

2002 No. 2173

TAX CREDITS

The Tax Credits (Payments by the Board) Regulations 2002

<i>Made - - - - -</i>	<i>20th August 2002</i>
<i>Laid before Parliament</i>	<i>21st August 2002</i>
<i>Coming into force - -</i>	<i>6th April 2003</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 24(2), (3), (4), (7) and (8), 65(1), (2) and (7) and 67 of the Tax Credits Act 2002(a), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax Credits (Payments by the Board) Regulations 2002 and shall come into force on 6th April 2003.

(2) These Regulations have effect in relation to payments of a tax credit, or any element of a tax credit, which must be made by the Board in relation to the tax year beginning with 6th April 2003 and subsequent tax years.

Interpretation

2. In these Regulations—

“the Act” means the Tax Credits Act 2002;

“the Board” means the Commissioners of Inland Revenue;

“employee” and “employer” have the meaning given by section 25(5) of the Act;

“married couple” has the meaning given by section 3(5) of the Act;

“period of award” shall be construed in accordance with section 5 of the Act;

“the relevant tax year” means the whole or part of the tax year for which an award of a tax credit has been made to a person or persons (referred to in section 24(4) of the Act);

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

“unmarried couple” has the meaning given by section 3(6) of the Act.

Child tax credit and child care element—member of a couple prescribed for the purposes of section 24(2) of the Act

3.—(1) This regulation has effect in relation to payments of—

(a) child tax credit; and

(b) any child care element of working tax credit.

(a) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to the word prescribed.

(2) Subject to regulation 5, the member of a married couple or an unmarried couple prescribed by paragraph (3) is prescribed for the purposes of section 24(2) of the Act.

(3) The member of a married couple or an unmarried couple prescribed by this paragraph is—

- (a) the member who is identified by both members of the married couple or unmarried couple as the main carer for the children and qualifying young persons for whom either or both of the members is or are responsible;
- (b) in default of such a member, the member who appears to the Board to be the main carer for those children and qualifying young persons.

(4) “Children” means persons who have not attained the age of sixteen or who fall within the terms of regulation 4 of the Child Tax Credit Regulations 2002(a).

(5) “Qualifying young persons” means persons, other than children, who—

- (a) have not attained the age of nineteen, and
- (b) satisfy the conditions in regulation 5(3) and (4) of the Child Tax Credit Regulations 2002.

(6) Where payments are being made to the member of a married couple or an unmarried couple prescribed by virtue of paragraph (3) and the members of the married couple or unmarried couple jointly give notice to the Board that, as a result of a change of circumstances, the payments should be made to the other member as the main carer, the other member shall be treated as prescribed by virtue of paragraph (3).

Working tax credit (excluding any child care element)—member of a couple prescribed for the purposes of section 24(2) of the Act

4.—(1) This regulation has effect in relation to payments of working tax credit other than payments of any child care element.

(2) Subject to regulation 5, the member of a married couple or an unmarried couple prescribed by paragraph (3) is prescribed for the purposes of section 24(2) of the Act.

(3) The member of a married couple or an unmarried couple prescribed by this paragraph is—

- (a) if only one member of the married couple or unmarried couple is engaged in remunerative work, that member;
- (b) if both members of the married couple or unmarried couple are engaged in remunerative work—
 - (i) the member elected jointly by them; or
 - (ii) in default of any election, such of them as appears to the Board to be appropriate.

(4) Where payments are being made to the member of a married couple or an unmarried couple prescribed by virtue of paragraph (3)(b) and the members of the married couple or unmarried couple jointly give notice to the Board that, as a result of a change of circumstances, they wish payments to be made to the other member, the other member shall be treated as prescribed by virtue of paragraph (3)(b).

(5) For the purposes of paragraph (3), a member of a married couple or an unmarried couple is engaged in remunerative work if—

- (a) he is engaged in qualifying remunerative work; or
- (b) he works not less than 16 hours per week and the other member of the married or unmarried couple is engaged in qualifying remunerative work.

(6) “Qualifying remunerative work”, and being engaged in it, have the meaning given by regulation 4 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b).

(a) S.I. 2002/2007.
(b) S.I. 2002/2005.

Member of a couple prescribed for the purposes of section 24(2) of the Act where one of the members of the couple has died

5.—(1) This regulation applies where one of the members of a married couple or an unmarried couple has died.

(2) The member of the married or unmarried couple prescribed by paragraph (3) is prescribed for the purposes of section 24(2) of the Act.

(3) The member of the married or unmarried couple prescribed by this paragraph is the member who survives.

(4) For the purposes of this regulation, where persons have died in circumstances rendering it uncertain which of them survived the other—

- (a) their deaths shall be presumed to have occurred in order of seniority; and
- (b) the younger shall be treated as having survived the elder.

