STATUTORY INSTRUMENTS

2002 No. 2014

The Tax Credits (Claims and Notifications) Regulations 2002

PART 2

CLAIMS

Interpretation of this Part

4. In this Part (and Part 3) "the relevant date", in relation to a claim for a tax credit, means—

(a) in cases where regulation 6 applies, the date on which the claim would be treated as being made by that regulation disregarding regulations 7 and 8;

(b) in cases where sub-paragraph (b) of regulation 11(3) applies, the date on which the claim would be treated as being made by that sub-paragraph disregarding regulations 7 and 8;

(c) in any other case, the date on which the claim is received by an appropriate office.

Manner in which claims to be made

5.—(1) This regulation prescribes the manner in which a claim for a tax credit is to be made.

(2) A claim must be made to an appropriate office—

(a) in writing on a form approved or authorised by the Board for the purpose of the claim, or

(b) in such other manner as the Board may accept as sufficient in the circumstances of any particular case.

(3) A claim must contain the information requested on the form (or such of that information as the Board may accept as sufficient in the circumstances of the particular case).

(4) In particular, a claim must include in respect of every person by whom the claim is made—

(a) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or

(b) information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or

(c) an application for a national insurance number to be allocated to the person which is accompanied by information or evidence enabling such a number to be so allocated.

This paragraph is subject to paragraph (6).

(5) "National insurance number" means the national insurance number allocated within the meaning of regulation 9 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001(**1**).

(6) Paragraph (4) does not apply if the Board are satisfied that the person or persons by whom the claim was made had a reasonable excuse for making a claim which did not comply with the requirements of that paragraph.

(**1**) S.I. 2001/769.

(7) At any time after a claim has been made but before the Board have given notice of their decision under section 14(1) of the Act in relation to the claim, the person or persons by whom the claim was made may amend the claim by giving notice orally or in writing to an appropriate office.

Amended claims

6.—(1) In the circumstances prescribed by paragraph (2) a claim for a tax credit which has been amended shall be treated as having been made as amended and, subject to regulations 7 and 8, as having been made on the date prescribed by paragraph (3).

(2) The circumstances prescribed by this paragraph are where a person has amended or persons have amended the claim in accordance with regulation 5(7).

(3) The date prescribed by this paragraph is the date on which the claim being amended was received by an appropriate office.

Time limit for claims (if otherwise entitled to tax credit up to three months earlier)

7.—(1) In the circumstances prescribed by paragraph (2) a claim for a tax credit received by an appropriate office shall be treated as having been made on the date prescribed by paragraph (3).

(2) The circumstances prescribed by this paragraph are those where the person or persons by whom the claim is made would (if a claim had been made) have been entitled to the tax credit either—

(a) on the date falling 3 months before the relevant date (or on 6th April 2003, if later); or

(b) at any later time in the period beginning on the date in sub-paragraph (a) and ending on the relevant date.

(3) The date prescribed by this paragraph is the earliest date falling within the terms of paragraph (2)(a) or (b) when the person or the persons by whom the claim is made would (if a claim had been made) have become entitled to the tax credit.

Date of claims—disability element of working tax credit

8.—(1) In the circumstances prescribed by paragraph (2) the claim referred to in sub-paragraph (f) of that paragraph shall be treated as having been made on the date prescribed by paragraph (3).

(2) The circumstances prescribed by this paragraph are where—

(a) a claim for working tax credit including the disability element ("the original claim") was made by a person or persons;

(b) on the original claim, the decision of the Board under section 14(1) of the Act was not to make an award of the tax credit;

(c) the reason for that decision was that the person or any of the persons did not satisfy paragraph (2) of regulation 9 of the Working Tax Credit Regulations(**2**);

(d) at the relevant date in relation to the original claim, the person or any of the persons had made a claim for any of the benefits referred to in that paragraph that had not been determined;

(e) after that date, the claim for the benefit was determined in favour of the person by whom it was made; and

(f) a further claim for working tax credit including the disability element is made by the person or persons, within 3 months of the date that the claim for the benefit was determined.

(3) The date prescribed by this paragraph is—

(**2**) S.I. 2002/2005.

(a) the first date in respect of which the benefit claimed was payable; or

(b) if later, the date on which the original claim was made (or treated as made under regulation 7).

Advance claims before the year begins

9.—(1) In the circumstances prescribed by paragraph (2) a claim for a tax credit may be made for a period after the relevant date.

(2) The circumstances prescribed by this paragraph are where a tax credit is claimed for a tax year by making a claim before the tax year begins.

(3) This regulation shall cease to have effect in relation to the tax year beginning on 6th April 2004 and subsequent tax years

Advance claims—working tax credit

10.—(1) In the circumstances prescribed by paragraph (2) a claim for a tax credit may be made for a period after the relevant date.

