

Tax credits penalties

What happens at the end of a check?

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We have a range of services for people with disabilities, including guidance in Braille, audio and large print. For details please ask at your local HMRC office or Enquiry Centre.

This leaflet tells you about the penalties you may get if your claim for tax credits is not correct. It also explains how to appeal against those penalties.

Introduction

When you make a claim for Child Tax Credit or Working Tax Credit you are responsible for making sure that the information on your claim form is correct.

This leaflet is for anyone who we may charge a penalty after we have carried out a check on their tax credits claim. It does not tell you everything about penalties, but it does tell you what is likely to happen and what you can do if we charge you a penalty.

Information about how and why we carry out tax credits checks is in factsheets WTC/FS1 and WTC/FS2. We normally give these to customers when we start a check. They are also available at www.hmrc.gov.uk/leaflets/credit.htm

Why do we charge penalties?

We charge penalties to:

- encourage people to be careful and make sure their claims are correct
- stop customers from giving us incorrect information, and
- penalise people who try to defraud the system.

Your penalty

You may have to pay a penalty if:

- we find that you have not told us about a change in your circumstances that you are required to tell us about, or
- you have given us incorrect information about your tax credits claim and you did not take reasonable care to give us correct information.

Not telling us about a change in circumstances

If you do not tell us about the following changes in your circumstances we can charge you a maximum penalty of up to £300.

Your relationship changes:

- you marry or become a civil partner or part of a couple who live together as husband and wife or as civil partners
- you stop being part of a married couple, civil partnership or a couple living together as husband and wife or as civil partners.

Your childcare changes:

- your average weekly childcare costs go down by £10 a week or more for four weeks in a row
- you stop paying childcare costs.

Your work changes:

- your usual working hours change so that you now work
 - less than 16 hours a week, or
 - less than 30 hours a week (for couples with children it is your joint working hours that count towards the 30 hours)
- you have been on strike for more than 10 days.

Your family changes:

- a child or young person you are responsible for leaves the family and moves to live with someone else. This includes a child who has been
 - taken into care or fostered to another family
 - found guilty by a court and sentenced to custody or detention for a period of four months or more
- a child or young person you are responsible for stops qualifying for support, for example they
 - leave full-time non-advanced education or approved training before they reach 20
 - start to have their training provided under a contract of employment
 - stop being registered with a careers service, the Connexions Service or equivalent
 - start to claim Income Support, Incapacity Benefit, income-based Jobseeker's Allowance, Child Tax Credit or Working Tax Credit in their own right
- a child or young person you are responsible for dies
- you or your partner leave the country for more than eight weeks. This is extended to 12 weeks if you go, or stay abroad because you, or a member of your family, is ill or has died.

Usually it will be obvious when there has been a change, and you must tell us **within one month** of the date the change happened.

For example, you change your job on 8 May 2008 and instead of working 35 hours a week you now work 25 hours a week. You must tell us about this by 8 June 2008.

Sometimes it might not be clear exactly when there has been a change, so you must tell us **within one month** of the date when you realised a change has happened.

Example: change in circumstances

For example, the exact number of hours you work each week varies as you often work overtime as well as your standard hours of 26 hours a week. Most weeks you work more than four hours overtime so your usual hours are more than 30 hours a week. However, the amount of overtime available varies and you do not always work all the overtime available. On 7 September 2008 when looking back you realise that your usual hours are now less than 30 hours a week and have been since 18 August 2008. You must tell us about this by 7 October 2008.

Week starting Monday	Overtime offered	Overtime worked	Actual hours worked	Usual hours
16/6	14	14	40	30+
23/6	10	10	36	30+
30/6	6	4	30	30+
7/7	1	1	27	30+
14/7	10	10	36	30+
21/7	3	3	29	30+
28/7	14	14	40	30+
4/8	0	0	26	30+
11/8	4	4	30	30+
18/8	2	2	28	16-30
25/8	0	0	20.8*	16-30
1/9	1	1	27	16-30

* Didn't work the bank holiday

The date the change happened and the date you first became aware of the change are matters of fact. If you do not agree with our decision to charge a penalty please discuss it with us and we will consider what you say. If we still think that you did not tell us in time you can ask the Tribunal Service to decide (see ‘Your rights’ on page 11).