Person prescribed for the purposes of section 24(3) of the Act where an award of a tax credit is made on a claim which is made by one person on behalf of another

6. For the purposes of section 24(3) of the Act, the person prescribed is—

- (a) the person by whom the claim on behalf of another was made; or
- (b) if at any time the Board do not consider it appropriate for payments of the tax credit to be made to that person, the person on behalf of whom the claim was made.

Prescribed circumstances for the purposes of section 24(4) of the Act

7.—(1) Either of the circumstances prescribed by paragraphs (2) and (3) are prescribed circumstances for the purposes of section 24(4) of the Act.

(2) The circumstances prescribed by this paragraph are where—

- (a) a claim for a tax credit for the next tax year has been made or treated as made by the person or persons by the date specified for the purposes of subsection (4) of section 17 of the Act in the notice given to him or them under that section in relation to the relevant tax year; and
- (b) the Board have not made a decision under section 14(1) of the Act in relation to that claim.

(3) The circumstances prescribed by this paragraph are where—

- (a) a claim for a tax credit for the next tax year has not been made or treated as made by the person or persons; and
- (b) the Board have not made a decision under section 18(1) of the Act in relation to the person and persons for the relevant tax year.

Time of payment by way of a credit to a bank account or other account

8.—(1) Subject to paragraph (3), this regulation applies where the tax credit or element is to be paid by way of a credit to a bank account or other account notified to the Board.

(2) The tax credit or element shall be paid—

- (a) each week; or
- (b) every four weeks,

in accordance with any election given by the person to whom payment is to be made.

(3) In the case of an employee entitled to working tax credit, this regulation does not apply where the making of payments of the tax credit by the Board is in consequence of the employer—

- (a) not being required to make payments of the tax credit in accordance with the Working Tax Credit (Payment by Employers) Regulations 2002(a) and with any notices given by the Board; or

(a) S.I. 2002/2172.

- (b) failing to make such payments in accordance with those Regulations and with any such notices.
- (4) This regulation is subject to regulations 10 and 11.

Time of payment other than by way of a credit to a bank account or other account etc.

- 9.—(1) This regulation applies where—
- (a) the tax credit or element is to be paid other than by way of a credit to a bank account or other account notified to the Board; or
 - (b) in the case of an employee entitled to working tax credit, the making of payments of the tax credit by the Board is in consequence of the employer—
 - (i) not being required to make payments of the tax credit in accordance with the Working Tax Credit (Payment by Employers) Regulations 2002 and with any notices given by the Board; or
 - (ii) failing to make such payments of the tax credit in accordance with those Regulations and with any such notices.
- (2) The tax credit or element shall be paid at such times as appear to the Board to be appropriate.

Single payment of small sums of tax credit

10. Where the tax credit or element is payable at a weekly rate of less than £2.00, the tax credit or element may be paid by way of a single payment and at such time, and in such manner, as appear to the Board to be appropriate.

Postponement of payment

11.—(1) The Board may postpone payment of the tax credit or element in any of the circumstances specified in paragraphs (2) and (3).

(2) The circumstances specified in this paragraph are where there is a pending determination of an appeal against a decision of an appeal tribunal, a Social Security Commissioner or a court relating to—

- (a) the case in question; or
- (b) another case where it appears to the Board that, if the appeal were to be determined in a particular way, an issue would arise as to whether the award in the case in question should be amended or terminated under section 16(1) of the Act.

(3) The circumstances specified in this paragraph are where confirmation is pending of—

- (a) the details of a bank account or other account by way of a credit to which payment is to be made; or
- (b) the address of the person to whom payment is to be made,

where it appears to the Board that such details or address as were previously notified to them are incorrect.

(4) For the purposes of paragraph (2), the circumstances where a determination of an appeal is pending include circumstances where a decision of an appeal tribunal, a Social Security Commissioner or a court has been made and the Board—

- (a) are awaiting receipt of the decision;
- (b) in the case of a decision by an appeal tribunal, are considering whether to apply for a statement of reasons or have applied for, and are awaiting receipt of, a statement of reasons; or
- (c) have received the decision or statement of reasons and are considering—
 - (i) whether to apply for permission to appeal; or
 - (ii) where permission is not needed or has been given, whether to appeal.

(5) “Appeal tribunal” has the meaning given by section 63(10) of the Act.

(6) “Social Security Commissioner” has the meaning given by section 63(13) of the Act.

Amounts of payments

12.—(1) The tax credit or element shall be paid in accordance with the most recent decision by the Board under section 14(1), 15(1) or 16(1) of the Act.