(2) The circumstances prescribed by this paragraph are where—

(a) the tax credit in question is working tax credit; and

(b) the case falls within sub-paragraph (b) of the First Condition in regulation 4(1) of the Working Tax Credit Regulations (person who has accepted an offer of work which is expected to commence within 7 days).

(3) In the circumstances prescribed by paragraph (2)—

(a) an award on a claim for tax credit may be made subject to the condition that the requirements for entitlement are satisfied no later than the date prescribed by paragraph (4); and

(b) if those requirements are satisfied no later than that date, the claim shall be treated as being made on the date on which they are satisfied.

(4) The date prescribed by this paragraph is the date falling 7 days after the relevant date.

Circumstances in which claims to be treated as made—notices containing provision under section 17(2)(a), (4)(a) or (6)(a) of the Act

11.—(1) In the circumstances prescribed by paragraph (2) a claim for a tax credit is to be treated as made.

(2) The circumstances prescribed by this paragraph are where (in the case where there has been a previous single claim) a person has or (in the case where there has been a previous joint claim) both persons have made a declaration in response to provision included in a notice under section 17 of the Act by virtue of—

(a) subsection (2)(a) of that section;

(b) subsection (4)(a) of that section;

(c) subsection (6)(a) of that section; or

(d) any combination of those subsections.

The declaration made shall (subject to regulation 5(3)) be treated as a claim for tax credit by that person or persons for the tax year following that to which the notice relates.

(3) The claim shall be treated as made—

(a) in a case where the declaration is made by the date specified in the notice for the purposes of subsection (2) or (4), as the case may be, of section 17 of the Act, on the 6th April preceding that date;

(b) in any other case, on the latest date on which the declaration is received by an appropriate office (subject to the application of regulation 7).

Circumstances in which claims to be treated as made—notices containing provision under section 17(2)(b), (4)(b) and (6)(b) of the Act

12.—(1) In either of the circumstances prescribed by paragraphs (2) and (4) a claim for a tax credit is to be treated as made.

(2) The circumstances prescribed by this paragraph are where a person is or persons are treated as having made a declaration in response to provision included in a notice under section 17 of the Act by virtue of—

(a) subsection (2)(b) of that section, and

(b) subsection (4)(b) of that section,

or a combination of those subsections and subsection (6)(b) of that section.

(3) The declaration referred to in paragraph (2) shall (subject to regulation 5(3)) be treated as a claim by that person or persons for tax credit for the tax year following that to which the notice relates.

(4) The circumstances prescribed by this paragraph are where a person or any of the persons has—

(a) made a statement under paragraph (b) of subsection (2) of section 17 of the Act in response to such a notice by the date specified for the purposes of that subsection, or

(b) made a statement under paragraph (b) of subsection (4) of that section in response to such a notice by the date specified for the purposes of that subsection,

or a combination of any of those subsections and subsection (6)(b) of that section.

(5) The notice referred to in paragraph (4), together with (and as corrected by) the statement or statements there referred to, shall (subject to regulation 5(3)) be treated as a claim for tax credit by that person or persons for the tax year following that to which the notice relates.

(6) The claim shall be treated as made on the 6th April preceding the dates specified in the notice for the purposes of subsections (2) or (4) of section 17 of the Act.

(7) Paragraph (5) shall not apply—

(a) in the case where there has been a previous single claim (to which the notice relates), the person by whom it was made could no longer make a single claim; or

(b) in the case where there has been a previous joint claim (to which the notice relates), the persons by whom it was made could no longer jointly make a joint claim.

Circumstances in which claims made by one member of a couple to be treated as also made by the other member of the couple

13.—(1) In the circumstances prescribed by paragraph (2) a claim for a tax credit made by one member of a married couple or an unmarried couple is to be treated as also made by the other member of the married couple or unmarried couple.

(2) The circumstances prescribed by this paragraph are those where one member of a married couple or an unmarried couple is treated by regulation 12 as having made a claim for a tax credit in response to a notice under section 17 of the Act given to both members of the couple.

Circumstances in which awards to be conditional and claims treated as made—decisions under section 14(1) of the Act made before 6th April 2003

14.—(1) In the circumstances prescribed by paragraph (2) an award on a claim for a tax credit may be made subject to the condition that the requirements for entitlement are satisfied on 6th April 2003.

(2) The circumstances prescribed by this paragraph are those where—

(a) an advance claim (under regulation 9) for a tax credit has been made for the tax year beginning on 6th April 2003; and

(b) the Board give notice of their decision under section 14(1) of the Act before that date.

