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STATUTORY INSTRUMENTS

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**2002 No. 2006**

The Tax Credits (Definition and  
Calculation of Income) Regulations 2002

PART 2

Income for the purposes of tax credits

CHAPTER 1

General

**Calculation of income of claimant**

3.—(1) The manner in which income of a claimant or, in the case of a joint claim, the aggregate income of the claimants, is to be calculated for a tax year for the purposes of Part 1 of the Act is as follows.

***Step One***

Calculate and then add together—

- (a) the pension income (as defined in regulation 5(1)),
- (b) the investment income (as defined in regulation 10),
- (c) the property income (as defined in regulation 11),
- (d) the foreign income (as defined in regulation 12) and
- (e) the notional income (as defined in regulation 13)

of the claimant, or, in the case of a joint claim, of the claimants.

If the result of this step is £300 or less, it is treated as nil.

If the result of this step is more than £300, only the excess is taken into account in the following steps.

***Step Two***

Calculate and then add together—

- (a) the employment income (as defined in regulation 4),
- (b) the social security income (as defined in regulation 7),
- (c) the student income (as defined in regulation 8) and
- (d) the miscellaneous income (as defined in regulation 18)

of the claimant, or in the case of a joint claim, of the claimants.

***Step Three***

Add together the results of Steps One and Two.

***Step Four***

Status: Point in time view as at 13/05/2021.

Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)

Calculate the trading income (as defined in regulation 6) of the claimant, or in the case of a joint claim, of the claimants.

Add the result of this step to that produced by Step Three <sup>F1</sup>... in the year.

If there has been a trading loss in the year, [<sup>F2</sup>subtract] the amount of that loss from the result of Step Three.

[<sup>F3</sup>A loss shall not be available for tax credits purposes, unless the trade was being carried on upon a commercial basis and with a view to the realisation of profits in the trade or, where the carrying on of the trade formed part of a larger undertaking, in the undertaking as a whole.]

[<sup>F4</sup>Any trading loss in the year not set off as a result of the calculations in Steps One to Four above due to an insufficiency of income may be carried forward and set off against trading income (if any) of the same trade, profession or vocation in subsequent years (taking earlier years first) for the purposes of calculation of income under this regulation.]

(2) Subject to the qualifications in the following paragraphs of this regulation, and the provisions of Part 3, the result of Step Four in paragraph (1) is the income of the claimant, or, in the case of a joint claim, of the claimants, for the purposes of the Act.

(3) Income which—

(a) arises in a territory outside the United Kingdom and

(b) is, for the time being, unremittable for the purposes of [<sup>F5</sup>Chapter 4 of Part 8 of TTOIA,]

is disregarded in calculating the income of the claimant or, in the case of a joint claim, of the claimants.

(4) Paragraph (5) applies in the case of a claimant who is [<sup>F6</sup>, for income tax purposes]—

(a) resident [<sup>F7</sup>and domiciled <sup>F8</sup>... ] in the United Kingdom, <sup>F9</sup>...

(b) resident <sup>F10</sup>... but not domiciled in the United Kingdom. <sup>F11</sup>...

<sup>F11</sup>(c) .....

(5) In the case of a person to whom this paragraph applies—

[<sup>F12</sup>(a) any income arising outside the United Kingdom is to be taken into account, subject to any specific provision of these Regulations, regardless of the domicile or residence of the claimant; and]

(b) references to a sum being [<sup>F13</sup>taken into account] are to be construed as including a sum which would be taxable if he were resident<sup>F14</sup>... and domiciled in the United Kingdom.

[<sup>F15</sup>(5A) Any income is to be taken into account, subject to any specific provision of these Regulations, notwithstanding the provision of any Order in Council under section 788 of the Taxes Act (double taxation agreements).]

(6) In the case of a claimant who would be chargeable to income tax but for some special exemption or immunity from income tax, income shall be calculated on the basis of the amounts which would be so chargeable but for that exemption or immunity.

[<sup>F16</sup>(6A) Income paid to a claimant in a currency other than sterling shall be converted into sterling at the average of the exchange rates applicable for the conversion of that currency into sterling in the period of 12 months [<sup>F17</sup>ending on 31st March] in the tax year in which the income arises.]

(7) In calculating income under this Part there shall be deducted <sup>F18</sup>...—

(a) [<sup>F19</sup>the amount of] any banking charge or commission payable in converting to sterling a payment of income which is made in a currency other than sterling;

- (b) [<sup>F20</sup>the grossed-up amount of] any qualifying donation (within the meaning of [<sup>F21</sup>Chapter 2 of Part 8 of ITA (gift aid)]), made by the claimant or, in the case of a joint claim, by either or both of the claimants; <sup>F22</sup>... [<sup>F23</sup>and]
- [<sup>F24</sup>(c) the amount of any contribution made by the claimant, or in the case of a joint claim, by either or both of the claimants to a registered pension scheme together with the amount of any tax relief due on those contributions.]
- <sup>F25</sup>(d) .....
- [<sup>F26</sup>(8) If—
- (a) a claimant has sustained a loss in relation to a [<sup>F27</sup>UK property business] or an overseas property business; and
- (b) the relief to which he is entitled in accordance with [<sup>F28</sup>section 120 of ITA (deduction of property losses from general income)] exceeds the amount of his property income or foreign income for tax credits purposes, for the year in question;

the amount of his total income for tax credit purposes, computed in accordance with the preceding provisions of this regulation, shall be reduced by the amount of the excess.

[<sup>F29</sup>In this paragraph “UK property business” and “overseas property business” have the same meanings as they have in Chapter 2 of Part 3 of ITTOIA.]]

#### Textual Amendments

- F1** Words in reg. 3(1) omitted (6.4.2003) by virtue of The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(2)(a)**
- F2** Word in reg. 3(1) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(2)(b)**
- F3** Words in reg. 3(1) inserted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(2)**
- F4** Words in reg. 3(1) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(2)**
- F5** Words in reg. 3(3)(b) substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(3)**
- F6** Words in reg. 3(4) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(3)(a)**
- F7** Words in reg. 3(4)(a) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(3)(b)**
- F8** Words in reg. 3(4)(a) omitted (6.4.2014) by virtue of The Tax Credits (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/658), regs. 1, **4(2)(a)**
- F9** Word in reg. 3(4)(a) omitted (26.11.2003) by virtue of The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(3)(a)**
- F10** Words in reg. 3(4)(b) omitted (6.4.2014) by virtue of The Tax Credits (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/658), regs. 1, **4(2)(b)**
- F11** Reg. 3(4)(c) and preceding word omitted (6.4.2014) by virtue of The Tax Credits (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/658), regs. 1, **4(3)**
- F12** Reg. 3(5)(a) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(4)(a)**
- F13** Words in reg. 3(5)(b) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(4)(b)**
- F14** Words in reg. 3(5)(b) omitted (6.4.2014) by virtue of The Tax Credits (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/658), regs. 1, **4(4)**

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

- F15** Reg. 3(5A) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(5)**
- F16** Reg. 3(6A) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(6)**
- F17** Words in reg. 3(6A) substituted (6.4.2007) by The Tax Credits (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/824), regs. 1, **9(2)**
- F18** Words in reg. 3(7) omitted (6.4.2003) by virtue of The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(7)(a)**
- F19** Words in reg. 3(7)(a) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(7)(b)**
- F20** Words in reg. 3(7)(b) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(7)(c)**
- F21** Words in reg. 3(7)(b) substituted (16.5.2007) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2007 (S.I. 2007/1305), regs. 1, **4(2)**
- F22** Word in reg. 3(7)(b) omitted (26.11.2003) by virtue of The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(4)(a)**
- F23** Word in reg. 3(7)(b) added (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(3)(a)**
- F24** Reg. 3(7)(c) substituted (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(3)(b)**
- F25** Reg. 3(7)(d) omitted (6.4.2006) by virtue of The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(3)(c)**
- F26** Reg. 3(8) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(5)**
- F27** Words in reg. 3(8)(a) substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(4)(a)**
- F28** Words in reg. 3(8)(b) substituted (16.5.2007) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2007 (S.I. 2007/1305), regs. 1, **4(3)**
- F29** Words in reg. 3(8) substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(4)(b)**

#### **Modifications etc. (not altering text)**

- C1** Reg. 3(1) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 17(a)(i)(iv)**
- C2** Reg. 3(6A) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 17(b)**
- C3** Reg. 3(8)(b) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 17(c)**

## CHAPTER 2

### *Employment Income*

#### **Employment income**

- 4.—(1) In these regulations “employment income” means—
- (a) any [<sup>F30</sup>earnings] from an office or employment received in the tax year;
  - (b) so much of any payment made to a claimant in that year in respect of expenses as is chargeable to income tax [<sup>F31</sup>by virtue of section 62 or section 72 of ITEPA;]

- (c) [<sup>F32</sup>the cash equivalent of] any non-cash voucher received by the claimant in that year and chargeable to income tax under [<sup>F33</sup>section 87 of ITEPA<sup>F34</sup>or, where there is an optional remuneration arrangement, the relevant amount,];]
- (d) [<sup>F35</sup>the cash equivalent of] any credit-token received by the claimant in that year and chargeable to income tax under [<sup>F36</sup>section 94 of ITEPA<sup>F37</sup>or, where such a credit-token is provided pursuant to an optional remuneration arrangement, the relevant amount];]
- (e) [<sup>F38</sup>the cash equivalent of] any cash voucher received by the claimant in that year and chargeable to income tax under [<sup>F39</sup>section 81 of ITEPA<sup>F40</sup>or, where there is an optional remuneration arrangement, the relevant amount,];]
- [<sup>F41</sup>(f) any amount chargeable to tax under Chapter 3 of Part 6 of ITEPA;]
- (g) so much of a payment of statutory sick pay, received by the claimant during the year, as is subject to income tax [<sup>F42</sup>by virtue of section 660 of ITEPA;]
- [<sup>F43</sup>(h) the amount (if any) by which a payment of statutory maternity pay, statutory paternity pay, statutory shared parental pay [<sup>F44</sup>or statutory adoption pay]<sup>F44</sup>, statutory parental bereavement pay or statutory adoption pay] exceeds £100 per week;]
- (i) any amount charged to income tax for that year [<sup>F45</sup>under section 120 or section 149 of ITEPA;]
- [<sup>F46</sup>(ia) the relevant amount in cases where a car is made available to the claimant or a member of the claimant’s family pursuant to an optional remuneration arrangement where the car’s CO<sub>2</sub> emissions figure exceeds 75 grams per kilometre;]
- [<sup>F47</sup>(j) any sum to which section 225 of ITEPA applies;]
- (k) any amount paid in that year by way of strike pay to the claimant as a member of a trade union.
- [<sup>F48</sup>(l) any amount charged to income tax for that year under Part 7 of ITEPA.]
- [<sup>F49</sup>(m) any amount paid to a person serving a custodial sentence or remanded in custody awaiting trial or sentence, for work done while serving the sentence or remanded in custody.]

