

What happens if we pay you too much tax credit ?

General information **[DN. This may not necessarily appear at the front of the booklet, but gives an indication of the kind of general information we propose to include.]**

We produce a wide range of leaflets. Some you might find useful are

WTC1 Child Tax Credit and Working Tax Credit. An introduction

WTC2 Child Tax Credit and Working Tax Credit. A guide

WTC5 Help with the costs of childcare. Information for parents and child care providers.

WTC6 Child Tax Credit and Working Tax Credit. Other types of help you may be able to get.

WTC/AP How to appeal against a tax credit decision or award.

Our leaflets are available at www.inlandrevenue.gov.uk and from any Inland Revenue office or Enquiry Centre. Most offices are open to the public from 8.30am to 5pm, Monday to Friday. Addresses are in your local phone book under "Inland Revenue" and at WWW.inlandrevenue.gov.uk/local.

You can get most of our leaflets from our Orderline, seven days a week (except Christmas Day, Boxing Day and New Year's Day) by

- phone or textphone (for Minicom users) on 0845 9000 404
- fax on 0845 9000 604
- e-mail at Saorderline.ir@gtnet.gov.uk
- writing to PO Box 37, St Austell, Cornwall, PL25 5YN.
- Your library or Citizens Advice Bureau may also have copies of some of our leaflets, but may not have them all.

We have a full range of services for people with disabilities, including leaflets in Braille, audio and large print. For details, please ask your local Inland Revenue office or Enquiry Centre.

Help and advice

If you would like advice about tax credits, you can

- phone our Helpline on **0845 300 3900** (England, Scotland and Wales) or **0845 603 2000** (Northern Ireland)
- textphone the Helpline on **0845 300 3909** (England, Scotland and Wales) or **0845 607 6078** (Northern Ireland)
- visit any Inland Revenue Enquiry Centre.

Your tax credit award

If you have been receiving Working Tax Credit or Child Tax Credit or both, after the end of the tax year we will compare the amount of tax credit you were entitled to, with what we have paid you during that year. A tax year begins on 6 April and ends on the following 5 April. If we find that you were entitled to more tax credit than you were paid, we will pay the extra as a lump sum. If you have been paid too much tax credit, we will usually expect you to pay it back. This code of practice explains what will happen if we find that you have been paid too much tax credit.

How an overpayment might arise

If you have been receiving tax credits for a tax year, we may find, during the year or after the end of it, that you have been paid more than you were entitled to. This could be because:

- there was a delay before we knew about a change in your circumstances that reduced your award or

- your income rose by more than £2,500 in the tax year just ended and we did not know about it during the year or it rose by more than you expected; or
- you had told us about a fall in your income during the year but your income fell by less than you expected or;
- the information your award was based on was wrong, for whatever reason.

We want people to be paid the tax credits they are entitled to. But if we have paid you too much, we will usually expect you to pay back the overpaid tax credit. We explain in the following sections how we will go about collecting overpayments of tax credit.

In some circumstances, we will allow you to pay back what you owe in instalments over a period of time. Where making payments would cause hardship, we may decide not to pursue all or part of the overpayment. See the section, *If you have difficulty paying*, on page xx).

We will not ask you to pay back an overpayment which is the result of a mistake by us (see the section, *Official error*, on page xx).

Couples must claim tax credits jointly, and we can ask either you or your partner to pay back any overpayment. We say more about how we will recover overpayments from couples on page xx below, including when we will not ask one partner to pay anything.

If we find out during the year that we are paying you too much

If we find out during the year that we are paying you too much tax credit we will:

- reduce the amount we are paying you from then on, so that we pay you the right amount of tax credit for the year; or

- not pay you any more tax credit for the rest of the year, if we have already paid you as much as, or more than, you are entitled to – otherwise, we would be increasing the amount you would owe us at the year end. If we have already paid you more than you are entitled to, we may also ask you to pay back the extra after the end of the year, once all the relevant information about your income and circumstances is available (see the section, *If we find an overpayment at the end of the year*, on page xx below).

If we find during the year that you were not entitled to a tax credit at all, we will stop your award of that credit. You will be expected to pay back all the payments of that tax credit we have made.

