



# Tax Credits Act 2002

## 2002 CHAPTER 21

### PART 1

#### TAX CREDITS

##### *Decisions*

#### 14 Initial decisions

- (1) On a claim for a tax credit the Board must decide—
  - (a) whether to make an award of the tax credit, and
  - (b) if so, the rate at which to award it.
- (2) Before making their decision the Board may by notice—
  - (a) require the person, or either or both of the persons, by whom the claim is made to provide any information or evidence which the Board consider they may need for making their decision, or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for that purpose,by the date specified in the notice.
- (3) The Board's power to decide the rate at which to award a tax credit includes power to decide to award it at a nil rate.

#### **Commencement Information**

- II** S. 14 wholly in force at 1.1.2003; s. 14 not in force at Royal Assent, see s. 61; s. 14(2) in force for certain purposes at 9.7.2002 and otherwise in force at 1.8.2002 and s. 14(1)(3) in force at 1.1.2003 by [S.I. 2002/1727](#), [art. 2](#)

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## 15 Revised decisions after notifications

- (1) Where notification of a change of circumstances increasing the maximum rate at which a person or persons may be entitled to a tax credit is given in accordance with regulations under section 6(1), the Board must decide whether (and, if so, how) to amend the award of the tax credit made to him or them.
- (2) Before making their decision the Board may by notice—
  - (a) require the person by whom the notification is given to provide any information or evidence which the Board consider they may need for making their decision, or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for that purpose,
 by the date specified in the notice.

### Commencement Information

- I2** S. 15 wholly in force at 1.1.2003; s. 15 not in force at Royal Assent, see s. 61; s. 15(2) in force for certain purposes at 9.7.2002 and otherwise in force at 1.8.2002 and s. 15(1) in force at 1.1.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 16 Other revised decisions

- (1) Where, at any time during the period for which an award of a tax credit is made to a person or persons, the Board have reasonable grounds for believing—
  - (a) that the rate at which the tax credit has been awarded to him or them for the period differs from the rate at which he is, or they are, entitled to the tax credit for the period, or
  - (b) that he has, or they have, ceased to be, or never been, entitled to the tax credit for the period,
 the Board may decide to amend or terminate the award.
- (2) Where, at any time during the period for which an award of a tax credit is made to a person or persons, the Board believe—
  - (a) that the rate at which a tax credit has been awarded to him or them for the period may differ from the rate at which he is, or they are, entitled to it for the period, or
  - (b) that he or they may have ceased to be, or never been, entitled to the tax credit for the period,
 the Board may give a notice under subsection (3).
- (3) A notice under this subsection may—
  - (a) require the person, or either or both of the persons, to whom the tax credit was awarded to provide any information or evidence which the Board consider they may need for considering whether to amend or terminate the award under subsection (1), or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for that purpose,
 by the date specified in the notice.

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### Commencement Information

- I3** S. 16 wholly in force at 1.1.2003; s. 16 not in force at Royal Assent, see s. 61; s. 16(3) in force for certain purposes at 9.7.2002 and s. 16 in force in so far as not already in force at 1.1.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 17 Final notice

- (1) Where a tax credit has been awarded for the whole or part of a tax year—
  - (a) for awards made on single claims, the Board must give a notice relating to the tax year to the person to whom the tax credit was awarded, and
  - (b) for awards made on joint claims, the Board must give such a notice to the persons to whom the tax credit was awarded (with separate copies of the notice for each of them if the Board consider appropriate).
- (2) The notice must either—
  - (a) require that the person or persons must, by the date specified for the purposes of this subsection, declare that the relevant circumstances were as specified or state any respects in which they were not, or
  - (b) inform the person or persons that he or they will be treated as having declared in response to the notice that the relevant circumstances were as specified unless, by that date, he states or they state any respects in which they were not.
- (3) “Relevant circumstances” means circumstances (other than income) affecting—
  - (a) the entitlement of the person, or joint entitlement of the persons, to the tax credit, or
  - (b) the amount of the tax credit to which he was entitled, or they were jointly entitled,for the tax year.
- (4) The notice must either—
  - (a) require that the person or persons must, by the date specified for the purposes of this subsection, declare that the amount of the current year income or estimated current year income (depending on which is specified) was the amount, or fell within the range, specified or comply with subsection (5), or
  - (b) inform the person or persons that he or they will be treated as having declared in response to the notice that the amount of the current year income or estimated current year income (depending on which is specified) was the amount, or fell within the range, specified unless, by that date, he complies or they comply with subsection (5).
- (5) To comply with this subsection the person or persons must either—
  - (a) state the current year income or his or their estimate of the current year income (making clear which), or
  - (b) declare that, throughout the period to which the award related, subsection (1) of section 7 did not apply to him or them by virtue of subsection (2) of that section.
- (6) The notice may—

