
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 1

General

Calculation of income of claimant

3.—(1) The manner in which income of a claimant or, in the case of a joint claim, the aggregate income of the claimants, is to be calculated for a tax year for the purposes of Part 1 of the Act is as follows.

Step One

Calculate and then add together—

- (a) the pension income (as defined in regulation 5(1)),
- (b) the investment income (as defined in regulation 10),
- (c) the property income (as defined in regulation 11),
- (d) the foreign income (as defined in regulation 12) and
- (e) the notional income (as defined in regulation 13)

of the claimant, or, in the case of a joint claim, of the claimants.

If the result of this step is £300 or less, it is treated as nil.

If the result of this step is more than £300, only the excess is taken into account in the following steps.

Step Two

Calculate and then add together—

- (a) the employment income (as defined in regulation 4),
- (b) the social security income (as defined in regulation 7),
- (c) the student income (as defined in regulation 8) and
- (d) the miscellaneous income (as defined in regulation 18)

of the claimant, or in the case of a joint claim, of the claimants.

Step Three

Add together the results of Steps One and Two.

Step Four

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Calculate the trading income (as defined in regulation 6) of the claimant, or in the case of a joint claim, of the claimants.

Add the result of this step to that produced by Step Three ^{F1}... in the year.

If there has been a trading loss in the year, [^{F2}subtract] the amount of that loss from the result of Step Three.

[^{F3}A loss shall not be available for tax credits purposes, unless the trade was being carried on upon a commercial basis and with a view to the realisation of profits in the trade or, where the carrying on of the trade formed part of a larger undertaking, in the undertaking as a whole.]

[^{F4}Any trading loss in the year not set off as a result of the calculations in Steps One to Four above due to an insufficiency of income may be carried forward and set off against trading income (if any) of the same trade, profession or vocation in subsequent years (taking earlier years first) for the purposes of calculation of income under this regulation.]

(2) Subject to the qualifications in the following paragraphs of this regulation, and the provisions of Part 3, the result of Step Four in paragraph (1) is the income of the claimant, or, in the case of a joint claim, of the claimants, for the purposes of the Act.

(3) Income which—

(a) arises in a territory outside the United Kingdom and

(b) is, for the time being, unremittable for the purposes of [^{F5}Chapter 4 of Part 8 of ITTOIA,]

is disregarded in calculating the income of the claimant or, in the case of a joint claim, of the claimants.

(4) Paragraph (5) applies in the case of a claimant who is [^{F6}, for income tax purposes]—

(a) resident [^{F7}and domiciled but not ordinarily resident] in the United Kingdom, ^{F8}...

(b) resident and ordinarily resident but not domiciled in the United Kingdom, [^{F9}or]

[^{F10}(c) resident but neither ordinarily resident nor domiciled in the United Kingdom.]

(5) In the case of a person to whom this paragraph applies—

[^{F11}(a) any income arising outside the United Kingdom is to be taken into account, subject to any specific provision of these Regulations, regardless of the domicile or residence of the claimant; and]

(b) references to a sum being [^{F12}taken into account] are to be construed as including a sum which would be taxable if he were resident, ordinarily resident and domiciled in the United Kingdom.

[^{F13}(5A) Any income is to be taken into account, subject to any specific provision of these Regulations, notwithstanding the provision of any Order in Council under section 788 of the Taxes Act (double taxation agreements).]

(6) In the case of a claimant who would be chargeable to income tax but for some special exemption or immunity from income tax, income shall be calculated on the basis of the amounts which would be so chargeable but for that exemption or immunity.

[^{F14}(6A) Income paid to a claimant in a currency other than sterling shall be converted into sterling at the average of the exchange rates applicable for the conversion of that currency into sterling in the period of 12 months [^{F15}ending on 31st March] in the tax year in which the income arises.]

