



Tax Credits Act 1999

1999 CHAPTER 10

Administration and enforcement

5 General functions of Board

- (1) Working families' tax credit and disabled person's tax credit shall be under the care and management of the Board.
- (2) Section 10 of the Exchequer and Audit Departments Act 1866 (gross revenues to be paid to Exchequer) shall be construed as allowing the Board to deduct payments for or in respect of tax credit before causing the gross revenues of their department to be paid to the accounts mentioned in that section.
- (3) For the purposes of the Inland Revenue Regulation Act 1890, everything that relates to tax credit shall be taken to relate to inland revenue; and the expressions "in relation to inland revenue", "Collector of Inland Revenue" and "Officer of Inland Revenue" shall be construed accordingly.
- (4) The reference in section 4(1) of that Act (appointment of collectors, officers and other persons) to collecting, receiving, managing and accounting for inland revenue shall be taken to include a reference to paying and managing tax credit.
- (5) The duties of the Board under section 13 of that Act (Board to keep accounts) shall include a duty to set forth in the accounts mentioned in that section—
 - (a) the amounts of the several payments made by them of or in respect of tax credit;
 - (b) the amounts of the expenses of paying and managing tax credit; and
 - (c) the amounts received by them in respect of tax credit,distinguishing in each case between amounts relating to working families' tax credit and amounts relating to disabled person's tax credit.
- (6) In any declaration for the purposes of section 6 of the Taxes Management Act 1970 (declarations on taking office), whether made before or after the commencement of this section, the reference to an offence relating to inland revenue shall be taken to include a reference to an offence relating to tax credit.

- (7) Section 163(2) of the Social Security Administration Act 1992 (sums to be paid out of money provided by Parliament) shall have effect subject to subsection (2) above.

6 Payment of tax credit by employers etc

- (1) On the making to any person (“the employee”) of any payment of, or on account of, any income assessable to income tax under Schedule E, any tax credit to which he is entitled shall, subject to and in accordance with regulations made by the Board under this section, be paid by the person making the payment (“the employer”).
- (2) The Board shall make regulations with respect to the payment of tax credit by employers, and those regulations may, in particular, include provision—
- (a) for requiring employers to make payments of tax credit by reference to notifications of entitlement furnished to them by the Board;
 - (b) for the production of wages sheets and other documents and records to officers of the Board for the purpose of enabling them to satisfy themselves that tax credit has been and is being paid, in accordance with the regulations, to employees who are entitled to it;
 - (c) for requiring employers to provide information to employees (in their itemised pay statements or otherwise);
 - (d) for the funding by the Board of tax credit paid or to be paid by employers (whether by way of set off against income tax or national insurance contributions for which they are accountable to the Board or otherwise);
 - (e) for the recovery by the Board of any sums overpaid to employers under paragraph (d) above;
 - (f) for the payment of interest on sums due from or to the Board, and for determining the date from which interest is to be calculated; and
 - (g) for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal.
- (3) Regulations under this section—
- (a) may make different provision for different cases or circumstances; and
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) This section shall come into force on 6th April 2000.

7 Rights of employees not to suffer unfair dismissal or other detriment

Schedule 3 to this Act (rights of employees not to suffer unfair dismissal or other detriment) shall have effect.

8 Powers to obtain information

- (1) Section 20 of the Taxes Management Act 1970 (power to call for documents etc.), and section 20B of that Act (restrictions on powers) so far as relating to section 20, shall apply in relation to an employer’s compliance with regulations under section 6 above as they apply in relation to a person’s tax liability or its amount.
- (2) Those sections as they so apply shall have effect as if—

- (a) any reference to the taxpayer, a taxpayer or a class of taxpayers were a reference to the employer, an employer or a class of employers;
- (b) any reference to any provision of the Taxes Acts were a reference to regulations under section 6 above;
- (c) any reference to the proper assessment or collection of tax were a reference to the proper award and payment of tax credit;
- (d) the reference in section 20(8) to the taxpayer with whose liability the inspector or the Board is concerned were a reference to the employer with whose compliance with regulations under section 6 above the inspector or the Board is concerned;
- (e) the reference in section 20B(2) to an appeal relating to tax were a reference to an appeal relating to compliance with regulations under section 6 above; and
- (f) the reference in section 20B(6) to reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer were a reference to reasonable ground for believing that tax credit has, or may have been, incorrectly paid owing to the fraud of the employer.

9 Penalties for fraud etc. and failures to comply

- (1) Where a person fraudulently or negligently makes any incorrect statement or declaration in connection with a claim for tax credit, he shall be liable to a penalty not exceeding the amount of the difference specified in subsection (2) below.
- (2) The difference is that between—
 - (a) the amount of tax credit to which the claimant is or was entitled in the payment period to which the claim relates; and
 - (b) the amount of tax credit to which he would have been so entitled if the statement or declaration had been correct.
- (3) Where a person—
 - (a) fails to furnish any information or evidence in accordance with regulations under section 5(1)(h) or (hh) of the Administration Act so far as relating to tax credit;
 - (b) fails to produce any document or record, or to provide any information, in accordance with regulations under section 6 above; or
 - (c) fails to deliver any document or furnish any particulars in accordance with the provisions applied by section 8(1) above,he shall be liable, subject to section 10 below, to the penalties mentioned in subsection (4) below.
- (4) The penalties are—
 - (a) a penalty not exceeding £300; and
 - (b) if the failure continues after a penalty is imposed under paragraph (a) above, a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (5) Where a person fraudulently or negligently—