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- (a) require that the person or persons must, by the date specified for the purposes of subsection (4), declare that the amount of the previous year income was the amount, or fell within the range, specified or comply with subsection (7), or
  - (b) inform the person or persons that he or they will be treated as having declared in response to the notice that the amount of the previous year income was the amount, or fell within the range, specified unless, by that date, he complies or they comply with subsection (7).
- (7) To comply with this subsection the person or persons must either—
- (a) state the previous year income, or
  - (b) make the declaration specified in subsection (5)(b).
- (8) The notice must inform the person or persons that if he or they—
- (a) makes or make a declaration under paragraph (a) of subsection (4), or is or are treated as making a declaration under paragraph (b) of that subsection, in relation to estimated current year income (or the range within which estimated current year income fell), or
  - (b) states or state under subsection (5)(a) his or their estimate of the current year income,
- he or they will be treated as having declared in response to the notice that the amount of the (actual) current year income was as estimated unless, by the date specified for the purposes of this subsection, he states or they state the current year income.
- (9) “Specified”, in relation to a notice, means specified in the notice.
- (10) Regulations may—
- (a) provide that, in prescribed circumstances, one person may act for another in response to a notice under this section, and
  - (b) provide that, in prescribed circumstances, anything done by one member of a [<sup>F1</sup>couple] in response to a notice given under this section is to be treated as also done by the other member of [<sup>F2</sup>the couple].

#### Textual Amendments

- F1** Word in s. 17(10)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 145](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)
- F2** Words in s. 17(10)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 146](#); [S.I. 2005/3175](#), art. 2(1), [Sch. 1](#)

#### Commencement Information

- I4** S. 17 wholly in force at 6.4.2003; s. 17 not in force at Royal Assent, see s. 61; s. 17(10) in force at 9.7.2002 and s. 17(1)-(9) in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 18 Decisions after final notice

- (1) After giving a notice under section 17 the Board must decide—
- (a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and
  - (b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,
- for the tax year.

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- (2) But, subject to subsection (3), that decision must not be made before a declaration or statement has been made in response to the relevant provisions of the notice.
- (3) If a declaration or statement has not been made in response to the relevant provisions of the notice on or before the date specified for the purposes of section 17(4), that decision may be made after that date.
- (4) In subsections (2) and (3) “the relevant provisions of the notice” means—
  - (a) the provision included in the notice by virtue of subsection (2) of section 17,
  - (b) the provision included in the notice by virtue of subsection (4) of that section, and
  - (c) any provision included in the notice by virtue of subsection (6) of that section.
- (5) Where the Board make a decision under subsection (1) on or before the date referred to in subsection (3), they may revise it if a new declaration or statement is made on or before that date.
- (6) If the person or persons to whom a notice under section 17 is given is or are within paragraph (a) or (b) of subsection (8) of that section, the Board must decide again—
  - (a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and
  - (b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,for the tax year.
- (7) But, subject to subsection (8), that decision must not be made before a statement has been made in response to the provision included in the notice by virtue of subsection (8) of section 17.
- (8) If a statement has not been made in response to the provision included in the notice by virtue of that subsection on or before the date specified for the purposes of that subsection, that decision may be made after that date.
- (9) Where the Board make a decision under subsection (6) on or before the date referred to in subsection (8), they may revise it if a new statement is made on or before that date.
- (10) Before exercising a function imposed or conferred on them by subsection (1), (5), (6) or (9), the Board may by notice require the person, or either or both of the persons, to whom the notice under section 17 was given to provide any further information or evidence which the Board consider they may need for exercising the function by the date specified in the notice.
- (11) Subject to sections 19 and 20 and regulations under section 21 (and to any revision under subsection (5) or (9) and any appeal)—
  - (a) in a case in which a decision is made under subsection (6) in relation to a person or persons and a tax credit for a tax year, that decision, and
  - (b) in any other case, the decision under subsection (1) in relation to a person or persons and a tax credit for a tax year,is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.

