



Tax Credits Act 2002

2002 CHAPTER 21

[^{F1}PART 1

TAX CREDITS

Appeals

[^{F1}]^{F2}39A Late appeals

- (1) The Commissioners for Her Majesty's Revenue and Customs may treat a late appeal under section 38 as made in time where the conditions specified in subsections (2) to (6) are satisfied, except that the Commissioners may not do so in the case of an appeal made more than one year after the expiration of the time (original or extended) for appealing.
- (2) An appeal may be treated as made in time if the Commissioners are satisfied that it is in the interests of justice to do so.
- (3) For the purposes of subsection (2) it is not in the interests of justice to treat an appeal as made in time unless—
 - (a) the special circumstances specified in subsection (4) are relevant; or
 - (b) some other special circumstances exist which are wholly exceptional and relevant,and as a result of those special circumstances it was not practicable for the appeal to be made in time.
- (4) The special circumstances mentioned in subsection (3)(a) are—
 - (a) the appellant or a partner or dependant of the appellant has died or suffered serious illness;
 - (b) the appellant is not resident in the United Kingdom; or
 - (c) normal postal services were disrupted.
- (5) In determining whether it is in the interests of justice to treat an appeal as made in time, regard shall be had to the principle that the greater the amount of time that has

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elapsed between the expiration of the time for appealing and the submission of the notice of appeal, the more compelling should be the special circumstances.

- (6) In determining whether it is in the interests of justice to treat an appeal as made in time, no account shall be taken of the following—
- (a) that the appellant or any other person acting for the appellant was unaware of or misunderstood the law applicable to the appellant's case (including ignorance or misunderstanding of any time limit); or
 - (b) that the Upper Tribunal or a court has taken a different view of the law from that previously understood and applied.
- (7) If in accordance with the preceding provisions of this section the Commissioners for Her Majesty's Revenue and Customs treat a late appeal under section 38 as made in time, it is to be treated as having been brought within any applicable time limit.]]

Textual Amendments

- F1** Pt. 1 repealed (1.2.2019 with savings in relation to specified cases in [art. 3](#) of the commencing S.I.) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2019/167, arts. 2, 3
- F2** S. 39A inserted (E.W.S.) (2.4.2014) by [The Tax Credits \(Late Appeals\) Order 2014 \(S.I. 2014/885\)](#), arts. 1(1), [2\(2\)](#)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/962 by [S.I. 2008/3151 art. 3\(2\)](#) (art. 3(2) revoked (14. 7.2014) by S.I. 2014/1848)
- specified provision(s) amendment to earlier commencing SI 2003/962 art. 2(5) by [S.I. 2011/2910 art. 2](#) (Order revoked (14. 7.2014) by S.I. 2014/1848)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 35(2)-(12) substituted for s. 35(2) by [2012 c. 5 s. 124](#)
- s. 35(9) words substituted by [2020 c. 17 Sch. 24 para. 443\(1\)](#) (This amendment not applied to legislation.gov.uk. The substitution of s. 35(2)-(12) for s. 35(2) by 2021 c. 5, s. 124 is not yet in force)
- s. 36(10) words repealed by [2012 c. 5 Sch. 14 Pt. 12](#)