

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (DEFINITION & CALCULATION OF INCOME)
(AMENDMENT) REGULATIONS 2007

S. I. 2007 No. 1305

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This statutory instrument amends the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S. I. 2002 No. 2006).

These regulations amend the 2002 Regulations to reflect that certain areas, previously covered by the Finance Act 1990 and the Income and Corporation Taxes Act 1988 (ICTA), are now covered by the Income Tax Act 2007.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative background**

The amendments to the Tax Credits (Definition and Calculation of Income) Regulations result from changes to other legislation that have an impact on these regulations. In particular, they arise from the rewriting of certain income tax provisions regarding Gift Aid donations, relief for UK and overseas property losses, and certain changes to income tax law where an individual is treated as having income. These rewritten provisions are now contained in the Income Tax Act 2007 (c.3).

5. **Extent**

This instrument applies to all of the United Kingdom

6. **European Convention on Human Rights**

These regulations are subject to annulment and do not amend primary legislation. Accordingly, a certificate that the instrument is compatible with the Convention rights is not required.

7. **Policy background**

When claiming the Child and Working Tax Credits, claimants generally have to report gross income of a full tax year (usually the previous year) from sources

which are chargeable to income tax. This reflects the fact that the Child and Working Tax Credits are part of the tax system.

Because the tax credit regulations refer to tax law definitions of various types of income, any relevant changes in tax law have to be reflected in the tax credit definition of “income”.

Regulation 1 provides that these Regulations shall come into force on [] April 2007.

Regulation 2 introduces the amendments to the Tax Credits (Definition and Calculation of Income) Regulations.

Regulation 3 updates regulation 2 (interpretation) of those Regulations. It inserts a definition of the Income Tax Act 2007.

Regulation 4 updates regulation 3 (calculation of income of claimant) of the 2002 Regulations. It updates the provisions which allow for a deduction from the claimant’s income for qualifying Gift Aid donations and certain UK and overseas property losses, previously covered by the Finance Act 1990 and ICTA and now in the Income Tax Act 2007.

Regulation 5 amends regulation 8 (student income) of the 2002 Regulations to reflect changes made to student support in Wales by the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007 (S.I. 2007 No. 1045 (W.104)).

Regulation 6 updates the provisions in regulation 11 (property income) of the 2002 Regulations which allow relief for UK property losses by reference to the rewritten provisions in the Income Tax Act 2007.

Regulation 7 updates the provisions in regulation 12 (foreign income) of the 2002 Regulations which allow relief for overseas property losses by reference to the rewritten provisions in the Income Tax Act 2007.

Regulation 8 updates regulation 14 (claimants treated for any purpose as having income by virtue of the Income Tax Acts) of the 2002 Regulations to reflect that various provisions of ICTA are now covered by the Income Tax Act 2007.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument because it has no impact on business, charities or the voluntary sector.

The changes to the Tax Credits (Definition and Calculation of Income) Regulations will have a negligible impact on the Exchequer.

Consultation

There is no statutory requirement to consult on these regulations. They do not introduce any new provisions but update existing legislative references in the 2002 Regulations.

9. Contact

The lead official is:

David Woodhouse
HM Revenue and Customs
Benefits and Credits Group
100 Parliament Street
London
SW1A 2 BQ
Tel: 020-7147-2477
E-mail: David.Woodhouse@hmrc.gsi.gov.uk