For the purposes of this paragraph, references to the receipt of a payment of any description are references to its receipt by or on behalf of the claimant, or in the case of a joint claim of either of the claimants, in any part of the world.

This paragraph is subject to the following qualifications.

(2) Employment income does not include pension income.

<sup>F50</sup>(2A) .....

<sup>F50</sup>(2B) .....

[<sup>F51</sup>(3) This paragraph applies if (apart from section 64 of ITEPA) the same benefit would give rise to two amounts (“A” and “B”)—

- (a) “A” being an amount of earnings from a claimant’s employment as defined in section 62 of ITEPA, and
- (b) “B” being an amount to be treated as earnings under any provision of Chapter 10 of Part 3 of ITEPA.

In such a case, the amount to be taken into account in computing the claimant’s employment income is the greater of A and B, and the lesser amount shall be disregarded.]

(4) In calculating employment income, the payments and benefits listed in Table 1 shall be disregarded [<sup>F52</sup>except where the payment or benefit is provided pursuant to optional remuneration arrangements and is neither a special case benefit nor an excluded benefit].

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

**Table 1**

Payments [<sup>F53</sup>and benefits] disregarded in the calculation of employment income

1. Any payment in respect of qualifying removal expenses, or the provision of any qualifying removal benefit, within the meaning of [<sup>F54</sup>Chapter 7 of Part 4 of ITEPA].

[<sup>F55</sup>2A. The payment or reimbursement of expenses incurred in the provision of transport to a disabled employee (as defined in section 246(4) of ITEPA) by his employer, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 246 of ITEPA.

2B. The provision to a disabled employee (as defined in section 246(4) of ITEPA) by his employer of a car, the provision of fuel for the car, or the reimbursement of expenses incurred in connection with the car, if no liability to income tax arises in respect of that provision or reimbursement (as the case may be) by virtue of section 247 of ITEPA.

2C. The payment or reimbursement of expenses incurred on transport, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 248 of ITEPA.]

3. Travel facilities provided for the claimant as a member of the naval, military or air forces of the Crown for the purpose of going on, or returning from, leave.

[<sup>F56</sup>3A. The payment by the Secretary of State for Defence of an operational allowance to a member of Her Majesty's forces in respect of service in an operational area specified [<sup>F57</sup>under a Royal Warrant made under section 333 of the Armed Forces Act 2006].]

[<sup>F58</sup>3B. A payment designated by the Secretary of State for Defence as Council Tax Relief and made [<sup>F57</sup>under a Royal Warrant made under section 333 of the Armed Forces Act 2006] to a member of Her Majesty's forces.]

[<sup>F59</sup>3C. The payment under a Royal Warrant made under section 333 of the Armed Forces Act 2006, of the Continuity of Education Allowance to or in respect of members of the armed forces of the Crown during their employment under the Crown or after their deaths.]

[<sup>F60</sup>3D. Any accommodation allowance which is payable out of public revenue for, or towards, the costs of accommodation to, or in respect of, a member of the armed forces of the Crown, providing that the payment meets any conditions which have been specified in regulations made by the Treasury.]

4. Payment or reimbursement of expenses in connection with the provision for, or use by, the claimant as a person holding an office or employment of a car parking space at or near his place of work.

5. Any benefit or non-cash voucher provided to the claimant, or to any member of his family or household, [<sup>F61</sup>in respect of which no liability to income tax arises by virtue of Chapter 5 of Part 4 of ITEPA.]

6. Any payment of incidental overnight expenses [<sup>F62</sup>in respect of which no liability to income tax arises by virtue of section 240 of ITEPA.]

- [<sup>F63</sup>7. Food, drink and mess allowances for the armed forces and training allowances payable to members of the reserve forces in respect of which no liability to income tax arises by virtue of section 297 or 298 of ITEPA.]
8. The value of meal vouchers issued to the claimant as an employee, [<sup>F64</sup>if section 89 of ITEPA applies to the vouchers.]
9. Any cash payment received by the claimant as a miner in lieu of free coal, or the provision of the coal itself, [<sup>F65</sup>in respect of which no liability to income tax arises by virtue of section 306 of ITEPA.]
10. An award made to the claimant as a director or employee by way of a testimonial to mark long service, [<sup>F66</sup>if, or to the extent that, no liability to income tax arises in respect of it by virtue of section 323 of ITEPA.]
11. Payment of a daily subsistence allowance [<sup>F67</sup>in respect of which no liability to income tax arises by virtue of section 304 of ITEPA.]
- [<sup>F68</sup>11A. The payment or reimbursement of reasonable expenses incurred by an employee who has a permanent workplace at an offshore installation, on transfer transport, related accommodation and subsistence or local transport, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 305 of ITEPA. For the purposes of this item, expressions which are defined in section 305 of ITEPA have the same meaning here as they do there.
- 11B. Payment of an allowance to a person in employment under the Crown in respect of which no liability to income tax arises by virtue of section 299 of ITEPA.
- 11C. The payment or reimbursement to an employee of any sum in connection with work-related training, or individual learning account training (as respectively defined in sections 251 and 256 of ITEPA) if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of any provision of Chapter 4 of Part 4 of ITEPA.
- 11D. The provision for an employee of a non-cash voucher or a credit-token, to the extent that liability to income tax does not arise in respect of that voucher or credit-token (as the case may be), under Chapter 4 of [<sup>F69</sup>Part 3 of ITEPA, by virtue of any provision of Chapter 6 of Part 4 of ITEPA].
- 11E. The provision for an employee of free or subsidised meal vouchers or tokens (within the meaning of section 317(5) of ITEPA), if no liability to income tax arises in respect of that provision by virtue of section 317 of ITEPA.]
- [<sup>F70</sup>11F. The provision of one mobile telephone for an employee in respect of which no liability to income tax arises by virtue of section 319 of ITEPA.]
12. An award made to the claimant under a Staff Suggestion Scheme, if the conditions specified in [<sup>F71</sup>sections 321 and 322 of ITEPA][<sup>F72</sup>are satisfied].]
13. Travelling and subsistence allowances paid to or on behalf of the claimant by his employer [<sup>F73</sup>in respect of which no liability to income tax arises by virtue of section 245 of ITEPA.]

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

14. Any gift consisting of goods, or a voucher or token to obtain goods, [<sup>F74</sup>in respect of which no liability to income tax arises by virtue of section 270 or 324 of ITEPA.]

[<sup>F75</sup>14A. Any payment or reimbursement of expenses incurred in connection with an employment-related asset transfer (as defined in section 326(2) of ITEPA), if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 326 of ITEPA.

14B. Any payment of expenses incurred by an employee in connection with a taxable car if no liability to income tax arises in respect of the payment by virtue of section 239(2) of ITEPA.]

[<sup>F76</sup>14C. The discharge of any liability of an employee in connection with a taxable car if no liability to income tax arises by virtue of section 239(1) of ITEPA.

14D. A benefit connected with a taxable car if no liability to income tax arises by virtue of section 239(4) of ITEPA.]

15. A cash voucher, non-cash voucher or credit-token to the extent that it is used by the recipient for the provision of child care, the costs of which if borne by the recipient would be relevant child care charges within the meaning of regulation 14 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 <sup>M1</sup>.

[<sup>F77</sup>16. A payment made by the Department for Work and Pensions under section 2 of the Employment Act—

- ((a)) by way of In-Work Credit [<sup>F78</sup>, Better Off In-Work Credit], Job Grant or Return to Work Credit, <sup>F79</sup>...
- ((b)) under the Employment Retention and Advancement Scheme or the Working Neighbourhoods Pilot]
- ((c)) [<sup>F80</sup>under the City Strategy Pathfinder Pilots,
- ((d)) by way of an In-Work Emergency Discretion Fund payment pursuant to arrangements made by the Secretary of State, <sup>F81</sup>...
- ((e)) by way of an Up-front Childcare Fund payment pursuant to arrangements made by the Secretary of State.][<sup>F82</sup>, or
- ((f)) under the Future Capital pilot scheme.]

<sup>F83</sup> ...

<sup>F83</sup> ...

[<sup>F84</sup>17. The payment or reimbursement of reasonable additional household expenses incurred by an employee who works from home, within the meaning of section 316A of ITEPA.

18. The payment or reimbursement of retraining course expenses within the meaning of section 311 of ITEPA.]

[<sup>F85</sup>19. Provision of computer equipment in respect of which no liability to income tax arises by virtue of section 320 of ITEPA.]

[<sup>F86</sup>20. Pay As You Earn (PAYE) settlement agreements made under Part 6 of the Income Tax (PAYE) Regulations (“the PAYE Regulations”) 2003.



