
STATUTORY INSTRUMENTS

2014 No. 885

The Tax Credits (Late Appeals) Order 2014

Amendment of the Tax Credits Act 2002

- 2.—(1) The Tax Credits Act 2002(1) is amended as follows.
(2) After section 39 (exercise of right of appeal)(2) insert—

“Late appeals

39A.—(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 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.

(1) 2002 c. 21.

(2) Section 39 was amended by S.I. 2009/56. Part 1 to be repealed by section 147 of, and Part 1 of Schedule 14 to, the Welfare Reform Act 2012 (c. 5) with effect from a date to be appointed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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.”

(3) Where, in respect of a late appeal made on or after 1 April 2013 and before this Order comes into force, the Commissioners for Her Majesty’s Revenue and Customs have before this Order comes into force notified the appellant that they consider the appeal should proceed even though it was not made within the period specified in section 39(1) of the Tax Credits Act 2002, that notification is to have effect after this Order comes into force as a decision under section 39A to treat the appeal as made in time.