

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

STATUTORY INSTRUMENTS

2010 No. 2914

TAX CREDITS

The Tax Credits (Miscellaneous Amendments) (No. 3)
Regulations 2010

ISBN 978-0-11-150450-5

£5.75

E8602 12/2010 108602T 19585

9 780111 504505