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STATUTORY INSTRUMENTS

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**1999 No. 2571**

**SOCIAL SECURITY  
TAXES**

**The Tax Credits (Payments on Account, Overpayments  
and Recovery) (Amendment) Regulations 1999**

<i>Made</i>	- - - -	<i>14th September 1999</i>
<i>Laid before Parliament</i>		<i>14th September 1999</i>
<i>Coming into force</i>	- -	<i>5th October 1999</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred by sections 5(1), 7(2), 71, 74 and 189 of the Social Security Administration Act 1992<sup>(1)</sup> and now vested in them<sup>(2)</sup>, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Tax Credits (Payments on Account, Overpayments and Recovery) (Amendment) Regulations 1999 and shall come into force on 5th October 1999 immediately after the coming into force of section 2 of the Tax Credits Act 1999.

(2) These Regulations have effect—

- (a) with respect only to tax credit, and
- (b) with respect to any period, for which tax credit is payable to a person by virtue of section 128(3) or 129(6) of the Social Security Contributions and Benefits Act 1992<sup>(3)</sup>, commencing on or after 5th October 1999.

**Interpretation**

2. In these Regulations unless the context otherwise requires—

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(1) 1992 c. 5; section 5 was amended by paragraph 39 of Schedule 2 to the Jobseekers Act 1995 (c. 18) and paragraph 5(1) of Schedule 6 to the Social Security Act 1998 (c. 14). Section 71 was amended by section 1 of the Social Security (Overpayments) Act 1996 (c. 51), section 32(1) of, and paragraph 48 of Schedule 2 and Schedule 3 to, the Jobseekers Act 1995, and paragraph 10 of Schedule 2 to the Tax Credits Act 1999 (c. 10). Section 189 was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 and paragraphs 20 and 27 of Schedule 2 to the Tax Credits Act 1999.

(2) See sections 2(1)(c) and 19(1) of, and paragraphs 7(b), 20 and 27 of Schedule 2 to, the Tax Credits Act 1999.

(3) 1992 c. 4.

“the principal Regulations” means the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988<sup>(4)</sup> and “regulation” means a regulation of the principal Regulations;

“tax credit” means working families' tax credit or disabled person's tax credit, within the meanings in section 1(1) of the Tax Credits Act 1999.

### **Amendments to the principal Regulations**

#### **3. In regulation 1(2)(5)—**

(a) for the definition of “adjudicating authority” there shall be substituted—

““adjudicating authority” means, as the case may require, the Board, an officer of the Board, an appeal tribunal constituted under section 7 of the Social Security Act 1998, the Chief Social Security Commissioner or any other Social Security Commissioner, or a tribunal consisting of three or more of such Commissioners in accordance with section 16(7) of that Act;”

(b) in the definition of “benefit” for the words “family credit” there shall be substituted the words “disabled person's tax credit, working families' tax credit”;

(c) after the definition of “benefit” there shall be inserted—

““the Board” means the Commissioners of Inland Revenue;”

(d) for the definition of “disability working allowance” there shall be substituted—

““disabled person's tax credit” means a disabled person's tax credit under section 129 of the Contributions and Benefits Act and, in relation to things done, or falling to be done, prior to 5th October 1999, shall include a reference to disability working allowance;”

(e) the definition of “family credit” shall be omitted;

(f) at the end there shall be added—

““start notification” means a notification of entitlement to tax credit furnished to an employer by the Board, referred to in section 6(2)(a) of the Tax Credits Act 1999;

“tax credit” means working families' tax credit or disabled person's tax credit;

“working families' tax credit” means working families' tax credit under section 128 of the Contributions and Benefits Act and, in relation to things done, or falling to be done, prior to 5th October 1999, shall include a reference to family credit.”

#### **4.—(1) Regulation 2(6) is amended as follows.**

##### **(2) In paragraph (1)—**

(a) for the words “the Secretary of State may, in his discretion” there shall be substituted the words “the Board may, in their discretion”;

(b) for the word “him” there shall be substituted the word “them”;

(c) in sub-paragraph (b) for the word “review” there shall be substituted the words “revision, supersession”.

##### **(3) In paragraph (1A) for the words “the Secretary of State” there shall be substituted the words “the Board”.**

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(4) S.I. 1988/664.

(5) There are no relevant amendments.

(6) The relevant amendment was made by S.I. 1996/30.

