
STATUTORY INSTRUMENTS

2002 No. 2006

**The Tax Credits (Definition and
Calculation of Income) Regulations 2002**

PART 2

Income for the purposes of tax credits

CHAPTER 5

Social Security Income

Social security income

7.—(1) The claimant's social security income is the total amount payable—

(a) under any provision of the Social Security Act 1988 ^{M1}, the Contributions and Benefits Act [^{F1}or the Jobseekers Act 1995]^{M2}[^{F1}, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007] or under section 69 of the Child Support, Pensions and Social Security Act 2000 ^{M3};

^{F2}(b)

(c) by the Secretary of State in respect of the non-payment of a payment which ought to have been made under a provision mentioned in sub-paragraph (a); and

(d) by way of an ex gratia payment made by the Secretary of State, or in Northern Ireland by the Department for Social Development, in connection with a benefit, pension or allowance under the Contributions and Benefits Act.

This is subject to the following provisions of this regulation.

(2) Pensions under the Contributions and Benefits Act which are pension income by virtue of regulation 5(1)(a) are not social security income.

(3) In calculating the claimant's social security income the payments in Table 3 shall be disregarded.

Table 3

Payments under, or in connection with, the Act, the Social Security Act 1988, the Contributions and Benefits Act [^{F3}or the Jobseekers Act 1995][^{F3}, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007] disregarded in calculation of social security income

1. An attendance allowance under section 64 of the Contributions and Benefits Act ^{M4}.

2. A back to work bonus under section 26 of the Jobseekers Act 1995 ^{M5}.

3. A bereavement payment under section 36 of the Contributions and Benefits Act ^{M6}.

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4. Child benefit under Part 2 of the Act.
5. A Christmas bonus under section 148 of the Contributions and Benefits Act.
6. Council tax benefit under section 131 of the Contributions and Benefits Act ^{M7}.
7. A disability living allowance under section 71 of the Contributions and Benefits Act.
8. Disabled person's tax credit under section 129 of the Contributions and Benefits Act ^{M8}.
9. Any discretionary housing payment pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001 ^{M9}.
10. An ex-gratia payment by the Secretary of State or, in Northern Ireland, the Department for Social Development, to a person over pensionable age by way of supplement to incapacity benefit.
11. A guardian's allowance under section 77 of the Contributions and Benefits Act.
12. Housing benefit under section 130 of the Contributions and Benefits Act.
13. Income support under section 124 of the Contributions and Benefits Act ^{M10}, unless it is chargeable to tax under [^{F4}section 665 of ITEPA].
14. Incapacity benefit which is—
 - (a) short term incapacity benefit payable at the lower rate; or
 - (b) payable to a person who had received invalidity benefit before 13th April 1995 if the period of incapacity for work is treated, by virtue of regulation 2 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 ^{M11} (days to be treated as days of incapacity for work) as having begun before that date.
15. Industrial injuries benefit [^{F5}(except industrial death benefit)] under section 94 of the Contributions and Benefits Act.
16. A contribution-based jobseeker's allowance under the Jobseekers Act 1995, to the extent that it exceeds the maximum contained in [^{F6}section 674 of ITEPA].
17. An income-based jobseeker's allowance under the Jobseekers Act 1995.
18. A maternity allowance under section 35 of the Contributions and Benefits Act ^{M12}.
19. A severe disablement allowance under section 68 or 69 of the Contributions and Benefits Act ^{M13}.
20. A social fund payment under Part 8 of the Contributions and Benefits Act.
- [^{F7}20A. Statutory adoption pay under Part 12ZB of the Contributions and Benefits Act.]
21. Statutory maternity pay under Part 12 of the Contributions and Benefits Act ^{M14}.
- [^{F8}21A. [^{F9}Ordinary statutory paternity pay and additional statutory paternity pay] under Part 12ZA of the Contributions and Benefits Act.]
22. Statutory sick pay under Part 11 of the Contributions and Benefits Act.
23. Working families' tax credit under section 128 of the Contributions and Benefits Act ^{M15}.

24. A payment by way of compensation for the non-payment of, or in respect of loss of entitlement (whether wholly or partly) of, income support, jobseeker's allowance, [^{F10}or housing benefit] .

25. A payment in lieu of milk tokens or the supply of vitamins under the Welfare Foods Regulations 1996 ^{M16}.

[^{F11}26. An income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.]

[^{F12}27. A payment by way of health in pregnancy grant made pursuant to Part 8A of the Contributions and Benefits Act.]

(4) If an increase in respect of a child dependant is payable with an allowance, benefit, pension or other payment ("the main payment") listed in Table 3, the increase shall also be wholly disregarded in calculating the income of the recipient of the main payment.