If we find an overpayment after the end of the year

After the end of the year, once all the information about your income and circumstances is available, we will compare what we have paid you with what you were entitled to. We will write to you setting out the information we have about your claim and asking you to confirm that it is still right or, if not, to correct and update the position. We will then send you a notice about your final tax credit entitlement for the year just ended. If we have paid you too little tax credit, we will pay out the extra as a lump sum. If we have paid you too much tax credit, we will usually expect you to pay it back. In the notice finalising your award for the year, we will tell you the amount you have been overpaid and explain why it arose. We will also tell you how we expect you to pay it back.

Questioning the amount due

If you disagree with our decision during the year that you are entitled to less tax credit, or that you were not entitled to a tax credit at all, you can appeal against it. You can also appeal if you disagree with our decision about your tax credit entitlement after the end of the year.

You have 30 days from the date shown on the notice of our decision in which to appeal. You should make any appeal to the Tax Credit Office, Preston, PR1 0SB. (In Northern Ireland, please make any appeal to the Tax Credit Office, Dorchester House, 52-58 Great Victoria Street, Belfast BT2 7WF.) If you want more information about how to make an appeal, please ask for our leaflet WTC/AP "How to appeal against a tax credit decision or award".

Overpayments resulting from an incorrect claim

During or after the end of the year, we may look into your claim to see if you have received the right amount of tax credits.

If we examine your tax credit claim and find that we have paid you too much tax credit, you may be asked to pay back the overpayment plus interest and a penalty. But we can only ask you to pay interest or a penalty if the overpayment arose because you made a claim or told us something that was wrong and you did so fraudulently (knowing it was wrong) or negligently (because you did not take enough care). We may charge financial penalties, in addition to asking you to pay back the overpayment and any interest, if

- our checks showed that you had told us something that was wrong and :
 - you did so fraudulently or negligently, or
 - you did not tell us about something you were required to tell us in good time.

The notice we send you when we make an award of tax credits will tell you about changes in your circumstances which you are required to tell us about.

If we decide to look into your claim, we will send you our leaflet about what happens when we do this.

How we ask you to pay us

If we find at the end of the year that we have paid you too much tax credit, we can ask you to pay it back by one of the following methods:

- deduction from a continuing tax credit award
- making a direct payment
- reducing your PAYE code to collect the amount overpaid. But we will not be able to collect overpayments from the tax year 2003/4 in this way.

The method of recovery we use will depend on your circumstances. We explain below how we will decide.

Deducting an overpayment from an award for the next year

Usually, we will ask you to pay back overpaid tax credit from a previous year by taking the money from a tax credit award you are entitled to for the following year. Depending on the size of your award, we will not take more than a certain percentage of your tax credits for the next year to pay off what you owe us, though we will usually still expect you to pay back the rest at some point.

The maximum amounts by which we would reduce your award are:

- for claimants receiving the maximum award possible for their circumstances, 15%
- for claimants receiving only the family element of Child Tax Credit, 100%
- for all other claimants, 25%.

We cannot collect an overpayment by reducing future tax credits if there is no tax credit award in place. For example, where entitlement has ended because a couple have broken up, or someone is no longer working the hours necessary to qualify for Working Tax Credit. In these cases, we will instead

- ask you to pay back the money direct; or

- collect the amount you owe by reducing your PAYE code. This is similar to the way we would collect an underpayment of tax. We will not be able to do this for 2003/4 overpayments. But we will make special arrangements about paying back overpayments for that year with people who could otherwise have had their overpayment collected by this method.

Asking you for payment direct

If we decide to ask you to pay back all or part of a tax credit overpayment direct, we will write to you setting out the amount you owe. We will ask you to pay within 30 days from the date on which we write to you. We will also send you a payslip.

If you have difficulty paying

If you do not expect to be able to pay the full amount we have asked you for when it is due, you should tell us immediately. Contact the Helpline at the number shown on your end of year notice, notice to pay or reminder.

When you contact us, we will ask

- for the reference number shown on the latest correspondence from us and any other information we need to identify the right tax credit bill,
- how much you can pay on the date the payment is due, and
- when you will be able to pay the rest.

