



# Tax Credits Act 2002

## 2002 CHAPTER 21

### PART 1

#### TAX CREDITS

##### *Payment*

#### **24**    **Payments**

- (1) Where the Board have made an award of a tax credit, the amount of the tax credit awarded must be paid to the person to whom the award is made, subject to subsections (2) and (3).
- (2) Where an award of a tax credit is made to the members of a married couple or an unmarried couple, payments of the tax credit, or of any element of the tax credit, are to be made to whichever of them is prescribed.
- (3) Where an award of a tax credit is made on a claim which was made by one person on behalf of another, payments of the tax credit, or of any element of the tax credit, are to be made to whichever of those persons is prescribed.
- (4) Where an award of a tax credit has been made to a person or persons for the whole or part of a tax year, payments may, in prescribed circumstances, continue to be made for any period, after the tax year, within which he is or they are entitled to make a claim for the tax credit for the next tax year.
- (5) Payments made under subsection (4) are to be treated for the purposes of this section and the following provisions of this Part as if they were payments of the tax credit for the next tax year.
- (6) Subject to section 25, payments of a tax credit must be made by the Board.
- (7) Regulations may make provision about the time when and the manner in which a tax credit, or any element of a tax credit, is to be paid by the Board.

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- (8) If the regulations make provision for payments of a tax credit, or any element of a tax credit, to be made by the Board by way of a credit to a bank account or other account notified to the Board, the regulations may provide that entitlement to the tax credit or element is dependent on an account having been notified to the Board in accordance with the regulations.

#### Commencement Information

- II** S. 24 wholly in force at 6.4.2003; s. 24 not in force at Royal Assent, see s. 61; s. 24 in force for certain purposes at 9.7.2002, 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

## 25 Payments of working tax credit by employers

- (1) Regulations may require employers, when making Schedule E payments and in any such other circumstances as may be prescribed, to pay working tax credit, or prescribed elements of working tax credit, to employees.
- (2) The regulations may, in particular, include provision—
- (a) requiring employers to make payments of working tax credit, or prescribed elements of working tax credit, in accordance with notices given to them by the Board,
  - (b) for the payment by the Board of working tax credit in cases where an employer does not make payments of working tax credit, or prescribed elements of working tax credit, in accordance with the regulations and with any notices given by the Board,
  - (c) prescribing circumstances in which employers are not required to make, or to continue making, payments of working tax credit, or prescribed elements of working tax credit,
  - (d) for the provision of information or evidence for the purpose of enabling the Board to be satisfied whether employers are complying with notices given by the Board and with the regulations,
  - (e) requiring employers to provide information to employees (in their itemised pay statements or otherwise),
  - (f) for the funding by the Board of working tax credit paid or to be paid by employers (whether by way of set off against income tax, national insurance contributions or student loan deductions for which they are accountable to the Board or otherwise),
  - (g) for the recovery by the Board from an employer of funding under paragraph (f) to the extent that it exceeds the amount of working tax credit paid by the employer,
  - (h) for the payment of interest at the prescribed rate on sums due from or to the Board, and for determining the date from which interest is to be calculated, and
  - (i) for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal.
- (3) Section 20 of the Taxes Management Act 1970 (c. 9) (power to call for documents etc.) applies (with sections 20B and 20BB) in relation to an employer's compliance

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with regulations under this section as in relation to a person's tax liability (but subject to the modifications provided by subsection (4)).

- (4) Those sections apply by virtue of subsection (3) as if—
- (a) the references to the taxpayer, a taxpayer or a class of taxpayers were to the employer, an employer or a class of employers,
  - (b) the reference to any provision of the Taxes Acts were to regulations under this section,
  - (c) the references to the proper assessment or collection of tax were to the proper award or payment of working tax credit,
  - (d) the reference to an appeal relating to tax were to an appeal relating to compliance with regulations under this section, and
  - (e) the reference to believing that tax has been, or may have been, lost to the Crown were to believing that the Crown has, or may have, incurred a loss.
- (5) In this Part—
- “employee” means a person who receives any Schedule E payment, and
  - “employer”, in relation to an employee, means a person who makes any such payment to the employee.
- (6) “Schedule E payment” means a payment of, or on account of, any income assessable to income tax under Schedule E.
- (7) “Student loan deductions” means deductions in accordance with regulations under section 22(5) of the Teaching and Higher Education Act 1998 (c. 30), section 73B(3) of the Education (Scotland) Act 1980 (c. 44) or Article 3(5) of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)).