^{F13}(5)

[^{F14}(5A) From the amount of social security income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing social security income (as defined in ITEPA) under section 713 of ITEPA.]

(6) A reference in this regulation to an enactment applying only in Great Britain includes a reference to a corresponding enactment applying in Northern Ireland.

Textual Amendments

- F1** Words in reg. 7(1)(a) substituted (E.W.S.) (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 3\) Regulations 2008 \(S.I. 2008/1879\)](#), regs. 1(1), **21(2)(a)**
- F2** Reg. 7(1)(b) omitted (6.4.2003) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(2)**
- F3** Words in reg. 7 Table 3 heading substituted (E.W.S.) (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 3\) Regulations 2008 \(S.I. 2008/1879\)](#), regs. 1(1), **21(2)(b)(i)**
- F4** Words in reg. 7 Table 3 Item 13 substituted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(a)**
- F5** Words in reg. 7 Table 3 Item 15 inserted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(b)**
- F6** Words in reg. 7 Table 3 Item 16 substituted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(c)**
- F7** Reg. 7 Table 3 Item 20A inserted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(d)**
- F8** Reg. 7 Table 3 Item 21A inserted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(3)(e)**
- F9** Words in reg. 7 Table 3 Item 21A substituted (14.11.2010) by [The Tax Credits \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/2494\)](#), regs. 1, **6**
- F10** Words in reg. 7 Table 3 Item 24 substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **6(2)**
- F11** Reg. 7 Table 3 Item 26 added (E.W.S.) (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 3\) Regulations 2008 \(S.I. 2008/1879\)](#), regs. 1(1), **21(2)(b)(ii)**
- F12** Reg. 7 Table 3 Item 27 added (6.4.2009) by [The Tax Credits \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/697\)](#), regs. 1(c), **7**
- F13** Reg. 7(5) omitted (6.4.2003) by virtue of [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(4)**

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- F14** Reg. 7(5A) inserted (6.4.2003) by [The Tax Credits \(Definition and Calculation of Income\) \(Amendment\) Regulations 2003 \(S.I. 2003/732\)](#), regs. 1, **8(5)**

Marginal Citations

- M1** 1988 c.7.
- M2** 1995 c.18.
- M3** 2000 c.19.
- M4** [Section 64](#) has been amended: the relevant amendment is that made by section 66(1) of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) (“the Welfare Reform Act”).
- M5** 1995 c.18.
- M6** [Section 36](#) was substituted by section 54(1) of the Welfare Reform Act.
- M7** [Section 131](#) was substituted by paragraph 4 of Schedule 9 to the [Local Government Finance Act 1992 \(c.14\)](#).
- M8** [Section 129](#) was amended by paragraph 2(h) of Schedule 1 to the [Tax Credits Act 1999 \(c.10\)](#) in consequence of the renaming of disability working allowance by that Act. Disabled person's tax credit is to be abolished by section 1(3)(c), and section 129 is repealed by section 56 of the Act.
- M9** [S.I. 2001/1167](#).
- M10** [Section 124\(1\)](#) was amended by paragraph 30 of Schedule 2 to the [Jobseekers Act 1995 \(c.18\)](#) (“the Jobseekers Act”) and paragraph 28 of Schedule 8 to the Welfare Reform Act. Subsections (2) and (3) of section 124 were repealed by Schedule 3 to the Jobseekers Act.
- M11** [S.I. 1995/310](#); relevant amending instrument [S.I. 2002/491](#).
- M12** Subsection (1) was substituted for the previous subsections (1) and (1A) by section 53(1) of the Welfare Reform Act.
- M13** [Sections 68](#) and [69](#) were repealed by Part 4 of Schedule 13 to the Welfare Reform Act. However, they continue to have effect in respect of beneficiaries whose period of incapacity for work began before 6th April 2001 by virtue of the saving in article 4 of [S.I. 2000/2958](#).
- M14** Statutory maternity pay and statutory sick pay, although payable under the Contributions and Benefits Act are taken into account in calculating employment income, whether paid by the employer or the Board.
- M15** [Section 128](#) was amended by paragraph 2(g) of Schedule 1 to the Tax Credits Act 1999 in consequence of the renaming of family credit by that Act. Working families' tax credit is abolished by section 1(3) (b), and section 128 is repealed by section 56, of the Act from a date to be provided for by commencement order.
- M16** [S.I. 1996/1434](#), amended by 1997/857, 1999/2561, 2000/694 and 2001/758. The functions of the Secretary of State as respects Wales under this instrument were transferred to the National Assembly by [S.I. 1999/672](#) and, as respects Scotland, to the Scottish Ministers by [S.I. 1999/750](#).

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