For the purposes of this item the special arrangements under regulation 141 of the PAYE Regulations also apply.]

[<sup>F87</sup>21. The payment or reimbursement of a fee within section 326A(1) of ITEPA (fees relating to vulnerable persons' monitoring schemes).]

[<sup>F88</sup>22. The payment of a qualifying bonus within section 312A of ITEPA (limited exemption for qualifying bonus payments).]

(5) From the amount of employment income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted the amount of any deduction permitted in [<sup>F89</sup>calculating earnings by virtue of any provision of sections [<sup>F90</sup>231 to 232,] 336 to 344, or section 346, 347, 351, 352, 362, 363, 367, 368, 370, 371, 373, 374, 376, 377 or 713 of ITEPA].

[<sup>F91</sup>(6) For the purposes of this regulation, a benefit is provided pursuant to optional remuneration arrangements if it is provided under either—

- (a) arrangements under which, in return for the benefit, the claimant gives up the right (or a future right) to receive an amount of earnings within Chapter 1 of Part 3 of ITEPA ("Type A arrangements"), or
- (b) arrangements (other than Type A arrangements) under which the claimant agrees to be provided with the benefit rather than an amount of earnings within Chapter 1 of Part 3 of ITEPA.

(7) The relevant amount, in relation to a benefit provided pursuant to an optional remuneration arrangement, means the amount treated for income tax purposes as earnings from employment for the tax year by reason of the benefit being provided pursuant to optional remuneration arrangements.

(8) A benefit is a special case benefit if it is exempted from a charge to income tax by any of the following provisions in ITEPA—

- (a) section 289A (exemption for paid or reimbursed expenses),
- (b) section 289D (exemption for other benefits),
- (c) section 308B (independent advice in respect of conversions and transfers of pension scheme benefits),
- (d) section 312A (limited exemption for qualifying bonus payments),
- (e) section 317 (subsidised meals),
- (f) section 320C (recommended medical treatment), and
- (g) section 323A (trivial benefits provided by employers).

(9) A benefit is an excluded benefit if—

- (a) it is exempted from a charge to income tax by any of the following provisions in ITEPA—
  - (i) section 239 (payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles),
  - (ii) section 244 (cycles and cyclist's safety equipment),
  - (iii) section 266(2)(c) (non-cash voucher regarding entitlement to exemption under section 244),
  - (iv) section 270A (limited exemption for qualifying childcare vouchers),
  - (v) section 308 (exemption of contribution to registered pension scheme),
  - (vi) section 308A (exemption of contribution to overseas pension scheme),
  - (vii) section 309 (limited exemptions for statutory redundancy payments),

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- (viii) section 310 (counselling and other outplacement services),
  - (ix) section 311 (retraining courses),
  - (x) section 318 (childcare: exemption for employer-provided care), or
  - (xi) section 318A (childcare: limited exemption for other care), or
- (b) it is a payment, or reimbursement of costs incurred by the claimant, in respect of pension advice and that payment or reimbursement is exempt from a charge to income tax under Chapter 9 of Part 4 of ITEPA.
- (10) A car's CO<sub>2</sub> emissions figure is to be determined in accordance with sections 133 to 138 of ITEPA (cars: the appropriate percentage).]

#### Textual Amendments

- F30** Word in reg. 4(1)(a) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(a)**
- F31** Words in reg. 4(1)(b) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(b)**
- F32** Words in reg. 4(1)(c) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(c)(i)**
- F33** Words in reg. 4(1)(c) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(c)(ii)**
- F34** Words in reg. 4(1)(c) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **3(a)(i)**
- F35** Words in reg. 4(1)(d) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(d)(i)**
- F36** Words in reg. 4(1)(d) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(d)(ii)**
- F37** Words in reg. 4(1)(d) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **3(a)(ii)**
- F38** Words in reg. 4(1)(e) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(e)(i)**
- F39** Words in reg. 4(1)(e) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(e)(ii)**
- F40** Words in reg. 4(1)(e) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **3(a)(i)**
- F41** Reg. 4(1)(f) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(f)**
- F42** Words in reg. 4(1)(g) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(g)**
- F43** Reg. 4(1)(h) substituted (5.4.2015) by The Social Security and Tax Credits (Miscellaneous Amendments) Regulations 2015 (S.I. 2015/175), regs. 2(2)(3), **7** (with reg. 9)
- F44** Words in reg. 4(1)(h) substituted (E.W.S.) (6.4.2020) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 (S.I. 2020/354), regs. 1, **12(2)**
- F45** Words in reg. 4(1)(i) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(i)**

- F46** Reg. 4(1)(ia) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **3(a)(iii)**
- F47** Reg. 4(1)(j) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(2)(j)**
- F48** Reg. 4(1)(l) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **5(2)**
- F49** Reg. 4(1)(m) inserted (6.4.2007) by The Tax Credits (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/824), regs. 1, **10(2)**
- F50** Reg. 4(2A)(2B) omitted (6.4.2006) by virtue of The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **9(2)**
- F51** Reg. 4(3) substituted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **5(3)**
- F52** Words in reg. 4(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **3(b)**
- F53** Words in reg. 4 Table 1 heading inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(a)**
- F54** Words in reg. 4 Table 1 Item 1 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(b)**
- F55** Reg. 4 Table 1 Items 2A-2C substituted for Item 2 (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(c)**
- F56** Reg. 4 Table 1 Item 3A inserted (6.4.2007) by The Tax Credits (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/824), regs. 1, **10(3)(a)**
- F57** Words in reg. 4(4) Table 1 Items 3A, 3B substituted (6.4.2014) by The Tax Credits (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/658), regs. 1, **4(5)**
- F58** Reg. 4 Table 1 Item 3B inserted (1.4.2008) by The Tax Credits (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/604), regs. 1(a), **2(2)**
- F59** Reg. 4(4) Table 1 Item 3C inserted (6.4.2012) by The Tax Credits (Miscellaneous Amendments) Regulations 2012 (S.I. 2012/848), regs. 1(2), **3(1)**
- F60** Reg. 4 Table 1 Item 3D inserted (6.4.2018) by The Tax Credits and Childcare (Miscellaneous Amendments) Regulations 2018 (S.I. 2018/365), regs. 1, **2(3)**
- F61** Words in reg. 4 Table 1 Item 5 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(d)**
- F62** Words in reg. 4 Table 1 Item 6 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(e)**
- F63** Reg. 4 Table 1 Item 7 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(f)**
- F64** Words in reg. 4 Table 1 Item 8 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(g)**
- F65** Words in reg. 4 Table 1 Item 9 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(h)**
- F66** Words in reg. 4 Table 1 Item 10 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(i)**
- F67** Words in reg. 4 Table 1 Item 11 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(j)**
- F68** Reg. 4 Table 1 Items 11A-11E inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(k)**
- F69** Words in reg. 4 Table 1 Item 11D substituted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **5(4)(a)**
- F70** Reg. 4 Table 1 Item 11F inserted (6.4.2007) by The Tax Credits (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/824), regs. 1, **10(3)(b)**

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

- F71** Words in reg. 4 Table 1 Item 12 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(l)**
- F72** Words in reg. 4(4) Table 1 Item 12 inserted (6.4.2004) by The Tax Credits (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/762), regs. 1(1), **14(3)(a)**
- F73** Words in reg. 4 Table 1 Item 13 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(m)**
- F74** Words in reg. 4 Table 1 Item 14 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(n)**
- F75** Reg. 4 Table 1 Items 14A, 14B inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(4)(o)**
- F76** Reg. 4 Table 1 Items 14C, 14D inserted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **5(4)(b)**
- F77** Reg. 4(4) Table 1 Item 16 substituted (6.4.2004) by The Tax Credits (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/762), regs. 1(1), **14(3)(b)**
- F78** Words in reg. 4(4) Table 1 Item 16 inserted (1.9.2008) by The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2008 (S.I. 2008/2169), regs. 1, **4(a)(i)**
- F79** Word in reg. 4(4) Table 1 Item 16 omitted (1.9.2008) by virtue of The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2008 (S.I. 2008/2169), regs. 1, **4(a)(i)**
- F80** Words in reg. 4(4) Table 1 Item 16 inserted (1.9.2008) by The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2008 (S.I. 2008/2169), regs. 1, **4(a)(ii)**
- F81** Word in reg. 4(4) Table 1 Item 16 omitted (21.11.2009) by virtue of The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2009 (S.I. 2009/2887), regs. 1(a), **6(a)**
- F82** Words in reg. 4(4) Table 1 Item 16 inserted (21.11.2009) by The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2009 (S.I. 2009/2887), regs. 1(a), **6(b)**
- F83** Reg. 4 Table 1 Items 16A, 16B omitted (21.3.2019) by virtue of The Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/364), regs. 1, **3(2)**
- F84** Reg. 4 Table 1 Items 17, 18 inserted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **5(4)(d)**
- F85** Reg. 4(4) Table 1 Item 19 inserted (3.11.2004) by The Tax Credits (Miscellaneous Amendments No. 3) Regulations 2004 (S.I. 2004/2663), regs. 1, **2(2)**
- F86** Reg. 4(4) Table 1 Item 20 inserted (1.9.2008) by The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2008 (S.I. 2008/2169), regs. 1, **4(c)**
- F87** Reg. 4(4) Table 1 Item 21 inserted (6.4.2012) by The Tax Credits (Miscellaneous Amendments) Regulations 2012 (S.I. 2012/848), regs. 1(2), **3(2)**
- F88** Words in reg. 4(4) Table 1 Item 22 inserted (28.11.2014) by The Child Benefit (General) and Tax Credits (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/2924), regs. 1, **5**
- F89** Words in reg. 4(5) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **6(5)**
- F90** Words in reg. 4(5) inserted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **5(5)**
- F91** Reg. 4(6)-(10) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **3(c)**

**Modifications etc. (not altering text)**

- C4** Reg. 4(1) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 18(a)(h)**
- C5** Reg. 4(4) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 18(i)**
- C6** Reg. 4(5) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 18(j)**

**Marginal Citations**

M1 S.I. 2002/2005.