Reasonable excuse

We will not charge you a penalty if you have a reasonable excuse for not telling us about a change in your circumstances.

What is a reasonable excuse?

A reasonable excuse might be that:

- you had a serious illness that stopped you giving us the information
- we received your notification late because of an unexpected postal dispute.

A reasonable excuse is not that you:

- have been too busy to tell us about a change in circumstances
- did not know you had to tell us about a change in circumstances.

Please tell us if you think you have a reasonable excuse and we will consider what you say.

Whether your excuse is reasonable or not is a matter of law. If we do not agree that your excuse is reasonable you can ask the Tribunal Service to decide (see ‘Your rights’ on page 11).

Giving us incorrect information

We can charge you a penalty of up to £3,000 if you:

- have not taken reasonable care to make sure any information you gave us was correct, or
- have given us information which you knew was incorrect.

This includes the information you give:

- in your claim
- on any notification of a change in circumstances
- in response to a particular request for information during our checks.

We calculate penalties as a percentage of the tax credits you have over-claimed as a result of the incorrect claim. The percentage increases depending on the behaviour which led to the error.

We will explain why we believe that you have not taken reasonable care or have deliberately given us incorrect information. If you do not accept our explanation you can ask the Tribunal Service to decide (see 'Your rights' on page 11).

What is 'taking reasonable care'?

We will not charge a penalty if you have taken reasonable care to give us the correct information, even if you make a mistake which results in you claiming too much tax credits.

A careful person would:

- make a complete and correct claim to the best of their knowledge and belief
- read the notes supplied with the claim that relate to their own circumstances
- ask for help if they are unable to cope with the claim or declaration themselves.

‘Taking reasonable care’ can be different for different people depending on their individual circumstances. We will consider how a careful person would act in **your** circumstances. We will consider your ability to give us correct information, taking into account factors such as your:

- experience in dealing with tax credits or financial matters
- access to support, guidance or advice
- health and well-being, including the impact of a disability.

The Claimant Compliance Manual contains examples of what is taking reasonable care. You can find it online at

www.hmrc.gov.uk/manuals/ccmmanual/index.htm

If you are careless in the way you deal with your claim for tax credits then you are likely to be charged a penalty.

We accept that you have taken reasonable care if you have followed advice from the Tax Credit Helpline or an Enquiry Centre, or from another reliable source such as Jobcentre Plus or the Citizens Advice.

Couples

If you have made a joint claim with your partner, you are both responsible for the information you provide in your claim.

We will charge you a penalty as a couple where:

- either of you could have told us about any change in circumstances, or
- you were both responsible for giving us incorrect information.

If the incorrect information relates to one partner – and the other person could not have reasonably known that it was not correct – we will only charge the penalty on that partner.

The maximum penalty for a joint claim is no more than the maximum penalty for an individual claim.

The amount of your penalty

When working out the amount of your penalty, we will take into account:

- the amount of tax credits over-claimed
- the behaviour that led to the over-claim
- if you have told us of any errors you think you have made before we begin a tax credits check.

The level of the penalty depends on the behaviour that led to you claiming too much tax credits – such as how careful you were in making your claim or whether it was a deliberate attempt to get money you were not entitled to. The penalty levels are:

- mistake or misunderstanding – no penalty
- failure to take reasonable care – penalty of 15% of over-claimed tax credits
- serious or deliberate errors – penalty of 25% of over-claimed tax credits
- deliberate and systematic over-claims – penalty of 50% of over-claimed tax credits.

If you repeat errors you have made before, or continue to make a number of errors, we may charge you a higher penalty.

Your penalty will be reduced if you tell us about any errors you think you have made **before** we begin a tax credits check. We will:

- not charge you a penalty for ‘failure to take reasonable care’
- halve your penalty for ‘serious or deliberate errors’ and ‘deliberate and systematic over-claims’.

