
STATUTORY INSTRUMENTS

2004 No. 762

The Tax Credits (Miscellaneous Amendments) Regulations 2004

Amendment of the Claims Regulations

3.—(1) The Claims Regulations are amended as follows.

(2) In regulation 11 (circumstances in which a claim is to be treated as being made — notices containing provision under section 17 of the Act)—

(a) for paragraph (3)(a) substitute—

“(a) in a case where the declaration is made by 30th September next following the end of the tax year to which the claim relates, on 6th April preceding that date;

(aa) in a case where the declaration, not having been made by the date mentioned in sub-paragraph (a), is made before 31st January next following the end of the tax year to which the claim relates, and, in the opinion of the Board, the claimant had good cause for not making the declaration as mentioned in that sub-paragraph, on 6th April preceding the date on which the declaration is made;”;

(b) at the end of the regulation add—

“(4) Paragraph (3) does not apply—

(a) in the case where there has been a previous single claim (to which the notice referred to in paragraph (2) relates) if the person by whom it was made could no longer make a single claim; or

(b) in the case where there has been a previous joint claim (to which the notice referred to in paragraph (2) relates) if the persons by whom it was made could no longer make a joint claim.”.

(3) In regulation 24(1) (amended notifications) (1) for “25 and 26” substitute “25, 26 and 26A”.

(4) After regulation 26 insert—

“Date of notification — disability element and severe disability element for child tax credit

26A.—(1) In the circumstances prescribed by either paragraph (2) or (3), the notification of a change of circumstances referred to in sub-paragraph (f) of either of those paragraphs is to be treated as having been given on the date specified by paragraph (4).

(2) The circumstances prescribed by this paragraph are where—

(a) a claim for child tax credit including the disability element, the severe disability element or both those elements (“the original claim”) was made by a person or persons in respect of a child;

(b) on the original claim the decision of the Board under section 14(1) of the Act was not to award the credit, or to award it without one or both of those elements;

- (c) the reason for that decision was that the person or the persons were not entitled to the element because the child did not satisfy regulation 8(2) or (3), as the case may be, of the Child Tax Credit Regulations 2002;
 - (d) at the relevant date in relation to the original claim, the person or any of the persons had made a claim for a disability living allowance in respect of that child (“the other claim”) and the other claim had not been determined;
 - (e) after that date, the other claim was determined in favour of the person by whom it was made; and
 - (f) notice is given of the change of circumstances which results in the person or any of the persons becoming entitled to that element or those elements, as the case may be, within three months of the date that the other claim was determined.
- (3) The circumstances prescribed by this paragraph are where—
- (a) a notification was given of a change of circumstances which might result in the person or any of the persons by whom the claim was made becoming entitled to the disability element or the severe disability element of child tax credit (“the original notification”);
 - (b) on the notification, the decision of the Board under section 15(1) of the Act was not to amend the award of the tax credit made to him or them;
 - (c) the reason for that decision was that the person or any of the persons was not entitled to the element because regulation 8(2) or (3), as the case may be, of the Child Tax Credit Regulations 2002 was not satisfied in respect of the child in relation to whom the claim was made;
 - (d) at the notification date in relation to the original notification, the person or either of the persons had made, in respect of the child, a claim that had not been determined for a disability living allowance (“the other claim”);
 - (e) after that date, the other claim was determined in favour of the person by whom it was made; and
 - (f) a further notification of the change of circumstances is given by the person or any of the persons, within three months of the date that the other claim was determined.
- (4) The date prescribed by this paragraph is—
- (a) the first date in respect of which the disability living allowance is payable; or
 - (b) if later, the date on which—
 - (i) in the circumstances prescribed by paragraph (2), the original claim was made (or treated as made under regulation 7); or
 - (ii) in the circumstances prescribed by paragraph (3), the original notification was given (or treated as given under regulation 25).”.
- (5) For regulations 33 and 34 substitute—

“Dates to be specified in notices under section 17 of the Act

33. In a notice under section 17 of the Act—

- (a) the date which may be specified for the purposes of subsection (2) or subsection (4) shall be not later than 30th September following the end of the tax year to which the notice relates, or 30 days after the date on which the notice is given, if later; and
- (b) the date which may be specified for the purposes of subsection (8) shall be not later than 31st January following the end of the tax year to which the notice relates, or 30 days after the date on which the notice is given, if later.

Manner in which declaration or statement in response to a notice under section 17 of the Act to be made

34.—(1) This regulation prescribes the manner in which a declaration or statement in response to a notice under section 17 of the Act must be made.

(2) A declaration or statement must be made—

- (a) in writing in a form approved by the Board for that purpose;
- (b) orally to an officer of the Board; or
- (c) in such other manner as the Board may accept as sufficient in the circumstances of any particular case.

(3) In a case falling within paragraph (2)(b) one of two joint claimants may act for both of them in response to a notice under section 17 if, at the time the declaration or statement is made, a joint claim could be made by both of them.”.