

**2008 No. 604**

**TAX CREDITS**

**The Tax Credits (Miscellaneous Amendments) Regulations 2008**

*Made* - - - - *5th March 2008*

*Laid before Parliament* *6th March 2008*

*Coming into force in accordance with regulation 1*

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), 12 and 65(1) 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)(b) and 67 of that Act.

**Citation and commencement**

1. These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) Regulations 2008 and shall come into force—

- (a) for the purposes of regulation 2(2) on 1st April 2008; and
- (b) for all other purposes on 6th April 2008.

**Amendment of the Tax Credits (Definition and Calculation of Income) Regulations 2002**

2.—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(c) are amended as follows.

(2) In regulation 4(4) within Table 1 (payments and benefits disregarded in the calculation of employment income)(d) after item 3A insert—

“**3B.** A payment designated by the Secretary of State for Defence as Council Tax Relief and made by the Secretary of State for Defence to a member of Her Majesty's forces.”.

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(a) 2002 c.21.

(b) By virtue of section 65(2), the powers in sections 4(1)(b) and 24(7) 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.

(c) S.I.2002/2006.

(d) Regulation 4(4) has been amended by S.I. 2003/732 and 2815, S.I. 2004/762 and 2663, S.I.2006/766 and S.I.2007/824.

(3) In regulation 5(1) (pension income)(a) omit sub-paragraph (m) (payment to which section 623 of ITEPA applies) and the word “and” immediately preceding it.

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

**3.**—(1) Regulation 14(2) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b) is amended as follows.

(2) In sub-paragraph (a)—

- (a) in the words before paragraph (i) omit “and Wales”;
- (b) in (iv) omit “or”;
- (c) in paragraph (v) omit “or the Fostering Services (Wales) Regulations 2003”(c); and
- (d) after paragraph (v) insert—
  - “(vi) by a child care provider approved in accordance with the Tax Credits (Approval of Child Care Providers) Scheme 2005(d);
  - (vii) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002(e); or
  - (viii) by a child care provider registered under the Childcare (Voluntary Registration) Regulations 2007(f);”.

(3) Sub-paragraph (e) is revoked.

(4) For sub-paragraph (f) substitute—

“(f) in Wales—

- (i) by persons registered under Part 10A of the Children Act 1989(g);
- (ii) in schools or establishments which are exempted from registration under Part 10A of the Children Act 1989 by virtue of paragraph 1 or 2 of Schedule 9A to that Act;
- (iii) in respect of any period on or before the last day he is treated as a child for the purposes of this regulation, where the care is provided out of school hours, by a school on school premises or by a local authority;
- (iv) by a child care provider approved by an accredited organisation within the meaning given by regulation 4 of the Tax Credit (New Category of Child Care Provider) Regulations 1999(h);
- (v) by a foster parent under the Fostering Services (Wales) Regulations 2003 in relation to a child other than one whom he is fostering;
- (vi) by a domiciliary care worker under the Domiciliary Care Agencies (Wales) Regulations 2004(i); or
- (vii) by a child care provider approved under the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007(j).”.

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(a) Regulation 5(1) was amended by S.I. 2003/732, S.I. 2006/745 and S.I.2006/766.

(b) S.I.2002/2005. Regulation 14(2) has been amended by S.I.2003/701, S.I.2003/2815, S.I.2004/1276, S.I.2004/2663, S.I.2005/769, S.I.2006/766, S.I.2007/824, S.I.2007/2479 and S.I.2007/2481.

(c) S.I. 2003/237 (W.35).

(d) S.I. 2005/93.

(e) S.I. 2002/3214.

(f) S.I. 2007/730.

(g) 1989 (c.41).

(h) S.I. 1999/3110: these Regulations originally applied to England and Wales but by virtue of S.I. 2007/2480 and S.I. 2007/2481 cease to apply to England.

(i) S.I. 2004/219 (W.23).

(j) S.I. 2007/226 (W.20).

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

4.—(1) The Tax Credits (Claims and Notifications) Regulations 2002(a) are amended as follows.