#### Commencement Information

- I2** S. 25 wholly in force at 6.4.2003; s. 25 not in force at Royal Assent, see s. 61; s. 25(1)(2)(6)(7) in force and s. 25(5) in force for certain purposes at 9.7.2002 and s. 25 in force in so far as not already in force at 6.4.2003 by [S.I. 2002/1727](#), [art. 2](#)

VALID FROM 01/01/2003

## 26 Liability of officers for sums paid to employers

- (1) Regulations may provide that where—
- (a) an employer which is a body corporate has failed to repay any funding to the Board in accordance with regulations made under section 25(2)(g), and
  - (b) the provision of the funding, or the failure by the employer to repay the funding, appears to the Board to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate (“culpable officers”),
- the culpable officers are required to pay to the Board the amount of funding recoverable by the Board from the employer.
- (2) Regulations under this section must include provision—

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- (a) for any amount paid to the Board by a culpable officer in accordance with the regulations to be deducted from the amount of funding liable to be repaid by the employer,
  - (b) for the amount which a culpable officer is liable to pay under the regulations to be reduced where the amount of funding recoverable from the employer is reduced by payments made to the Board by the employer, and
  - (c) for the Board to repay to a culpable officer the amount (if any) by which the amount that he has paid to the Board pursuant to the regulations exceeds the reduced amount that he is liable to pay by virtue of paragraph (b).
- (3) Regulations under this section may include provision—
- (a) requiring payments by culpable officers to be made in accordance with notices given to them by the Board,
  - (b) for determining, in cases of an employer in relation to which there is more than one culpable officer, the proportion of the amount of funding recoverable from the employer that is payable by each culpable officer,
  - (c) for the payment of interest at the prescribed rate on sums due to or from the Board, and for determining the date from which interest is to be calculated, and
  - (d) for appeals with respect to matters arising under the regulations.
- (4) “Officer”, in relation to a body corporate, means—
- (a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such, and
  - (b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so.

## 27 Rights of employees

Schedule 1 (rights of employees not to suffer unfair dismissal or other detriment) has effect.

VALID FROM 06/04/2003

## 28 Overpayments

- (1) Where the amount of a tax credit paid for a tax year to a person or persons exceeds the amount of the tax credit to which he is entitled, or they are jointly entitled, for the tax year (as determined in accordance with the provision made by and by virtue of sections 18 to 21), the Board may decide that the excess, or any part of it, is to be repaid to the Board.
- (2) In this Part such an excess is referred to as an overpayment.
- (3) For overpayments made under awards on single claims, the person to whom the tax credit was awarded is liable to repay the amount which the Board decide is to be repaid.
- (4) For overpayments made under awards on joint claims, the persons to whom the tax credit was awarded are jointly and severally liable to repay the amount which the

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Board decide is to be repaid unless the Board decide that each is to repay a specified part of that amount.

- (5) Where it appears to the Board that there is likely to be an overpayment of a tax credit for a tax year under an award made to a person or persons, the Board may, with a view to reducing or eliminating the overpayment, amend the award or any other award of any tax credit made to the person or persons; but this subsection does not apply once a decision is taken in relation to the person or persons for the tax year under section 18(1).
- (6) Where the Board decide under section 16 to terminate an award of a tax credit made to a person or persons on the ground that at no time during the period to which the award related did the person or persons satisfy—
  - (a) section 8(1) (if the award related to child tax credit), or
  - (b) section 10(1) (if it related to working tax credit),the Board may decide that the amount paid under the award, or any part of it, is to be treated for the purposes of this Part (apart from subsection (5)) as an overpayment.

VALID FROM 06/04/2003

## 29 Recovery of overpayments

- (1) Where an amount is liable to be repaid by a person or persons under section 28, the Board must give him, or each of them, a notice specifying the amount.
- (2) The notice must state which of subsections (3) to (5) is to apply in relation to the amount or any specified part of the amount; and a notice may at any time be replaced by another notice containing a different statement.
- (3) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it is to be treated for the purposes of Part 6 of the Taxes Management Act 1970 (c. 9) (collection and recovery) as if it were tax charged in an assessment and due and payable by the person or persons to whom the notice was given at the end of the period of thirty days beginning with the day on which the notice is given.
- (4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may, subject to provision made by regulations, be recovered by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given.
- (5) Where a notice states that this subsection applies in relation to an amount (or part of an amount), [<sup>F1</sup>PAYE regulations] apply to it as if it were an underpayment of tax for a previous year of assessment by the person or persons to whom the notice was given.

### Textual Amendments

- F1** Words in s. 29(5) substituted (with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 722, [Sch. 6 para. 266](#) (with [Sch. 7](#))

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VALID FROM 01/01/2003

### 30 Underpayments

- (1) Where it has been determined in accordance with the provision made by and by virtue of sections 18 to 21 that a person was entitled, or persons were jointly entitled, to a tax credit for a tax year and either—
  - (a) the amount of the tax credit paid to him or them for that tax year was less than the amount of the tax credit to which it was so determined that he is entitled or they are jointly entitled, or
  - (b) no payment of the tax credit was made to him or them for that tax year, the amount of the difference, or of his entitlement or their joint entitlement, must be paid to him or to whichever of them is prescribed.
- (2) Where the claim for the tax credit was made by one person on behalf of another, the payment is to be made to whichever of those persons is prescribed.

#### Commencement Information

- I3** S. 30 wholly in force at 6.4.2003; s. 30 not in force at Royal Assent, see s. 61; s. 30 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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