*CHAPTER 3  
Pension Income*

**Pension Income**

5.—<sup>F92</sup>(1) In these Regulations, except where the context otherwise require, “pension income” means—

- (a) any pension to which section 577 or 629 of ITEPA applies;
- (b) any pension to which section 569 of ITEPA applies;
- (c) any voluntary annual payment to which section 633 of ITEPA applies;
- <sup>F93</sup>(d) any pension, annuity or income withdrawal to which section 579A of ITEPA applies;
- (e) any unauthorised member payments to which section 208(2)(a) or (b) of the Finance Act 2004 applies;]
- (f) any periodical payment to which section 619 of ITEPA applies;
- <sup>F94</sup>(g) .....
- <sup>F95</sup>(h) .....
- <sup>F96</sup>(i) .....
- <sup>F97</sup>(j) .....
- <sup>F98</sup>(k) any annuity paid under a retirement annuity contract to which Chapter 9 of Part 9 of ITEPA applies;]
- (l) any annuity to which section 609, 610 or 611 of ITEPA applies; <sup>F99</sup> ...
- <sup>F99</sup>(m) .....
- <sup>F100</sup>(n) any social security pension lump sum to which section 7 of the Finance (No. 2) Act 2005 applies; and
- (o) any lump sum payment to which section 636B or 636C of ITEPA applies.]]

(2) In calculating the amount of a person’s pension income there shall be disregarded any <sup>F101</sup>payment or benefit mentioned] in Column 1 of Table 2 to the extent specified in the corresponding entry in Column 2.

**Table 2**

<sup>F102</sup>Pensions, other payments and benefits] disregarded in the calculation of pension income

**1. Payment**

- 1. A wounds pension or disability pension to which <sup>F103</sup>section 641 of ITEPA] applies.
- 2. An annuity or additional pension payable to a holder of the Victoria Cross, George Cross or any other decoration mentioned in <sup>F104</sup>section 638 of ITEPA].

**2. Extent of disregard**

- So much of the payment as is disregarded by virtue of <sup>F103</sup>section 641 of ITEPA].
- The whole of the annuity or additional pension and, if both are payable, the whole of both such annuity and additional pension.

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

3. A pension or allowance to which [ <sup>F105</sup> section 639 of ITEPA] applies.	[ <sup>F106</sup> The amount of the pension or allowance.]
4. A pension or allowance by reason of payment of which a pension or allowance specified in [ <sup>F107</sup> section 639 of ITEPA] is withheld or abated.	[ <sup>F108</sup> The amount treated as falling within section 639 of ITEPA by virtue of section 640(2) of that Act.]
F109 ...	F109 ...
6. A mobility supplement, or a payment in respect of attendance, paid in conjunction with a war pension.	The amount of the supplement or payment.
F110 ...	F110 ...
8. A pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 <sup>M2</sup> .	The amount for the time being specified in paragraph 1(c) of Schedule 4 to the Scheme.
9. A pension awarded on retirement through disability caused by injury on duty or by a work-related illness.	[ <sup>F111</sup> The exempt amount of the pension calculated in accordance with section 644(3) of ITEPA.]
[ <sup>F112</sup> 10. A lump sum on which no liability to income tax arises by virtue of [ <sup>F113</sup> section 636A of ITEPA].	The amount of the lump sum.]
[ <sup>F112</sup> 11. Coal or smokeless fuel provided as mentioned in section 646(1) of ITEPA, or an allowance in lieu of such provision.	The amount on which no liability to income tax arises by virtue of that section.]

[<sup>F114</sup>(3) From the amount of pension income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing pension income (as defined in ITEPA) under section 713 of that Act.]

#### Textual Amendments

- F92** Reg. 5(1) substituted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **7(2)**
- F93** Reg. 5(1)(d)(e) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **26(4)(a)**
- F94** Reg. 5(1)(g) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **26(4)(b)**
- F95** Reg. 5(1)(h) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **26(4)(b)**
- F96** Reg. 5(1)(i) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **26(4)(b)**
- F97** Reg. 5(1)(j) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **26(4)(b)**
- F98** Reg. 5(1)(k) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **26(4)(c)**



- F99** Reg. 5(1)(m) and preceding word omitted (6.4.2008) by virtue of The Tax Credits (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/604), regs. 1(b), **2(3)**
- F100** Reg. 5(1)(n)(o) added (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **10(2)**
- F101** Words in reg. 5(2) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(3)**
- F102** Words in reg. 5 Table 2 heading substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(a)**
- F103** Words in reg. 5 Table 2 Item 1 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(b)**
- F104** Words in reg. 5 Table 2 Item 2 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(c)**
- F105** Words in reg. 5 Table 2 Item 3 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(d)(i)**
- F106** Words in reg. 5 Table 2 Item 3 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(d)(ii)**
- F107** Words in reg. 5 Table 2 Item 4 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(e)(i)**
- F108** Words in reg. 5 Table 2 Item 4 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(e)(ii)**
- F109** Reg. 5 Table 2 Item 5 omitted (31.12.2010) by virtue of The Tax Credits (Miscellaneous Amendments) (No. 3) Regulations 2010 (S.I. 2010/2914), regs. 1(2), **4(a)**
- F110** Reg. 5 Table 2 Item 7 omitted (31.12.2010) by virtue of The Tax Credits (Miscellaneous Amendments) (No. 3) Regulations 2010 (S.I. 2010/2914), regs. 1(2), **4(b)**
- F111** Words in reg. 5 Table 2 Item 9 substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(f)**
- F112** Reg. 5 Table 2 Items 10, 11 added (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(4)(g)**
- F113** Words in reg. 5(1) Table 2 Item 10 substituted (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(4)(c)**
- F114** Reg. 5(3) added (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **7(5)**

**Modifications etc. (not altering text)**

- C7** Reg. 5(1)(o) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 19(a)**
- C8** Reg. 5(2) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 19(b)**
- C9** Reg. 5(3) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 19(c)**

**Marginal Citations**

- M2** S.I. 1983/686.

**CHAPTER 4***Trading Income***[<sup>F115</sup> Trading income**

6. The claimant's ("C") trading income is—
- (a) the amount of C's taxable profits for the tax year arising from—

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

- (i) any trade carried on in the United Kingdom or elsewhere;
  - (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, 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).]

#### Textual Amendments

**F115** Reg. 6 substituted (25.9.2020) by [The Tax Credits \(Coronavirus, Miscellaneous Amendments\) \(No. 2\) Regulations 2020 \(S.I. 2020/941\)](#), regs. 1, **2(2)**

#### [<sup>F116</sup>Trading Income: in-year finalisation

**6A.** This regulation applies where—

- (a) an award of universal credit is made to a person who was previously entitled to a tax credit;
- (b) the award of that tax credit has terminated;
- (c) the date on which the award terminated falls in the tax year to which that award relates (“the relevant tax year”); and
- (d) the claimant carried on a trade, vocation or profession during the part tax year.

**6B.**—(1) Where regulation 6A applies, a claimant’s trading income for the purposes of the first paragraph in Step 4 in regulation 3(1) is the claimant’s actual or estimated taxable profits attributable to the part tax year (“the relevant trading income”).

(2) The relevant trading income is to be calculated by reference to the basis period ending during the relevant tax year.

(3) The basis period is to be determined by reference to the rules in Chapter 15 of Part 2 of ITTOIA.

(4) The relevant trading income is calculated by—

- (a) taking the figure for the actual or estimated taxable income earned in the basis period;
- (b) dividing that figure by the number of days in the basis period to give the daily figure; and
- (c) multiplying the daily figure by the number of days in the part tax year on which the trade, profession or vocation was carried on.]

#### Textual Amendments

**F116** Regs. 6A, 6B inserted (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), 17, **Sch. para. 21**



CHAPTER 5
Social Security Income

Social security income

- 7.—(1) The claimant’s social security income is the total amount payable—
(a) under any provision of the Social Security Act 1988 M3, the Contributions and Benefits Act [F117 or the Jobseekers Act 1995 ]M4[F117, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007] or under section 69 of the Child Support, Pensions and Social Security Act 2000 M5;
[F118(aa) under Part 3 of the Welfare Supplementary Payments Regulations (Northern Ireland) 2016 or Part 2 of the Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016;]
F119(b) . . . . .
(c) by the Secretary of State in respect of the non-payment of a payment which ought to have been made under a provision mentioned in sub-paragraph (a); and
(d) by way of an ex gratia payment made by the Secretary of State, or in Northern Ireland by the [F120Department for Communities], in connection with a benefit, pension or allowance under the Contributions and Benefits Act.

This is subject to the following provisions of this regulation.

(2) Pensions under the Contributions and Benefits Act which are pension income by virtue of regulation 5(1)(a) are not social security income.

(3) In calculating the claimant’s social security income the payments in Table 3 shall be disregarded.

Table 3

Payments under, or in connection with, the Act, the Social Security Act 1988, the Contributions and Benefits Act [F121 or the Jobseekers Act 1995][F121, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007] disregarded in calculation of social security income

- 1.An attendance allowance under section 64 of the Contributions and Benefits Act M6.
2.A back to work bonus under section 26 of the Jobseekers Act 1995 M7.
[F122]3 A bereavement support payment under section 30 of the Pensions Act 2014.]
4.Child benefit under Part 2 of the Act.
5.A Christmas bonus under section 148 of the Contributions and Benefits Act.
6.Council tax benefit under section 131 of the Contributions and Benefits Act M8.
7.A disability living allowance under section 71 of the Contributions and Benefits Act.
8.Disabled person’s tax credit under section 129 of the Contributions and Benefits Act M9.
9.Any discretionary housing payment pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 M10.