(2) In regulation 11 (circumstances in which claims to be treated as made)(b) for paragraph (3) substitute—

“(3) The claim shall be treated as made—

- (a) in a case where the declaration is made by 31st July next following the end of the tax year to which the claim relates, on 6th April preceding that date;
- (b) in a case where the declaration, not having been made by 31st July next following the end of the tax year to which the claim relates, is made within 30 days following the date on the notice to the claimant that payments of tax credit under section 24(4) of the Act have ceased due to the claimant’s failure to make the declaration, on 6th April preceding the date on which the declaration is made;
- (c) in a case where the declaration, not having been made by 31st July next following the end of the tax year to which the claim relates or within the 30 days specified in sub-paragraph (b), is made before 31st January next following the end of the tax year to which the claim relates, and, in the opinion of the Board, the claimant had good cause for not making the declaration as mentioned in sub-paragraphs (a) or (b), on 6th April preceding the date on which the declaration is made; or
- (d) in any other case, on the latest date on which the declaration is received by a relevant authority at an appropriate office (subject to the application of regulation 7).”.

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

5.—(1) The Tax Credits (Payments by the Commissioners) Regulations 2002(c) are amended as follows.

(2) In regulation 12 (amounts of payment)(d) for paragraph (4) substitute—

“(4) Where payments under section 24(4) of the Act are to be made the Commissioners may take any or both of the following factors into account in determining the amount of those payments—

- (a) the rate at which the person or persons were entitled to the tax credit for the relevant tax year;
- (b) the estimated amount of income the person or persons referred to above may receive in the current tax year.”.

*Alan Campbell*

*Dave Watts*

5th March 2008

Two of the Lords Commissioners of Her Majesty’s Treasury

*Dave Hartnett*

*Mike Hanson*

4th March 2008

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

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(a) S.I. 2002/2014.

(b) Regulation 11 has been amended by S.I. 2003/723, S.I. 2004/762, S.I. 2006/766 and S.I. 2007/824.

(c) S.I. 2002/2173: these Regulations were originally described as the “Tax Credits (Payments by the Board) Regulations 2002”, however, S.I. 2005/2200 revoked the words “the Board” and inserted the words “the Commissioners” with effect from 29th August 2005.

(d) Regulation 12 has been amended by S.I. 2005/2200 and S.I. 2007/824.

## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations amend the Tax Credits (Definition and Calculation of Income) Regulations 2002 (“the Income Regulations”), the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (“the Entitlement Regulations”), the Tax Credits (Claims and Notifications) Regulations 2002 and the Tax Credits (Payments by the Commissioners) Regulations 2002.

Regulation 2 amends the Income Regulations.

Regulation 2(2) amends Table 1 in regulation 4(4). The Table contains a list of payments and benefits which are disregarded in the calculation of employment income. A new item (3B) is added, so as to exempt payments designated by the Secretary of State for Defence as Council Tax Relief and made by the Secretary of State for Defence to a member of Her Majesty’s forces.

Regulation 2(3) omits regulation 5(1)(m). The effect is to omit any payment to which section 623 of Income Tax (Earnings and Pensions) Act 2003 (c.1) (“ITEPA”) applies. Section 623 of ITEPA was repealed as part of the pension simplification changes, however, a transitional Order retained Chapter 13 of Part 9 of ITEPA in respect of surplus Additional Voluntary Contributions paid between 6th April and 6th July 2006 where the right to receive those surplus contributions arose before 6th April 2006. As this transitional period has now ended, the reference to section 623 ITEPA is spent, and regulation 5(1)(m) is omitted.

Regulation 3 amends regulation 14(2) of the Entitlement Regulations by restructuring the provisions in respect of child care in England and Wales so that the provision for each territory appears in a separate sub-paragraph. As a consequence of these changes sub-paragraph (e) is revoked.

Regulation 4 amends regulation 11(3) of the Tax Credits (Claims and Notifications) Regulations to change the circumstances when a claim for tax credit is treated as made.

Regulation 5 amends regulation 12(4) of the Tax Credits (Payments by the Commissioners) Regulations 2002 to give the Commissioners for Her Majesty’s Revenue and Customs discretion in determining the amount of any further payments of tax credit and to specify the factors which the Commissioners may take into account in determining the amount of those payments.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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