

TAX CREDITS ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Tax Credits

Section 19: Power to enquire

90. *Section 19* gives the Board the power to make enquiries into the entitlement of a person or persons to a tax credit for a tax year, so long as they give notice to that person or those persons within the time limit allowed. The Board may require information or evidence from the claimant(s), or from a third party, for the purposes of an enquiry. The nature of the information or evidence that may be required from a third party, and the type of third party from whom it may be required, must be set out in regulations (*subsection (2)(b)*). Following an enquiry, the Board must reach a decision about the entitlement of the person or persons to the tax credit for the tax year (*subsection (3)*).
91. *Subsection (4)* sets out the period allowed for beginning an enquiry. The period begins with the date on which a decision under section 18 is made. Where an estimate of income is given, this means the decision taken under section 18(6); otherwise, it means the decision under section 18(1) (*subsection (5)*). In the case of an enquiry relating to a person or persons, either of whom is required to make a self assessment tax return under section 8 of the Taxes Management Act 1970, the period ends on the day that tax return becomes final (or, if both persons make self assessment returns, the later of those two days) (*subsection (4)(a)*). A return becomes final when an enquiry into that return is completed or, otherwise, on the last day of the period during which an enquiry may be made into that return, as set out in section 9A(2) of the Taxes Management Act 1970 (*subsection (7)*). In any other cases, the period ends one year after the date by which a response to a notice issued by the Board must be made or, where an estimate of income is relied on initially, one year after the date the estimate must be corrected if it is incorrect (*subsections (4)(b) and (6)*).
92. *Subsection (8)* provides that an enquiry is completed when the Board gives notice of their decision about the entitlement of the person or persons to whom the enquiry relates. *Subsection (9)* provides that a person to whom an enquiry relates has the right to apply for an enquiry to be closed. This application must be heard in the same way as an appeal against a decision made following an enquiry (*subsection (10)*).
93. The entitlement of a person, or the joint entitlement of a couple, to a tax credit for a tax year cannot be enquired into more than once (*subsection (11)*).
94. A decision on an enquiry is conclusive as to entitlement to a tax credit, subject to the provisions on appeals, discovery or official error (*subsection (12)*).