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- (a) furnishes any incorrect information or evidence of a kind mentioned in regulations under section 5(1)(h) or (hh) of the Administration Act so far as relating to tax credit;
 - (b) produces any incorrect document or record, or provides any incorrect information, of a kind mentioned in regulations under section 6 above; or
 - (c) delivers any incorrect document or furnishes any incorrect particulars of a kind mentioned in the provisions applied by section 8(1) above,
- he shall be liable to a penalty not exceeding £3,000.
- (6) Where, in the case of any employee—
- (a) an employer refuses or repeatedly fails to make payments of tax credit in accordance with regulations under section 6 above; and
 - (b) the Board cancels the notification of entitlement with a view to the payments being made by officers of the Board,
- the employer shall be liable to a penalty not exceeding £3,000.
- (7) Where, in the case of any employee, an employer fraudulently or negligently—
- (a) makes or receives incorrect payments in a tax year in pursuance of regulations under section 6 above; or
 - (b) delivers an incorrect return of payments made or received by him in that year in pursuance of such regulations,
- he shall be liable, subject to section 10 below, to a penalty not exceeding £3,000; but no such penalty shall be imposed in respect of any incorrect payments in respect of which a penalty has been imposed under subsection (6) above.
- (8) In this section “the Administration Act” means the Social Security Administration Act 1992 or the Social Security Administration (Northern Ireland) Act 1992.

10 Penalties: supplementary

- (1) No penalty shall be imposed—
- (a) under subsection (4) of section 9 above in respect of a failure within subsection (3)(a) or (c) of that section; or
 - (b) under subsection (4)(b) of that section in respect of a failure within subsection (3)(b) of that section,
- at any time after the failure has been remedied.
- (2) A penalty under section 9(7) above shall not be imposed before the end of the tax year in question; and no more than one such penalty may be imposed (by reference to any one employee) in relation to any tax year.
- (3) Section 118(2) of the Taxes Management Act 1970 (extra time for compliance etc.) shall apply for the purposes of section 9(3) and (6) above as it applies for the purposes of that Act.
- (4) Schedule 4 to this Act (penalties: procedure and appeals) shall have effect.

11 Liability of company directors etc

- (1) Sections 121C and 121D of the Social Security Administration Act 1992 (liability of directors etc. for company’s contributions), and sections 115B and 115C of the

Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland), shall apply in relation to amounts—

- (a) which the Board have paid or credited to a body corporate for the purpose of funding tax credit; and
 - (b) which the body is liable, and has failed, to repay,
- as they apply in relation to national insurance contributions which a body corporate is liable, and has failed, to pay.

- (2) Those sections as they so apply shall have effect as if—
 - (a) any reference to Secretary of State or the Department were a reference to an officer of the Board;
 - (b) any reference to an appeal tribunal constituted under Chapter I of Part I of the 1998 or Chapter I of Part II of the Social Security (Northern Ireland) Order 1998 were a reference to the Special Commissioners;
 - (c) the reference in sections 121C(1)(a) and 115B(1)(a) to the time prescribed for the purpose there mentioned were a reference to the time prescribed for that purpose by regulations made by the Board; and
 - (d) the definitions of “appeal tribunal” in sections 121D(6) and 115C(6) were omitted.
- (3) Regulations under subsection (2)(c) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

12 Disclosure of information

- (1) Section 182 of the Finance Act 1989 (disclosure of information) shall be amended in accordance with subsections (2) to (5) below.
- (2) In subsection (1)—
 - (a) after “tax functions” there shall be inserted “, tax credit functions”; and
 - (b) after paragraph (a) there shall be inserted—
 - “(aa) to working families' tax credit or disabled person's tax credit in respect of any identifiable person,”.
- (3) After subsection (2) there shall be inserted—

“(2AA) In this section “tax credit functions” means the functions relating to working families' tax credit or disabled person's tax credit—

 - (a) of the Board and their officers,
 - (b) of any person carrying out the administrative work of the General Commissioners or the Special Commissioners, and
 - (c) of any other person providing, or employed in the provision of, services to any person mentioned in paragraph (a) or (b) above.”
- (4) In subsection (4)—
 - (a) in paragraph (b), after “tax functions” there shall be inserted “, tax credit functions”; and
 - (b) in paragraph (c), after “tax functions” there shall be inserted “, tax credit functions” and after sub-paragraph (i) there shall be inserted—
 - “(ia) to working families' tax credit or disabled person's tax credit in respect of any identifiable person,”.

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- (5) In subsection (5)(b), after “tax or duty” there shall be inserted “, to working families' tax credit or disabled person's tax credit”.
- (6) Schedule 5 to this Act (use and exchange of information) shall have effect.

13 Documents and forms

Documents and forms relating to payment periods beginning before the commencement of this section may be used on and after that date even though they contain references to family credit or disability working allowance.