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## 19 Power to enquire

- (1) The Board may enquire into—
  - (a) the entitlement of a person, or the joint entitlement of persons, to a tax credit for a tax year, and
  - (b) the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year,
 if they give notice to the person, or each of the persons, during the period allowed for the initiation of an enquiry.
- (2) As part of the enquiry the Board may by notice—
  - (a) require the person, or either or both of the persons, to provide any information or evidence which the Board consider they may need for the purposes of the enquiry, or
  - (b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need for those purposes,
 by the date specified in the notice.
- (3) On an enquiry the Board must decide—
  - (a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and
  - (b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,
 for the tax year.
- (4) The period allowed for the initiation of an enquiry is the period beginning immediately after the relevant section 18 decision and ending—
  - (a) if the person, or either of the persons, to whom the enquiry relates is required by section 8 of the Taxes Management Act 1970 (c. 9) to make a return, with the day on which the return becomes final (or, if both of the persons are so required and their returns become final on different days, with the later of those days), or
  - (b) in any other case, one year after the beginning of the relevant section 17 date.
- (5) “The relevant section 18 decision” means—
  - (a) in a case in which a decision must be made under subsection (6) of section 18 in relation to the person or persons and the tax year to which the enquiry relates, that decision, and
  - (b) in any other case, the decision under subsection (1) of that section in relation to the person or persons and that tax year.
- (6) “The relevant section 17 date” means—
  - (a) in a case in which a statement may be made by the person or persons in response to provision included by virtue of subsection (8) of section 17 in the notice given to him or them under that section in relation to the tax year, the date specified in the notice for the purposes of that subsection, and
  - (b) in any other case, the date specified for the purposes of subsection (4) of that section in the notice given to him or them under that section in relation to the tax year.
- (7) A return becomes final—

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- (a) if it is enquired into under section 9A of the Taxes Management Act 1970 (c. 9), when the enquiries are completed (within the meaning of section 28A of that Act), or
  - (b) otherwise, at the end of the period specified in subsection (2) of that section in relation to the return.
- (8) An enquiry is completed at the time when the Board give notice to the person or persons of their decision under subsection (3); but if the Board give notice to the persons at different times the enquiry is completed at the later of those times.
- (9) The person, or either of the persons, to whom the enquiry relates may at any time before such notice is given apply for a direction that the Board must give such a notice.
- [<sup>F3</sup>(10) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and the tribunal must give the direction applied for unless satisfied that the Board have reasonable grounds for not making the decision or giving the notice.]
- (11) Where the entitlement of a person, or the joint entitlement of persons, to a tax credit for a tax year has been enquired into under this section, it is not to be the subject of a further notice under subsection (1).
- (12) Subject to section 20 and regulations under section 21 (and to any appeal), a decision under subsection (3) in relation to a person or persons and a tax credit for a tax year is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.

#### Textual Amendments

- F3** S. 19(10) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 313**

#### Commencement Information

- I5** S. 19 wholly in force at 6.4.2003; s. 19 not in force at Royal Assent, see s. 61; s. 19(2) in force for certain purposes at 9.7.2002 and s. 19 in force in so far as not already in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

## 20 Decisions on discovery

- (1) Where in consequence of a person's income tax liability being revised the Board have reasonable grounds for believing that a conclusive decision relating to his entitlement to a tax credit for a tax year (whether or not jointly with another person) is not correct, the Board may decide to revise that decision.
- (2) A person's income tax liability is revised—
- (a) on the taking effect of an amendment of a return of his under section 9ZA(1) of the Taxes Management Act 1970,
  - (b) on the issue of a notice of correction under section 9ZB of that Act amending a return of his (provided that he does not give a notice of rejection before the end of the period of thirty days beginning with the date of issue of the notice of correction),

