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## STATUTORY INSTRUMENTS

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# 2020 No. 941

## TAX CREDITS

### The Tax Credits (Coronavirus, Miscellaneous Amendments) (No. 2) Regulations 2020

<i>Made</i>	- - - -	<i>3rd September 2020</i>
<i>Laid before Parliament</i>		<i>4th September 2020</i>
<i>Coming into force</i>	- -	<i>25th September 2020</i>

The Treasury, in exercise of the powers conferred by sections 7(8), 10(2) and 65(1) of the Tax Credits Act 2002(1), make the following Regulations.

#### **Citation and commencement**

1. These Regulations may be cited as the Tax Credits (Coronavirus, Miscellaneous Amendments) (No. 2) Regulations 2020 and come into force on 25th September 2020.

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

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

(2) For regulation 6 (trading income)(3) substitute—

#### **“Trading income**

6. The claimant’s (“C”) trading income is—

(a) the amount of C’s taxable profits for the tax year arising from—

(i) any trade carried on in the United Kingdom or elsewhere;

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(1) 2002 c. 21. Part 1 (but not Schedule 1 or 3 to that Part) has been repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) from a day to be appointed. Article 1 of S.I. 2019/167 appointed the day for the coming into force of section 33(1) (f) of the Welfare Reform Act 2012 and the repeal of Part 1 of the Tax Credits Act 2002 as 1st February 2019, save for the cases referred to in Article 3 of that instrument.

(2) S.I. 2002/2006, relevant amending instruments are S.I. 2006/766 and 2020/534.

(3) Regulation 6 was substituted by regulation 3(3) of S.I. 2020/534.

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- (ii) any profession or vocation the income from which does not fall under any other provision of these Regulations; or
- (b) the amount of C's taxable profits for the year arising from C's share of the partnership trading or professional income where C is a partner in a trade, profession or vocation.

In this regulation "taxable profits" has the same meaning as it has in Part 2 of ITTOIA(4), but disregarding the relevant benefit amount in section 23E (tax treatment of relevant benefits) and Chapter 16 of that Part (averaging profits of farmers and creative artists)."

- (3) In regulation 19 (general disregards in the calculation of income)(5) in Table 6 (sums disregarded in the calculation of income)—
  - (a) omit entry 36; and
  - (b) after entry 35 insert—

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"37. Any payment made under the scheme known as the NHS Test and Trace Self-Isolation Payment Scheme established on 1st September 2020 in respect of England or under any similar scheme established in respect of Wales, Scotland or Northern Ireland."

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

3.—(1) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(6) are amended as follows.

(2) In regulation 2 (interpretation) in the definition of "furloughed employee under the Coronavirus Job Retention Scheme" after "Coronavirus Act 2020" insert "or a person who is within paragraph 10.1 of the Schedule to the further direction given by the Chancellor under section 76 of that Act on 25th June 2020(7)".

*Rebecca Harris*

*James Morris*

Two of the Lords Commissioners of Her Majesty's Treasury

3rd September 2020

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(4) Regulation 2 of the Tax Credits (Definition and Calculation of Income) Regulations defines "ITTOIA" as the Income Tax (Trading and Other Income) Act 2005 (c. 5). This definition was inserted by regulation 7 of S.I. 2006/766. Section 23E was inserted by section 35(2) of the Finance (No. 2) Act 2017 (c. 32).

(5) Entry 36 in Table 6 in regulation 19 was inserted by regulation 3(5) of S.I. 2020/534.

(6) S.I. 2002/2005; amended by S.I. 2002/534; there are other amending instruments but none is relevant. Regulation 2 of that instrument inserted the definition of "furloughed employee".

(7) A copy of the further direction given on 25 June 2020 can be found at <http://www.gov.uk/government/publications/treasury-direction-made-under-sections-71-and-76-of-the-coronavirus-act-2020>. A hard copy is available for inspection, free of charge, at the offices of HMRC at 10 South Colonnade, Canary Wharf, London E14 4PH.

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## EXPLANATORY NOTE

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

These Regulations amend the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) (“the Income Regulations”) and the Working Tax Credit (Entitlement Maximum Rate) Regulations 2002 (S. I. 2002/2005) (“the Entitlement Regulations”).

Regulation 1 provides for citation and commencement.

Regulation 2 amends the Income Regulations (which define what is income for the purposes of tax credits). Paragraph (2) substitutes a new regulation 6 which defines “trading income”. Regulation 3(3) of the Tax Credits (Coronavirus, Miscellaneous Amendments) Regulations 2020 (S.I. 2020/534) substituted regulation 6 so that any payments or grants received by a tax credit claimant from a coronavirus support scheme (which term is defined in regulation 2(2) of the principal Regulations) would be included as trading income. As a consequence of amendments made by section 106 of, and Schedule 16 to, the Finance Act 2020 (c. 14), regulation 6 resulted in the income of some claimants being taken into account twice. The amendment made by regulation 2(2) ensures that such income is only taken into account once.

Paragraph (5) makes two amendments to Table 6 in regulation 19. Entry 36, which was inserted by S.I. 2020/534, is revoked as payments made under the NHS and Social Care Coronavirus Life Assurance Scheme are not income for the purposes of calculating a claimant’s income for tax credit purposes and therefore do not require to be disregarded. Paragraph (5) also inserts a new entry (entry 37) so that payments made under the NHS Test and Trace Self-Isolation Payment Scheme are disregarded in calculating income for tax credit purposes.

Regulation 3 amends the definition of “furloughed employee” in regulation 2 of the Entitlement Regulations to reflect the further direction given by the Chancellor on 25 June 2020.

A full impact statement has not been produced for these Regulations because no impact on the private or voluntary sectors is foreseen.