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

10. An ex-gratia payment by the Secretary of State or, in Northern Ireland, the [<sup>F123</sup>Department for Communities], to a person over pensionable age by way of supplement to incapacity benefit.
11. A guardian's allowance under section 77 of the Contributions and Benefits Act.
12. Housing benefit under section 130 of the Contributions and Benefits Act.
13. Income support under section 124 of the Contributions and Benefits Act <sup>M11</sup>, unless it is chargeable to tax under [<sup>F124</sup>section 665 of ITEPA].
14. Incapacity benefit which is—
  - (a) short term incapacity benefit payable at the lower rate; or
  - (b) payable to a person who had received invalidity benefit before 13th April 1995 if the period of incapacity for work is treated, by virtue of regulation 2 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 <sup>M12</sup> (days to be treated as days of incapacity for work) as having begun before that date.
15. Industrial injuries benefit [<sup>F125</sup>(except industrial death benefit)] under section 94 of the Contributions and Benefits Act.
16. A contribution-based jobseeker's allowance under the Jobseekers Act 1995 [<sup>F126</sup>as amended by the provisions of Part 1 of Schedule 14 to the Welfare Reform Act 2012 that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act 1995 as that Act has effect apart from those provisions], to the extent that it exceeds the maximum contained in [<sup>F127</sup>section 674 of ITEPA].
17. An income-based jobseeker's allowance under the Jobseekers Act 1995.
18. A maternity allowance under section 35 [<sup>F128</sup>or section 35B] of the Contributions and Benefits Act <sup>M13</sup>.
19. A severe disablement allowance under section 68 or 69 of the Contributions and Benefits Act <sup>M14</sup>.
20. A social fund payment under Part 8 of the Contributions and Benefits Act.
- [<sup>F129</sup>20A. Statutory adoption pay under Part 12ZB of the Contributions and Benefits Act.]
21. Statutory maternity pay under Part 12 of the Contributions and Benefits Act <sup>M15</sup>.
- [<sup>F130</sup>21A. <sup>F131</sup>[<sup>F132</sup>... Statutory paternity pay <sup>F133</sup>... <sup>F134</sup>...]] under Part 12ZA of the Contributions and Benefits Act.]
- [<sup>F135</sup>21B Statutory shared parental pay under Part 12ZC of the Contributions and Benefits Act.]
- [<sup>F136</sup>21C Statutory parental bereavement pay under Part 12ZD of the Contributions and Benefits Act.]
22. Statutory sick pay under Part 11 of the Contributions and Benefits Act.
23. Working families' tax credit under section 128 of the Contributions and Benefits Act <sup>M16</sup>.
24. A payment by way of compensation for the non-payment of, or in respect of loss of entitlement (whether wholly or partly) of, income support, jobseeker's allowance, [<sup>F137</sup>or housing benefit] .

25. A payment in lieu of milk tokens or the supply of vitamins under the Welfare Foods Regulations 1996 <sup>M17</sup>.

[<sup>F138</sup>26. An income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.]

[<sup>F139</sup>27. A payment by way of health in pregnancy grant made pursuant to Part 8A of the Contributions and Benefits Act.]

[<sup>F140</sup>28. Personal independence payment under Part 4 of the Welfare Reform Act 2012.]

(4) If an increase in respect of a child dependant is payable with an allowance, benefit, pension or other payment (“the main payment”) listed in Table 3, the increase shall also be wholly disregarded in calculating the income of the recipient of the main payment.

<sup>F141</sup>(5) .....

[<sup>F142</sup>(5A) From the amount of social security income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing social security income (as defined in ITEPA) under section 713 of ITEPA.]

(6) A reference in this regulation to an enactment applying only in Great Britain includes a reference to a corresponding enactment applying in Northern Ireland.

### Textual Amendments

- F117** Words in reg. 7(1)(a) substituted (E.W.S.) (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 3\) Regulations 2008 \(S.I. 2008/1879\)](#), regs. 1(1), **21(2)(a)**
- F118** Reg. 7(1)(aa) inserted (31.10.2016) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2016 \(S.I. 2016/978\)](#), regs. 1, **2(2)(a)**
- F119** Reg. 7(1)(b) omitted (6.4.2003) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(2)**
- F120** Words in reg. 7(1)(d) substituted (31.10.2016) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2016 \(S.I. 2016/978\)](#), regs. 1, **2(2)(b)**
- F121** Words in reg. 7 Table 3 heading substituted (E.W.S.) (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 3\) Regulations 2008 \(S.I. 2008/1879\)](#), regs. 1(1), **21(2)(b)(i)**
- F122** Reg. 7 Table 3 Item 3 substituted (coming into force in accordance with art. 1-3 of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **22**
- F123** Words in reg. 7 Table 3 Item 10 substituted (31.10.2016) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2016 \(S.I. 2016/978\)](#), regs. 1, **2(2)(c)**
- F124** Words in reg. 7 Table 3 Item 13 substituted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(a)**
- F125** Words in reg. 7 Table 3 Item 15 inserted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(b)**
- F126** Words in reg. 7(3) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **78(2)**
- F127** Words in reg. 7 Table 3 Item 16 substituted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(c)**
- F128** Words in reg. 7 Table 3 Item 18 inserted (6.4.2014) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/658\)](#), regs. 1, **4(6)**
- F129** Reg. 7 Table 3 Item 20A inserted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(d)**

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

- F130** Reg. 7 Table 3 Item 21A inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **8(3)(e)**
- F131** Word in reg. 7 Table 3 Item 21A omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **12(3)(a)(i)** (with art. 35(1))
- F132** Words in reg. 7 Table 3 Item 21A substituted (14.11.2010) by The Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/2494), regs. 1, **6**
- F133** Word in reg. 7 Table 3 Item 21A omitted (6.4.2016) by virtue of The Tax Credits and Child Benefit (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/360), regs. 1, **3(2)**
- F134** Words in reg. 7 Table 3 Item 21A omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **12(3)(a)(ii)** (with art. 35(1))
- F135** Reg. 7 Table 3 Item 21B inserted (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **12(3)(b)**
- F136** Reg. 7 Table 3 Item 21C inserted (E.W.S.) (6.4.2020) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 (S.I. 2020/354), regs. 1, **12(3)**
- F137** Words in reg. 7 Table 3 Item 24 substituted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **6(2)**
- F138** Reg. 7 Table 3 Item 26 added (E.W.S.) (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 3) Regulations 2008 (S.I. 2008/1879), regs. 1(1), **21(2)(b)(ii)**
- F139** Reg. 7 Table 3 Item 27 added (6.4.2009) by The Tax Credits (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/697), regs. 1(c), **7**
- F140** Reg. 7 Table 3 Item 28 inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 29**
- F141** Reg. 7(5) omitted (6.4.2003) by virtue of The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **8(4)**
- F142** Reg. 7(5A) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **8(5)**

#### Modifications etc. (not altering text)

- C10** Reg. 7(1) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 22(a)**
- C11** Reg. 7(3) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 22(b)**

#### Marginal Citations

- M3** 1988 c.7.
- M4** 1995 c.18.
- M5** 2000 c.19.
- M6** Section 64 has been amended: the relevant amendment is that made by section 66(1) of the Welfare Reform and Pensions Act 1999 (c.30) (“the Welfare Reform Act”).
- M7** 1995 c.18.
- M8** Section 131 was substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992 (c.14).
- M9** Section 129 was amended by paragraph 2(h) of Schedule 1 to the Tax Credits Act 1999 (c.10) in consequence of the renaming of disability working allowance by that Act. Disabled person's tax credit is to be abolished by section 1(3)(c), and section 129 is repealed by section 56 of the Act.
- M10** S.I. 2001/1167.
- M11** Section 124(1) was amended by paragraph 30 of Schedule 2 to the Jobseekers Act 1995 (c.18) (“the Jobseekers Act”) and paragraph 28 of Schedule 8 to the Welfare Reform Act. Subsections (2) and (3) of section 124 were repealed by Schedule 3 to the Jobseekers Act.

- M12** S.I. 1995/310; relevant amending instrument S.I. 2002/491.
- M13** Subsection (1) was substituted for the previous subsections (1) and (1A) by section 53(1) of the Welfare Reform Act.
- M14** Sections 68 and 69 were repealed by Part 4 of Schedule 13 to the Welfare Reform Act. However, they continue to have effect in respect of beneficiaries whose period of incapacity for work began before 6th April 2001 by virtue of the saving in article 4 of S.I. 2000/2958.
- M15** Statutory maternity pay and statutory sick pay, although payable under the Contributions and Benefits Act are taken into account in calculating employment income, whether paid by the employer or the Board.
- M16** Section 128 was amended by paragraph 2(g) of Schedule 1 to the Tax Credits Act 1999 in consequence of the renaming of family credit by that Act. Working families' tax credit is abolished by section 1(3)(b), and section 128 is repealed by section 56, of the Act from a date to be provided for by commencement order.
- M17** S.I. 1996/1434, amended by 1997/857, 1999/2561, 2000/694 and 2001/758. The functions of the Secretary of State as respects Wales under this instrument were transferred to the National Assembly by S.I. 1999/672 and, as respects Scotland, to the Scottish Ministers by S.I. 1999/750.