- 5.—(1) Regulation 3(7) is amended as follows.
- (2) At the beginning there shall be inserted “(1)” and in the paragraph (1) so formed, for the word “Where” where it first appears there shall be substituted the words “Subject to paragraph (2), where”.
- (3) At the end of paragraph (1) so formed there shall be added—
- “ (2) Where the interim payment mentioned in paragraph (1)(a) is a payment on account of tax credit, paragraph 1(a), but not paragraph 1(b), shall apply with the modification that, for the words “Secretary of State” there is substituted the word “Board”.”
6. In Regulation 4(8) after paragraph (4) there shall be added—
- “ (5) Where the interim payment is a payment on account of tax credit paragraphs (2) to (4) shall apply with the modification that for references to “the Secretary of State” there shall be substituted references to “the Board”.”
- 7.—(1) Regulation 5 is amended as follows.
- (2) In paragraph (1) after the words “Subject to” there shall be added the words “paragraphs (1A) and (2A) and”.
- (3) After paragraph (1) there shall be inserted—
- “ (1A) In paragraph (1) the reference to “any sum paid” shall, in relation to tax credit, include a reference to any amount or calculation of tax credit payable in respect of a period prior to the date of the subsequent determination, which is included in a start notification given by the Board to an employer, and for the payment of which the employer remains responsible.”
- (4) In paragraph (2)—
- (a) for the word “reversed” in the heading to Case 1 there shall be substituted the word “superseded”;
- (b) for the words “on a review” (in Case 1) there shall be substituted the words “or superseded”;
- (c) for the words “determined, on review or appeal” (in Case 2) there shall be substituted the words “decided, on a revision, supersession or appeal”.
- (5) After paragraph (2) there shall be inserted—
- “ (2A) In paragraph (2), Case 2 shall not apply where either—
- (a) the sum paid under the original award, or
- (b) the subsequent decision on the revision, supersession or appeal,
- referred to in that Case (but not both) is or relates to tax credit.”
8. In regulation 8(1) sub-paragraphs (c) and (h)(9) shall be omitted.
- 9.—(1) Regulation 11 is amended as follows.
- (2) In paragraph (1) for the word “Where” there shall be substituted the words “Subject to paragraph (4), where”.
- (3) After paragraph (3) there shall be added—
- “ (4) Where the payment mentioned in paragraph (1) is a payment of tax credit, paragraphs (1) and (2) shall apply with the modifications that—

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(7) Substituted by S.I. [1993/650](#).

(8) Amended by S.I. [1993/650](#).

(9) Sub-paragraph (h) was added by S.I. [1991/2742](#).

- (a) in paragraph (1) for the words “Secretary of State's” there is substituted the word “Board's”, and
- (b) in paragraph (2) for the words “Secretary of State” there is substituted the word “Board”.”

**10.** In regulation 12—

- (a) for the words “variation or revision” there shall be substituted the words “variation, revision or supersession”;
- (b) for the words “reviewing and revising” there shall be substituted the words “revising or superseding”.

**11.**—(1) Regulation 13 is amended as follows.

(2) At the beginning there shall be inserted “(1)” and in the paragraph (1) so formed, for the word “In” where it first appears there shall be substituted the words “Subject to paragraph (2), in”.

(3) After paragraph (1) so formed there shall be added—

“(2) Paragraph (1) shall apply to tax credit only where both—

- (a) the overpayment of benefit referred to in that paragraph, and
- (b) the amount referred to in sub-paragraph (a) of that paragraph,

are tax credit, and with the modification that sub-paragraph (b) of that paragraph is omitted.”

**12.** In regulation 14(10) for the words “family credit or disability working allowance” wherever they occur there shall be substituted the words “working families' tax credit or disabled person's tax credit”.

**13.** In regulation 15(2)(10) sub-paragraphs (c) and (e) shall be omitted.

**14.** In regulation 17(10) the words “family credit or disability working allowance” wherever they occur shall be omitted.

*G H Bush  
Tim Flesher*

14th September 1999

Two of the Commissioners of Inland Revenue

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(10) The relevant amendments were made by S.I. [1991/2742](#)

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## EXPLANATORY NOTE

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

These Regulations amend the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (S.I.1988/664) (“the principal Regulations”) in consequence of the transfer under the Tax Credits Act 1999 of functions relating to family credit and disability working allowance from the Department of Social Security to the Treasury and the Inland Revenue on 5th October 1999. Family credit and disability working allowance are to become known as working families' tax credit and disabled person's tax credit respectively (collectively “tax credit”) as from 5th October 1999. The Regulations also amend the principal Regulations to take account of the provisions for decisions and appeals relating to social security benefits contained in the Social Security Act 1998 (c. 14), so far as concerns tax credit.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulations 3 to 14 contain amendments to the principal Regulations. The principal effects of the amendments are to treat social security benefits and tax credit separately, as regards the offsetting of a prior payment against a subsequent award, or as regards the recovery of overpayments by deductions from other benefits.