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- (c) on the amendment of an assessment of his by notice under section 9C of that Act,
  - (d) on the amendment of a return of his under section 12ABA(3)(a) of that Act,
  - (e) on the amendment of a return of his under subsection (6)(a) of section 12ABB of that Act after the correction of a partnership return under that section (provided that the amendment does not cease to have effect by reason of the rejection of the correction under subsection (4) of that section),
  - (f) on the issue of a closure notice under section 28A of that Act making amendments of a return of his,
  - (g) on the amendment of a return of his under section 28B(4)(a) of that Act,
  - (h) on the making of an assessment as regards him under section 29(1) of that Act,
  - (i) on the vacation of the whole or part of an assessment of his under section 32 of that Act,
  - (j) on giving him relief under section 33 of that Act, or
  - (k) on the determination (or settlement) of an appeal against the making, amendment or vacation of an assessment or return, or a decision on a claim for relief, under any of the provisions mentioned in paragraphs (c), (f) and (h) to (j).
- (3) But no decision may be made under subsection (1)—
- (a) unless it is too late to enquire into the person’s entitlement under section 19, or
  - (b) after the period of one year beginning when the person’s income tax liability is revised.
- (4) Where the Board have reasonable grounds for believing that—
- (a) a conclusive decision relating to the entitlement of a person, or the joint entitlement of persons, to a tax credit for a tax year is not correct, and
  - (b) that is attributable to fraud or neglect on the part of the person, or of either of the persons, or on the part of any person acting for him, or either of them,
- the Board may decide to revise that decision.
- (5) But no decision may be made under subsection (4)—
- (a) unless it is too late to enquire into the entitlement, or joint entitlement, under section 19, or
  - (b) after the period of five years beginning with the end of the tax year to which the conclusive decision relates.
- (6) “Conclusive decision”, in relation to the entitlement of a person, or joint entitlement of persons, to a tax credit for a tax year, means—
- (a) a decision in relation to it under section 18(1), (5), (6) or (9) or 19(3) or a previous decision under this section, or
  - (b) a decision under regulations under section 21 relating to a decision within paragraph (a),
- including a decision made on an appeal against such a decision.
- (7) Subject to any subsequent decision under this section and to regulations under section 21 (and to any appeal), a decision under subsection (1) or (4) in relation to a person or persons and a tax credit for a tax year is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.



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## **21 Decisions subject to official error**

Regulations may make provision for a decision under section 14(1), 15(1), 16(1), 18(1), (5), (6) or (9), 19(3) or 20(1) or (4) to be revised in favour of the person or persons to whom it relates if it is incorrect by reason of official error (as defined by the regulations).

## **22 Information etc. requirements: supplementary**

- (1) Regulations may make provision as to the manner and form in which—
  - (a) information or evidence is to be provided in compliance with a requirement imposed by a notice under section 14(2), 15(2), 16(3), 18(10) or 19(2), or
  - (b) a declaration or statement is to be made in response to a notice under section 17.
- (2) Regulations may make provision as to the dates which may be specified in a notice under section 14(2), 15(2), 16(3), 17, 18(10) or 19(2).

## **23 Notice of decisions**

- (1) When a decision is made under section 14(1), 15(1), 16(1), 18(1), (5), (6) or (9), 19(3) or 20(1) or (4) or regulations under section 21, the Board must give notice of the decision to the person, or each of the persons, to whom it relates.
- (2) Notice of a decision must state the date on which it is given and include details of any right to appeal against the decision under section 38.
- (3) Notice need not be given of a decision made under section 14(1) or 18(1) or (6) on the basis of declarations made or treated as made by the person or persons in response to the notice given to him or them under section 17 if—
  - (a) that notice, or
  - (b) in the case of a decision under subsection (6) of section 18, that notice or the notice of the decision under subsection (1) of that section, stated what the decision would be and the date on which it would be made.

### **Commencement Information**

- 16** S. 23 wholly in force at 6.4.2003; s. 23 not in force at Royal Assent, see s. 61; s. 23 in force for certain purposes at 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

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