## CHAPTER 6

### Student Income

#### <sup>F143</sup>Student Income

8. “Student income” means, in relation to a student—
- <sup>F144</sup>(a) in England, any adult dependant’s grant payable <sup>F145</sup>pursuant to regulations under section 22 of the Teaching and Higher Education Act 1998;]
- (b) in Scotland, any dependant’s grant payable under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations <sup>F146</sup>2007]; <sup>F147</sup>...
- (c) in Northern Ireland, any grant which corresponds to income treated as student income in England <sup>F148</sup>...by virtue of paragraph (a)]<sup>F149</sup>and]
- <sup>F150</sup>(d) in Wales, any adult dependant’s grant payable <sup>F151</sup>pursuant to regulations under section 22 of the Teaching and Higher Education Act 1998.]]]

#### Textual Amendments

- F143** Reg. 8 substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, 7
- F144** Reg. 8(a) substituted (1.9.2008) by [The Tax Credits \(Miscellaneous Amendments\) \(No. 2\) Regulations 2008 \(S.I. 2008/2169\)](#), regs. 1, **5(2)**
- F145** Words in reg. 8(a) substituted (6.4.2012) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/848\)](#), regs. 1(2), **3(3)(a)**
- F146** Word in reg. 8(b) substituted (6.4.2012) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/848\)](#), regs. 1(2), **3(3)(b)**
- F147** Word in reg. 8(b) omitted (6.4.2006) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), **regs. 1, 12(3)**
- F148** Words in reg. 8(c) omitted (6.4.2012) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/848\)](#), regs. 1(2), **3(3)(c)**
- F149** Word in reg. 8(c) added (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), **regs. 1, 12(4)**

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

**F150** Reg. 8(d) substituted (1.9.2008) by [The Tax Credits \(Miscellaneous Amendments\) \(No. 2\) Regulations 2008 \(S.I. 2008/2169\)](#), regs. 1, **5(3)**

**F151** Words in reg. 8(d) substituted (6.4.2012) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/848\)](#), regs. 1(2), **3(3)(d)**

**Modifications etc. (not altering text)**

**C12** [Reg. 8](#) modified (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), 17, **Sch. para. 23**

**[<sup>F152</sup> Payments of income in connection with students to be disregarded for the purposes of regulation 3**

**9.** Income which is exempt from income tax by virtue of section 753 or 776 of ITTOIA (which deal respectively with interest on the repayment of student loans and scholarship income) is disregarded in calculating a claimant's income under regulation 3.]

**Textual Amendments**

**F152** [Reg. 9](#) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **13**

*CHAPTER 7*

*Investment Income*

**Investment income**

**10.—(1)** In these Regulations “investment income” means the gross amount of—

- (a) any interest of money, whether yearly or otherwise, or any annuity or other annual payment, whether such payment is payable within or out of the United Kingdom, either as a charge on any property of the person paying it by virtue of any deed or will or otherwise, or as a reservation out of it, or as a personal debt or obligation by virtue of any contract, or whether the payment is received and payable half-yearly or at any shorter or longer periods, but not including property income;
- (b) any discounts on securities;
- (c) any income from securities payable out of the public revenues of the United Kingdom or Northern Ireland;
- (d) dividends and other distributions of a company resident in the United Kingdom and any tax credit associated with that payment; and
- (e) any amount treated as forming part of the individual's income for the year for income tax purposes by virtue of [<sup>F153</sup>Chapter 9 of Part 4 of ITTOIA disregarding section 535 (top slicing relief).]

This is subject to the following qualification.

**(2)** In calculating investment income, there shall be disregarded—

- (a) any amount listed in column 1 of Table 4 to the extent shown in the corresponding entry in column 2;
- (b) any amount listed in column 1 of Table 5 during the period shown in the corresponding entry in column 2;

- (c) any income arising from savings certificates, and interest on tax reserve certificates, exempted from tax by [<sup>F154</sup>section 692, 693 or 750 of ITTOIA] (savings certificates and tax reserve certificates);
- (d) the first £70 in any tax year of interest on deposits with National Savings and Investments, exempted from income tax by [<sup>F155</sup>section 691 of ITTOIA (National Savings Bank ordinary account interest).]
- (e) any payment to a claimant which does not form part of his income for the purposes of income tax by virtue of [<sup>F156</sup>section 727 of ITTOIA (certain annual payments by individuals)] [<sup>F157</sup>; and
- (f) any interest on a payment made under, or in connection with, the Windrush Compensation Scheme administered by the Home Office, for the period beginning on the date on which the payment is made and ending 52 weeks after that date].

**Table 4**

Payments disregarded in the calculation of investment income

<i>1. Description of income to be disregarded</i>	<i>2. Extent of disregard</i>
1. Any interest, dividends, distributions, profits or gains in respect of investments under—	The whole amount, unless it is interest under a personal equity plan to which regulation 17A(2) of the Personal Equity Plan Regulations 1989
(a) a Personal Equity Plan, or	<sup>M19</sup>
(b) an Individual Savings Account, in respect of which the claimant is entitled to relief from income tax under [ <sup>F158</sup> Chapter 3 of Part 6 of ITTOIA], or which is taxed only in accordance with regulation 23 of the Individual Savings Account Regulations 1998 <sup>M18</sup> .	applies. Interest to which that paragraph applies is disregarded only to the extent that it does not exceed the annual limit of £180 mentioned in that regulation.
2.	<sup>F159</sup>
<sup>F159</sup>	...
...	
[ <sup>F160</sup> 3. Any interest payable under a certified SAYE savings arrangement for the purposes of Chapter 4 of Part 6 of ITTOIA.]	The whole amount.
4. Any winnings from betting, including pool betting, or lotteries or games with prizes.	The whole amount.
5. Any interest on a payment of £10,000 made by the Secretary of State to a person who was held prisoner by the Japanese during the Second World War or to the spouse of such a person, if the payment is held in a distinct account and no payment (other than interest) has been added to the account.	The whole amount of the interest.
6. Any interest on a payment made to the claimant by, or on behalf of a government of a country outside the United Kingdom, either from its own resources or with contributions	The whole amount of the interest.

**Status:** Point in time view as at 13/05/2021.

**Changes to legislation:** There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)

from any other organisation, by way of compensation for a victim of National Socialism if the payment is held in a distinct account and no payment (other than interest) has been added to the account.

Here a reference to a victim of National Socialism is a reference to a person who was required to work as a slave or a forced labourer for National Socialists or their sympathisers during the Second World War, or suffered property loss, or suffered injury or is the parent of a child who died, at the hands of National Socialists or their sympathisers during the Second World War.

7. Any monies paid to the claimant by a bank or building society as compensation in respect of an unclaimed account held by a Holocaust victim and which vested in the Custodian of Enemy Property under section 7 of the Trading with the Enemy Act 1939 <sup>M20</sup> and treated as exempt from income tax by [<sup>F161</sup>section 756A of ITTOIA.]

The amount [<sup>F162</sup>of interest exempted from income tax under section 756A of ITTOIA.]

8. Any interest, or payment <sup>F163</sup>..., which is disregarded for income tax purposes by virtue of—

The amount so disregarded.

[<sup>F164</sup>(a) section 751 of ITTOIA (interest on damages for personal injury), or]

(b) [<sup>F165</sup>section 731 of ITTOIA (periodical payments of personal injury damages)] (personal injury damages in the form of periodical payments).

[<sup>F166</sup>9.] Annuity payments under an award of compensation made under the Criminal Injuries Compensation Scheme (within the meaning of [<sup>F167</sup>section 732(3) of ITTOIA]).

The amount of any payment which is treated as not being income of the claimant or his partner by virtue of [<sup>F168</sup>section 731 of ITTOIA].

[<sup>F166</sup>10.] A payment under a life annuity.

The amount of interest eligible for relief under section 353 of the Taxes Act by virtue of section 365 of that Act.

[<sup>F166</sup>11.] Any interest, or payment in respect of interest, which is compensation to a person who is under the age of 18 years for the death of one or both of his parents.

The whole of the interest or payment.

[<sup>F169</sup>12. A purchased life annuity to which [<sup>F170</sup>Chapter 7 of Part 4 of ITTOIA] applies.

[<sup>F171</sup>The amount exempted under section 717 of ITTOIA as calculated under section 719 of that Act.]]



[<sup>F172</sup>13. Any payments which are exempt from income tax by virtue of— [<sup>F172</sup>The whole amount.]

(a) section 725 of ITTOIA (annual payments under immediate needs annuities), or

(b) section 735 of ITTOIA (health and employment insurance payments).]

F173

F173

...

...

[<sup>F174</sup>15. Any payment of, or in respect of, a government bonus under section 1 [<sup>F175</sup>or 2] of the Savings (Government Contributions) Act 2017.] [<sup>F174</sup>The whole amount.]

**Table 5**

Payments in connection with very severe disablement, Creutzfeldt-Jakob disease and haemophilia

<i>1. Description of income to be disregarded</i>	<i>2. Applicable period</i>
1. A trust payment made to—	The period beginning on the date on which the trust payment is made and ending with the death of the person to whom the payment is made.
(a) a diagnosed person;	
(b) the diagnosed person’s partner; or	
(c) the person who was his partner at the date of his death.	The period beginning on the date on which the trust payment is made and ending two years after that date.
2. A trust payment made to a parent of a deceased diagnosed person, or a person acting in the place of his parent.	
3. The amount of any payment out of the estate of a person to whom a trust payment has been made, which is made to the person who was the diagnosed person’s partner at the date of his death.	
4. The amount of any payment out of the estate of a person to whom a trust payment has been made, which is made to a parent of a deceased diagnosed person, or a person acting in the place of his parent.	

(3) The amounts disregarded under items 3 and 4 in Table 5 shall not exceed the total amount of any trust payments made to the person to whom the trust payment had been made.

(4) In this regulation “diagnosed person” means—

(a) a person who has been diagnosed as suffering from, or who after his death has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

*Status: Point in time view as at 13/05/2021.*

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- (b) a person who is suffering or has suffered from haemophilia; or
- (c) a person in respect of whom a payment has been made from the 1992 Fund, the Eileen Trust or the Independent Living Funds; and

a reference to a person being a member of the diagnosed person's household at the date of the diagnosed person's death includes a person who would have been a member of his household but for the diagnosed person being in residential accommodation, a residential care home or a nursing home on that date.