(3) Where, in a case falling within the terms of paragraph (2),—

(a) notification is given before 6th April 2003 of a change of circumstances (other than one increasing the maximum rate at which a person or persons may be entitled to a tax credit) which is expected to continue at that date, or

(b) the Board have reasonable grounds before that date for believing that the requirements for entitlement are otherwise expected to differ on that date from those in the claim,

the person or persons making the claim shall be treated as making a new claim (on the basis of the altered requirements for entitlement, together with so much of those requirements stated in the original claim as remain unchanged) in the place of the original claim.

Persons who die after making a claim

15.—(1) This regulation applies where any person who has made a claim for a tax credit dies—

(a) before the Board have made a decision in relation to that claim under section 14(1) of the Act;

(b) having given a notification of a change of circumstances increasing the maximum rate at which a person or persons may be entitled to the tax credit, before the Board have made a decision whether (and, if so, how) to amend the award of tax credit made to him or them; or

(c) where the tax credit has been awarded for the whole or part of a tax year, after the end of that tax year but before the Board have made a decision in relation to the award under section 18(1), (5), (6) or (9) of the Act.

(2) In the case of a single claim, the personal representatives of the person who has died may proceed with the claim in the name of that person.

(3) In the case of a joint claim where only one of the persons by whom the claim was made has died, the other person with whom the claim was made may proceed with the claim in the name of the person who has died as well as in his own name.

(4) In the case of a joint claim where both the persons by whom the claim was made have died, the personal representatives of the last of them to die may proceed with the claim in the name of both persons who have died.

(5) For the purposes of paragraph (4), where persons have died in circumstances rendering it uncertain which of them survived the other—

(a) their deaths shall be presumed to have occurred in order of seniority; and

(b) the younger shall be treated as having survived the elder.

Persons who die before making joint claims

16.—(1) This regulation applies where one member of a married couple or an unmarried couple dies and the other member of the married couple or the unmarried couple wishes to make a joint claim for a tax credit

(2) The member who wishes to make the claim may make and proceed with the claim in the name of the member who has died as well as in his own name.

(3) Any claim made in accordance with this regulation shall be for a tax credit for a period ending with—

(a) the date of the death of the member of the married couple or unmarried couple who has died; or

(b) if earlier, 5th April in the tax year to which the claim relates.

Circumstances where one person may act for another in making a claim—receivers etc.

17.—(1) In the circumstances prescribed by paragraph (2) any receiver or other person mentioned in sub-paragraph (b) of that paragraph may act for the person mentioned in sub-paragraph (a) of that paragraph in making a claim for a tax credit.

(2) The circumstances prescribed by this paragraph are where—

(a) a person is, or is alleged to be, entitled to a tax credit but is unable for the time being to make a claim for a tax credit; and

(b) there are any of the following—

(i) a receiver appointed by the Court of Protection with power to make a claim for a tax credit on behalf of the person;

(ii) in Scotland, a tutor, curator or other guardian acting or appointed in terms of law who is administering the estate of the person; and

(iii) in Northern Ireland, a controller appointed by the High Court, with power to make a claim for a tax credit on behalf of the person.

Circumstances where one person may act for another in making a claim—other appointed persons

18.—(1) In the circumstances prescribed by paragraph (2) any person mentioned in sub-paragraph (b) of that paragraph may act for the person mentioned in sub-paragraph (a) of that paragraph in making a claim for a tax credit.

(2) The circumstances prescribed by this paragraph are where—

(a) a person is, or is alleged to be, entitled to a tax credit but is unable for the time being to make a claim for a tax credit; and

(b) in relation to that person, there is a person appointed under—

(i) regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987(**3**);

(ii) regulation 33(1) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**4**); or

(iii) paragraph (3).

(3) Where there is no person mentioned in regulation 17(2)(b) in relation to the person who is unable to act, the Board may appoint under this paragraph a person who—

(**3**) S.I. 1987/1968. Regulation 33(1) was amended by regulations 20 and 23 of, and Parts 1 and 4 of the Schedule to, S.I. 1999/2572.

(**4**) S.R. 1987 465. Regulation 33(1) was amended by regulations 20 and 23 of, and the Schedule to, S.I. 1999/2574.

(a) has applied in writing to the Board to be appointed to act on behalf of the person who is unable to act; and

(b) if a natural person, is aged 18 years or more.

(4) An appointment under paragraph (3) shall end if—

(a) the Board terminate it;

(b) the person appointed has resigned from the appointment having given one month's notice in writing to the Board of his resignation; or

(c) the Board are notified that a receiver or other person mentioned in regulation 17(2)(b) has been appointed in relation to the person who is unable to make a claim.