(7) In calculating income under this Part there shall be deducted ^{F16}...—

(a) [^{F17}the amount of] any banking charge or commission payable in converting to sterling a payment of income which is made in a currency other than sterling;

- (b) [^{F18}the grossed-up amount of] any qualifying donation (within the meaning of [^{F19}Chapter 2 of Part 8 of ITA (gift aid)]), made by the claimant or, in the case of a joint claim, by either or both of the claimants; ^{F20}... [^{F21}and]
- [^{F22}(c) the amount of any contribution made by the claimant, or in the case of a joint claim, by either or both of the claimants to a registered pension scheme together with the amount of any tax relief due on those contributions.]
- ^{F23}(d)
- [^{F24}(8) If—
 - (a) a claimant has sustained a loss in relation to a [^{F25}UK property business] or an overseas property business; and
 - (b) the relief to which he is entitled in accordance with [^{F26}section 120 of ITA (deduction of property losses from general income)] exceeds the amount of his property income or foreign income for tax credits purposes, for the year in question;

the amount of his total income for tax credit purposes, computed in accordance with the preceding provisions of this regulation, shall be reduced by the amount of the excess.

[^{F27}In this paragraph “UKproperty business” and “overseas property business” have the same meanings as they have in Chapter 2 of Part 3 ofITTOIA.]]

Textual Amendments

- F1** Words in reg. 3(1) omitted (6.4.2003) by virtue of The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(2)(a)**
- F2** Word in reg. 3(1) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(2)(b)**
- F3** Words in reg. 3(1) inserted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(2)**
- F4** Words in reg. 3(1) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(2)**
- F5** Words in reg. 3(3)(b) substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(3)**
- F6** Words in reg. 3(4) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(3)(a)**
- F7** Words in reg. 3(4)(a) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(3)(b)**
- F8** Word in reg. 3(4)(a) omitted (26.11.2003) by virtue of The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(3)(a)**
- F9** Word in reg. 3(4)(b) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(3)(b)**
- F10** Reg. 3(4)(c) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(3)(c)**
- F11** Reg. 3(5)(a) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(4)(a)**
- F12** Words in reg. 3(5)(b) substituted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(4)(b)**
- F13** Reg. 3(5A) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(5)**
- F14** Reg. 3(6A) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(6)**

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- F15** Words in reg. 3(6A) substituted (6.4.2007) by The Tax Credits (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/824), regs. 1, **9(2)**
- F16** Words in reg. 3(7) omitted (6.4.2003) by virtue of The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(7)(a)**
- F17** Words in reg. 3(7)(a) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(7)(b)**
- F18** Words in reg. 3(7)(b) inserted (6.4.2003) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2003 (S.I. 2003/732), regs. 1, **5(7)(c)**
- F19** Words in reg. 3(7)(b) substituted (16.5.2007) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2007 (S.I. 2007/1305), regs. 1, **4(2)**
- F20** Word in reg. 3(7)(b) omitted (26.11.2003) by virtue of The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(4)(a)**
- F21** Word in reg. 3(7)(b) added (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(3)(a)**
- F22** Reg. 3(7)(c) substituted (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(3)(b)**
- F23** Reg. 3(7)(d) omitted (6.4.2006) by virtue of The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **26(3)(c)**
- F24** Reg. 3(8) added (26.11.2003) by The Tax Credits (Miscellaneous Amendments No.2) Regulations 2003 (S.I. 2003/2815), regs. 1, **4(5)**
- F25** Words in reg. 3(8)(a) substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(4)(a)**
- F26** Words in reg. 3(8)(b) substituted (16.5.2007) by The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2007 (S.I. 2007/1305), regs. 1, **4(3)**
- F27** Words in reg. 3(8) substituted (6.4.2006) by The Tax Credits (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/766), regs. 1, **8(4)(b)**

Modifications etc. (not altering text)

- C1** Reg. 3(1) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 17(a)(i)(iv)**
- C2** Reg. 3(6A) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 17(b)**
- C3** Reg. 3(8)(b) modified (E.W.S.) (29.4.2013) by The Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), regs. 1(2), 17, **Sch. para. 17(c)**

Status:

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Changes to legislation:

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