(5) In this regulation—

“relevant trust” means—

- (a) a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;
- (b) the Macfarlane Trusts, or
- (c) the 1992 Fund, the Eileen Trust or the Independent Living Funds.

“residential accommodation”, “residential care home” and “nursing home” have the meanings given by regulation 2(1) of the Income Support (General) Regulations 1987; and

“trust payment” means a payment under a relevant trust.

#### Textual Amendments

- F153** Words in reg. 10(1)(e) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(2)**
- F154** Words in reg. 10(2)(c) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(3)(a)**
- F155** Words in reg. 10(2)(d) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(3)(b)**
- F156** Words in reg. 10(2)(e) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(3)(c)**
- F157** Reg. 10(2)(f) and preceding word inserted (21.3.2019) by [The Tax Credits, Child Benefit and Childcare Payments \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/364\)](#), regs. 1, **3(4)**
- F158** Words in reg. 10 Table 4 Item 1 substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(4)(a)**
- F159** Reg. 10 Table 4 Item 2 omitted (6.4.2006) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(4)(b)**
- F160** Reg. 10 Table 4 Item 3 substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(4)(c)**
- F161** Words in reg. 10 Table 4 Item 7 substituted (6.4.2007) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/824\)](#), regs. 1, **12(2)**
- F162** Words in reg. 10 Table 4 Item 7 substituted (6.4.2007) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/824\)](#), regs. 1, **12(3)**
- F163** Words in reg. 10 Table 4 Item 8 omitted (6.4.2006) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(4)(d)(i)**
- F164** Reg. 10 Table 4 Item 8(a) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(4)(d)(ii)**
- F165** Words in reg. 10 Table 4 Item 8 substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **14(4)(d)(iii)**
- F166** Reg. 10 Table 4 Items 10, 11, 12 renumbered as reg. 10 Table 4 Items 9, 10, 11 (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **9**

- F167** Words in reg. 10 Table 4 Item 9 substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **14(4)(e)(i)**
- F168** Words in reg. 10 Table 4 Item 9 substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **14(4)(e)(ii)**
- F169** Reg. 10 Table 4 Item 12 inserted (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **8(2)**
- F170** Words in reg. 10 Table 4 Item 12 substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **14(4)(f)(i)**
- F171** Words in reg. 10 Table 4 Item 12 substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **14(4)(f)(ii)**
- F172** Reg. 10 Table 4 Item 13 added (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **14(4)(g)**
- F173** Reg. 10 Table 4 Item 14 omitted (6.4.2018) by virtue of The Tax Credits and Childcare (Miscellaneous Amendments) Regulations 2018 (S.I. 2018/365), regs. 1, **2(4)(a)**
- F174** Reg. 10 Table 4 Item 15 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 (S.I. 2017/396), regs. 1(1), **4**
- F175** Words in reg. 10 Table 4 Item 15 inserted (6.4.2018) by The Tax Credits and Childcare (Miscellaneous Amendments) Regulations 2018 (S.I. 2018/365), regs. 1, **2(4)(b)**

#### Modifications etc. (not altering text)

- C13** Reg. 10 restricted (16.6.2011) by The Taxation of Equitable Life (Payments) Order 2011 (S.I. 2011/1502), arts. 1, **6**
- C14** Reg. 10(1) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 24(a)(b)**
- C15** Reg. 10(2) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 24(c)**

#### Marginal Citations

- M18** S.I. 1998/1870: there are amendments which are not relevant for the purposes of this instrument.
- M19** S.I. 1989/469: regulation 17A was inserted by S.I. 1991/733 and amended by S.I. 1991/2774, 1995/3287 and 1996/846.
- M20** 1939 c.89. There is an amendment to section 7 which is not relevant for present purposes.

## CHAPTER 8

### Property income

#### Property income

**11.**—(1) In these Regulations “property income” means the annual taxable profits arising from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom.

Expressions which are used in this paragraph which are defined in [F176Part 3 of ITTOIA] for the purposes of [F177that Part] bear the same meaning here as they bear in [F177that Part].

This paragraph is subject to the following [F178qualifications].

- [F179(2) In calculating property income there shall be disregarded any profits—
- (a) treated as nil by section 791 to 794 of ITTOIA (full rent-a-room relief); or
  - (b) excluded from profits by section 795 to 798 of ITTOIA (alternative calculation of profits if amount exceeds limit).]

*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

[<sup>F180</sup>(2A) In calculating property income, the restrictions in section 272A of ITTOIA (restricting deductions for finance costs related to residential property) and section 399A of ITA (property partnerships: restriction of relief for investment loan interest) shall be disregarded.]

[<sup>F181</sup>(3) [<sup>F182</sup>Where a property business (as defined in Part 3 of ITTOIA)] makes a loss to which the relief provisions [<sup>F183</sup>contained in sections 118 (carry forward against subsequent property business profits) and 119 (how relief works) of ITA] apply, then such relief as may arise under [<sup>F184</sup>those sections] shall be applied in calculating property income for the purposes of this regulation.]

#### Textual Amendments

- F176** Words in reg. 11(1) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **15(2)(a)**
- F177** Words in reg. 11(1) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **15(2)(b)**
- F178** Word in reg. 11(1) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **9(2)**
- F179** Reg. 11(2) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **15(3)**
- F180** Reg. 11(2A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2017 \(S.I. 2017/396\)](#), regs. 1(1), **5**
- F181** Reg. 11(3) added (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **9(3)**
- F182** Words in reg. 11(3) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **15(4)**
- F183** Words in reg. 11(3) substituted (16.5.2007) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **6(2)(a)**
- F184** Words in reg. 11(3) substituted (16.5.2007) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **6(2)(b)**

#### Modifications etc. (not altering text)

- C16** Reg. 11(1) modified (E.W.S.) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), 17, **Sch. para. 25(a)(b)**

## CHAPTER 9

### Foreign income

**12.**—(1) In these Regulations “foreign income” means income arising, in the year in question, from [<sup>F185</sup>a source outside the United Kingdom or from foreign holdings] which is not—

- (a) employment income;
- (b) trading income; or
- (c) investment income falling within regulation 10(1)(e).

This is subject to the following provisions of this regulation.

[<sup>F186</sup>(2) The reference in paragraph (1) to “foreign holdings” shall be construed in accordance with section 571 of ITTOIA.]

- (3) In calculating the claimant’s foreign income there shall be disregarded—

- (a) any payment by way of an annuity or pension payable under any special provision for victims of National Socialist persecution which is made by the law of the Federal Republic of Germany, or any part of it, or of Austria;
- [<sup>F187</sup>(aa) any monies paid by a bank or building society which are exempted from income tax under section 756A of ITTOIA (interest on certain deposits of victims of National-Socialist persecution).]
- [<sup>F188</sup>(bb) any pension, annuity, allowance or other payment provided in accordance with the provisions of the scheme established under the law of the Netherlands and known as *Wet uitkeringen vervolgingsslachtoffers 1940-1945* (Netherlands Benefit Act for Victims of Persecution 1940-1945).]
- [<sup>F189</sup>(b) the amount authorised to be deducted by the relevant provision if the claimant's foreign income comprises or includes a pension to which the following provisions of ITEPA apply—
- (i) section 567(5) and 617 (deduction allowed from taxable pension income);
  - (ii) section 575(2) (taxable pension income: foreign pensions);
  - (iii) section 613(3) (taxable pension income: foreign annuities); and
  - (iv) section 635(3) (taxable pension income: foreign voluntary annual payments); and]
- (c) any amount which would be disregarded for the purposes of income tax by virtue of—
- (i) Extra Statutory Concession A10 (lumps sums paid by overseas pension schemes);
  - [<sup>F190</sup>(ii) section 681 of ITEPA;]
  - (iii) [<sup>F191</sup>section 751(1)(c) of ITTOIA] (interest on damages for personal injuries awarded by a foreign court); <sup>F192</sup>...
  - (iv) Extra Statutory Concession A44 (education allowances payable to public officials of overseas territories); [<sup>F193</sup>or
  - (v) section 730 of ITTOIA (foreign maintenance payments).]
- [<sup>F194</sup>(4) Where an overseas property business [<sup>F195</sup>(within the meaning of Part 3 of ITTOIA)] makes a loss to which the relief provisions [<sup>F196</sup>contained in sections 118 (carry forward against subsequent property business profits) and 119 (how relief works) of ITA apply], then such relief as may arise under [<sup>F197</sup>those sections] shall be applied in calculating foreign income for the purposes of this regulation.]

### Textual Amendments

- F185** Words in reg. 12(1) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(2)**
- F186** Reg. 12(2) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(3)**
- F187** Reg. 12(3)(aa) inserted (6.4.2007) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/824\)](#), regs. 1, **13(2)**
- F188** Reg. 12(3)(bb) inserted (6.4.2016) by [The Tax Credits and Child Benefit \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/360\)](#), regs. 1, **3(3)**
- F189** Reg. 12(3)(b) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(4)(a)**
- F190** Reg. 12(3)(c)(ii) substituted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **10(b)**
- F191** Words in reg. 12(3)(c)(iii) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(4)(b)(i)**

**Status:** Point in time view as at 13/05/2021.

**Changes to legislation:** There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)

- F192** Word in reg. 12(3)(c)(iii) omitted (6.4.2006) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(4)(b)(i)**
  - F193** Reg. 12(3)(c)(v) and preceding word added (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(4)(b)(ii)**
  - F194** Reg. 12(4) added (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **10(1)**
  - F195** Words in reg. 12(4) substituted (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **16(5)**
  - F196** Words in reg. 12(4) substituted (16.5.2007) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **7(2)(a)**
  - F197** Words in reg. 12(4) substituted (16.5.2007) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **7(2)(b)**
- 
- Modifications etc. (not altering text)**
- C17** Reg. 12(1) modified (E.W.S.) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), 17, **Sch. para. 26**

*CHAPTER 10*  
*Notional Income*

**Introduction**

**13.** In these Regulations “notional income” means income which, by virtue of regulations 14 to 17 a claimant is treated as having, but which he does not in fact have.