(2) Where the tax credit or element is to be paid other than by way of a single payment, it shall be paid so far as possible in such amounts as will result in the person to whom payment is to be made receiving regular payments of similar amounts over the entire period of award.

(3) Where an award of tax credit is amended, the total amount paid prior to the award being amended shall be taken into account by the Board in determining the amount of any further payments for the remainder of the period of award.

(4) Where payments under section 24(4) of the Act are to be made, the rate at which the person or persons were entitled to the tax credit for the relevant tax year shall be taken into account by the Board in determining the amounts of those payments.

Manner of payment

13.—(1) Subject to paragraph (2), the tax credit or element shall be paid by way of a credit to a bank account or other account notified to the Board by the person to whom payment is to be made.

(2) Where it is not possible for the tax credit or element to be paid by way of a credit to a bank account or other account notified to the Board by the person to whom payment is to be made, the tax credit or element may be paid in such manner as appears to the Board to be appropriate.

(3) Subject to regulation 14, if no bank account or other account has been notified to the Board, the tax credit or element shall be paid in such manner as appears to the Board to be appropriate.

Entitlement to tax credit or element dependent on a bank account or other account having been notified to the Board

14.—(1) Subject to paragraphs (2) and (3), if by the end of the relevant period no bank account or other account has been notified to the Board by the person to whom payment of a tax credit or element is to be made, that person shall cease to be entitled to the tax credit or element for the remainder of the period of the award until a bank account or other account is notified to the Board.

(2) Where a person who has ceased to be entitled to a tax credit or an element by virtue of paragraph (1) subsequently notifies to the Board a bank account or other account, paragraph (1)—

- (a) shall not have effect for the period of three months prior to the date on which the Board receive the notification; and
- (b) shall cease to have effect for the remainder of the period of award.

(3) Where there are exceptional circumstances which are expected to result in a person not being able to obtain a bank account or other account throughout the period of award, paragraph (1) shall not have effect in relation to that person's entitlement to a tax credit or element for the period of award.

(4) "The relevant period" means whichever of the following periods ends latest—

- (a) the period of 8 weeks beginning on the date on which the Board gives notice in writing for the purposes of this regulation to the person to whom payment is to be made of the requirement that a bank account or other account be notified to them;
- (b) in cases where, within the period mentioned in sub-paragraph (a), the person to whom payment is to be made—
 - (i) requests from the Board authority to open an account for which such authority is required; and
 - (ii) provides sufficient information from which the Board can give that authority, the period of 3 weeks beginning on the date on which the Board gives that authority;

- (c) in cases where the person to whom payment is to be made has a reasonable excuse—
- (i) for not being able to take all necessary steps to obtain a bank account or other account within whichever of the periods set out in sub-paragraph (a) or (b) ends latest; or
 - (ii) for not being able to notify to the Board the bank account or other account within that period,
- the period ending with the date by which the account can reasonably be expected to be notified to the Board.
- (5) “Writing” includes writing produced by electronic communications that are approved by the Board.

20th August 2002

Dave Hartnett
Ann Chant
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 24(6) of the Tax Credits Act 2002 (c. 21) (“the Act”) provides that, subject to section 25 of the Act, payments of a tax credit must be made by the Commissioners of Inland Revenue (“the Board”). Section 25 of the Act provides for regulations to be made requiring employers to pay working tax credit.

The Working Tax Credit (Payment by Employers) Regulations 2002 (S.I. 2002/2172) are being made under section 25 of the Act at the same time as these Regulations. These Regulations make provision in relation to the payment of tax credits by the Board.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulations 3, 4 and 5 prescribe the member of a married couple or an unmarried couple to whom payment is to be made where an award of a tax credit is made to such a couple. Regulation 3 relates to child tax credit and the child care element of working tax credit and regulation 4 relates to working tax credit. Regulation 5 deals with cases where one member of such a couple dies.

Regulation 6 prescribes the person to whom payment is to be made where a claim for a tax credit was made by one person on behalf of another.

Regulation 7 prescribes circumstances in which payments may continue to be made for any period, after the tax year for which an award of tax credit has been made to a person or persons, within which the person is or the persons are entitled to make a claim for the tax credit for the next tax year.

Regulations 8 to 11 provide for the time when a tax credit is to be paid. Regulation 8 relates to payments by way of a credit to a bank account or other account and regulation 9 relates to payments by other means. Regulation 10 provides for a single payment where the weekly rate of the tax credit is less than £2.00. Regulation 11 provides for the postponement of payment in certain circumstances.

Regulation 12 provides for the amount of payments.

Regulation 13 provides for the manner of payments. The main manner of payment is by way of a credit to a bank account or other account.

Regulation 14 provides for entitlement to a tax credit to be dependent on a bank account or other account having been notified to the Board.

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