If you do not understand our explanation of the penalty, you can ask us to put it in writing so that you can seek independent advice.

Interest

We may charge you interest if we have overpaid tax credits because you failed to take reasonable care. We also charge interest on any penalties that you pay late.

Paying your penalty

We will contact you if we think that you have become liable to a penalty. We can do this:

- by phone
- in a meeting, or
- in writing.

We will explain why we are charging you a penalty and tell you both the maximum amount chargeable and the amount of the penalty we propose to charge. We are always willing to discuss with you the amount of the penalty and the reasons for it.

If you accept the amount of the penalty

We will discuss the arrangements for payment covering:

- any overpaid tax credits
- any interest due, and
- the penalty.

We will ask you to enter into an agreement to pay either in a lump sum or by instalments.

Arranging payment

Once we have agreed the arrangements we will ask you to sign a letter that sets out the:

- total amount you have to pay
- final date for payment, or the number of instalments and when they are due.

We will send you a final letter accepting the arrangement. This exchange of letters is a legally binding contract. If you refuse to pay, we will take legal action to recover any money you owe.

If you disagree with the penalty or how it should be paid

You should tell us. We will listen to what you have to say. If we cannot agree, we will send you a penalty notice so that you can appeal or appoint a representative to appeal for you.

Co-operation

The extent to which you co-operate and give us information is entirely up to you. You should remember that if you tell us of errors you think you have made before we start a tax credits check you will be charged no penalty or a reduced penalty.

If you are not sure whether to give us the information, or if you are reluctant to co-operate, we suggest you get independent advice before deciding what to do. We may decide to reduce or stop your current tax credits payments based on the information we hold.

A number of independent organisations offer help with tax credits, such as the Citizens Advice. You will find them in *The Phone Book*.

Your rights

You have the right to appeal if we:

- ask you to pay penalties or interest, or
- change your award.

You can find out more information about how to appeal by reading our leaflet *WTC/AP 'How to appeal against a tax credits decision or award'*, which you can get from any Enquiry Centre or online at www.hmrc.gov.uk/leaflets/wtc_ap.pdf

We will not treat your right of appeal as non co-operation.

Tribunals Service

If we do not agree with your appeal we will send your claim to the independent Tribunals Service. They will listen to both of us and decide whether you will have to pay the penalty and how much you will have to pay.

If you disagree with the Tribunal's decision, you can appeal to the Social Security Commissioners. You will be sent information on how to do this with the Tribunal's decision notice.

Further information

You may find useful the Frequently Asked Questions on our website at

www.hmrc.gov.uk/taxcredits/exams-enqs.htm

The Claimant Compliance Manual contains more details about our work in this area. You can find it online at

www.hmrc.gov.uk/manuals/ccmmanual/index.htm

HM Revenue & Customs commitment

Putting things right

Customers with particular needs

Customer Service

We aim to provide a high quality service with guidance that is simple, clear and accurate.

We will:

- be professional and helpful
- act with integrity and fairness, and
- treat your affairs in strict confidence within the law.

We aim to handle your affairs promptly and accurately so that you receive or pay only the right amount due.

If you are not satisfied with our service, please let the person dealing with your affairs know what is wrong. We will work as quickly as possible to put things right and settle your complaint.

If you are still unhappy, ask for your complaint to be referred to the Complaints Manager.

We offer a range of facilities for customers with particular needs, including:

- wheelchair access to nearly all HMRC Enquiry Centres
- help with filling in forms
- for people with hearing difficulties
 - RNID Typetalk
 - Induction loops.

We can also arrange additional support, such as:

- home visits, if you have limited mobility or caring responsibilities and cannot get to one of our Enquiry Centres
- services of an interpreter
- sign language interpretation
- leaflets in large print, Braille and audio.

For complete details please:

- go online at www.hmrc.gov.uk/enq, or
- contact us. You will find us in *The Phone Book* under HM Revenue & Customs.

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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Customer Information Team

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