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- Modifications etc. (not altering text)**
- C18** [Reg. 13](#) modified (E.W.S.) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), regs. 1(2), 17, **Sch. para. 27**

**Claimants treated for any purpose as having income by virtue of the Income Tax Acts**

**14.—(1)** If an amount is treated for any purpose as the claimant’s income under any provision mentioned in paragraph (2), he is to be treated as having that amount of income [<sup>F198</sup>, but this is subject to paragraph (1A)].

[<sup>F199</sup>(1A) Where paragraph (2)(b)(x) or (2)(b)(xi) applies, the amount of income that the claimant is to be treated as having is:

$$x - y$$

where

“x” is the amount of income under section 652, 654 or 655 of ITTOIA, and

“y” is the amount that would, but for section 272A of that Act, be deductible in calculating the profits for income tax purposes of a property business for the profits year.

(1B) In paragraph (1A) “profits year” has the meaning given by section 274A of ITTOIA (reduction for individuals).]

(2) The provisions mentioned in paragraph (1) are—

(a) the following provisions of the Taxes Act—

<sup>F200</sup>(i) . . . . .

- F200(ii) . . . . .
- F200(iii) . . . . .
- F200(iv) . . . . .
- F200(v) . . . . .
- F200(vi) . . . . .
- F200(vii) . . . . .
- F200(viii) . . . . .
  - (ix) section 714 (transfers of securities: treatment of deemed sums and reliefs) <sup>M21</sup> or 716 (transfer of unrealised interest);
  - (x) section 730 (transfer of income arising from securities) <sup>M22</sup>;
- F201(xi) . . . . .
- F202(xii) . . . . .
- F203(xiii) . . . . .
  - (xiv) section 761 (charge to income tax of offshore income gain) <sup>M23</sup>; and
- F204(xv) . . . . .

[<sup>F205</sup>(b) the following provisions of ITTOIA—

- (i) sections 277 to 283 (amounts treated as receipts: leases);
- (ii) Chapter 5 of Part 4 (stock dividends from UK resident companies);
- (iii) Chapter 6 of Part 4 (release of loan to participator in close company);
- (iv) section 427 (charge to tax on profits from deeply discounted securities);
- (v) Chapter 11 of Part 4 (transactions in deposits);
- (vi) sections 624 to 628 (income treated as income of settlor: retained interests);
- (vii) sections 629 to 632 (income treated as income of settlor: unmarried children);
- (viii) section 633 (capital sums paid to settlor by trustees of settlement);
- (ix) section 641 (capital sums paid to settlor by body connected with settlement);
- (x) section 652 (estate income: absolute interests in residue); and
- (xi) sections 654 to 655 (estate income: interests in residue); and

[<sup>F206</sup>(ba) the following provisions of ITA—

- (i) Chapter 5 of Part 11 (price differences under repos);
- (ii) Chapter 2 of Part 13 (transfer of assets abroad); and
- (iii) Chapter 3 of Part 13 (transactions in land).]

(c) section 84 and Schedule 15 to the Finance Act 2004 (charge to income tax by reference to enjoyment of property previously owned).]

**Textual Amendments**

**F198** Words in [reg. 14\(1\)](#) inserted (6.4.2018) by [The Tax Credits and Childcare \(Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/365\)](#), regs. 1, **2(5)(a)**

**F199** [Reg. 14\(1A\)\(1B\)](#) inserted (6.4.2018) by [The Tax Credits and Childcare \(Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/365\)](#), regs. 1, **2(5)(b)**



*Status: Point in time view as at 13/05/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)*

- F200** Reg. 14(2)(a)(i)-(viii) omitted (6.4.2006) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **17(2)**
- F201** Reg. 14(2)(a)(xi) omitted (16.5.2007) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **8(2)(a)**
- F202** Reg. 14(2)(a)(xii) omitted (16.5.2007) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **8(2)(b)**
- F203** Reg. 14(2)(a)(xiii) omitted (16.5.2007) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **8(2)(c)**
- F204** Reg. 14(2)(a)(xv) omitted (16.5.2007) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **8(2)(d)**
- F205** Reg. 14(2)(b)(c) substituted for reg. 14(2)(b) (6.4.2006) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/766\)](#), regs. 1, **17(3)**
- F206** Reg. 14(2)(ba) inserted (16.5.2007) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2007 \(S.I. 2007/1305\)](#), regs. 1, **8(3)**

#### Marginal Citations

- M21** Section 714 was amended by Part 5(3) of Schedule 41 to the Finance Act 1996.
- M22** Section 730 was amended by paragraph 23 of Schedule 7 to the Finance Act 1996.
- M23** Section 761 was amended by paragraph 11 of Schedule 14 to the [Finance Act 1990 \(c.29\)](#) and paragraph 14(47) of Schedule 10, and Schedule 12, to the Taxation of Chargeable Gains Act 1992.

#### Claimants depriving themselves of income in order to secure entitlement

**15.** If a claimant has deprived himself of income for the purpose of securing entitlement to, or increasing the amount of, a tax credit, he is treated as having that income.

#### Claimants to whom income becomes available upon the making of a claim

**16.—**(1) If income would become available to a claimant upon the making of an application for that income he is treated as having that income.

This is subject to the following qualification.

(2) Paragraph (1) does not apply in relation to income—

- (a) under a trust derived from a payment made in consequence of a personal injury;
- (b) under a personal pension scheme or retirement annuity contract;
- (c) consisting in a sum to which item 8 of Table 4 in regulation 10 refers (compensation for personal injuries which is administered by the Court); or
- (d) consisting in a rehabilitation allowance made under section 2 of the Employment Act.

[<sup>F207</sup>(3) Paragraph (1) also does not apply to income by way of—

- (a) a Category A or Category B retirement pension,

[ a state pension under Part 1 of the Pensions Act 2014 or Part 1 of the Pensions Act <sup>F208</sup>(aa) (Northern Ireland) 2015,]

- (b) a graduated retirement benefit, or

(c) a shared additional pension, payment of which has been deferred. Here—

“Category A retirement pension” means a pension to which a person is entitled by virtue of section 44 of the Contributions and Benefits Act or the Northern Ireland Contributions and Benefits Act;



“Category B retirement pension” means a pension to which a person is entitled by virtue of any of sections 48A to 48C of the Contributions and Benefits Act or sections 48A to 48C of the Northern Ireland Contributions and Benefits Act;

“graduated retirement benefit” means a pension payable under—

- (a) sections 36 and 37 of the National Insurance Act 1965; or
- (b) sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966; and

“shared additional pension” means a pension to which a person is entitled by virtue of section 55A [<sup>F209</sup> or 55AA] of the Contributions and Benefits Act or section 55A [<sup>F209</sup> or 55AA] of the Northern Ireland Contributions and Benefits Act.]

#### Textual Amendments

**F207** Reg. 16(3) added (6.4.2004) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/762\)](#), regs. 1(1), **15**

**F208** Reg. 16(3)(aa) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **25(a)**

**F209** Words in reg. 16(3)(c) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **25(b)**

#### Claimants providing services to other persons for less than full earnings

17.—(1) If a claimant provides a service for another person and—

- (a) the other person makes no payment of earnings or pays less than those paid for a comparable employment (including self-employment) in the area; and
- (b) the Board are satisfied that the means of the other person are sufficient for him to pay for, or to pay more for, the service,

the claimant is to be treated as having such an amount of employment income, or in the case of a service provided in the course of a trade or business, such an amount of trading income as is reasonable for the employment of the claimant to provide the service.

This is subject to the following qualification.

(2) Paragraph (1) does not apply where—

- (a) the claimant is a volunteer or is engaged to provide the service by a charitable or voluntary organisation and the Board are satisfied that it is reasonable for the claimant to provide the service free of charge; or
- (b) the service is provided in connection with the claimant’s participation in an employment or training programme—

[<sup>F210</sup>(i) in Great Britain, which is approved by the Secretary of State;]

- (ii) in Northern Ireland in accordance with regulation 19(1)(p) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 <sup>M24</sup> other than where it is provided in connection with the claimant’s participation in the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of those Regulations <sup>M25</sup>.

**Status:** Point in time view as at 13/05/2021.

**Changes to legislation:** There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2. (See end of Document for details)

**Textual Amendments**

**F210** Reg. 17(2)(b)(i) substituted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **78(3)**

**Marginal Citations**

**M24** S.R. 1996 No. 198.

**M25** Regulation 75 was substituted by regulation 8 of S.R. 1997 No. 541 and paragraph (1)(a)(v) inserted by regulation 5(a) of S.R. 2001 No. 151.

*CHAPTER 11*

*Miscellaneous income*

**[<sup>F211</sup> Miscellaneous income**

**18.** In these Regulations “miscellaneous income” means income which does not fall within any other provision of these Regulations, and which is either—

- (a) subject to income tax under Part 5 of ITTOIA; or
- (b) a payment under, or in connection with, a coronavirus support scheme.]

**Textual Amendments**

**F211** Reg. 18 substituted (23.5.2020) by [The Tax Credits \(Coronavirus, Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/534\)](#), regs. 1, **3(4)**

**Status:**

Point in time view as at 13/05/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the The Tax Credits (Definition and Calculation of Income) Regulations 2002, PART 2.