Citizen's Advice or other local advice centres can help you to work out what level of payment you could reasonably afford.

Allowing payment over time

We may allow you a short period to put together the money to settle the debt in full, or we may agree to let you pay by instalments over a longer period.

If we agree to let you pay by instalments, you must tell us if your circumstances alter, such as a change of address or a change in the level of your income. If you cannot make any agreed payment in full or on time, you must also tell us immediately and let us know why. We may review the payment arrangement from time to time.

If you do not keep to the payment arrangement without telling us, we will have to pursue what you have not paid in the same way as any other debt, taking legal proceedings to recover the debt if necessary (see page x below).

Hardship

After considering the facts in individual cases, we may decide not to collect all or part of an overpayment of tax credit if it would cause you and your family hardship. And we may take account of the fact that the amount of your overpayment is greater than it would have been if you had claimed tax credits correctly.

What factors we will take into account

We will look sympathetically at your proposals for paying us what you owe but we must take account of all the circumstances before we make a decision. We may need to talk to you before we make a decision and may ask for more information.

When we consider whether to allow you to pay over a period of time or decide not to recover all or part of an overpayment at all, we will take account of

- your current and future income and essential living expenses
- your savings, investments and other assets which you could use over the short to medium term to make the payments - these might make it more appropriate to delay payment than not ask for payment at all

- your other liabilities, for example, repayments of your mortgage, overpayments of social security benefits or other debts
- what future payments you may have to make to us, and how paying the current debt over a period of time might affect them
- how long it will take you to pay back the overpayment
- your previous payment history with us
- whether paying what you owe us would result in you not being able to afford essential services, such as gas, electricity or water, immediately or over time, because you would not be able to continue paying those bills if you were paying back your debt to us
- whether you have a child under one or a chronically ill or disabled person in the family whose health could be affected by your paying back the debt, even over an extended period
- any other factors which are relevant.



If you do not make your payment to us

If you miss the date for making your payment to us, we will get in touch to remind you and give you the chance to pay before we take further action.

If you still do not pay what you owe, we will contact you again. This may be by letter, by telephone, by visiting you at home or at your business premises if you are self-employed. We may ask you to call at our offices. You can call at a local office convenient for you - for example, close to your home or work.

We will deal promptly with letters from you or from anyone acting for you and will normally reply within 28 days. If we cannot reply quickly, for instance because of the amount or complexity of the material you have sent us, or because we have to involve another office, we will let you know the reason for the delay.

If we visit you, we will show you identification to prove who we are.

What we will do if you continue not to pay

Our action will depend upon the circumstances and, in particular, the amount you owe, your previous payment history, your financial circumstances and the extent to which you have kept us informed.

If we cannot agree a payment arrangement or you have not replied to our requests for payment, we will take steps to enforce payment. Any enforcement action may involve legal costs which you have to pay.

There are several types of enforcement action we might take. We may

- take possession of, remove and sell your personal property - this is called distraint. In England, Wales and Northern Ireland, we do not need a court order to do this. In Scotland, we may apply to the Sheriff Court for an Exceptional Attachment Order against your personal property.
- issue a summons in the magistrates' court or a claim in the County Court (in Northern Ireland, the High Court). In Scotland, we may apply for a decree against you by issuing a summons in the Sheriff Court.
- if you still do not pay, take bankruptcy (in Scotland, sequestration) action against you. We cannot take such proceedings unless the total of the debts you owe the Revenue is more than £750 (in Scotland £1,500).

Couples

Tax credits can be claimed by

- individuals
- married couples who are living together, or
- a man and a woman who are living together as husband and wife.

For couples, you and your partner must claim tax credits jointly. You both take responsibility for the information in the claim and for changes you tell us about. And if you have been paid too much tax credit, we can ask either of you to pay us back the amount we have overpaid you.

Where we can, we will recover an overpayment by reducing a continuing tax credit award to you and your partner. If we have to ask you to pay direct, our first step will be to ask you jointly to pay us the money.

At a later date, after looking at the facts in individual cases, we may also ask the partners in a couple to pay us different amounts of the overpayment, or ask one partner to pay us the whole of the amount. But we would only do this if, in an individual case, there were a difference between the partners' ability to pay. And, in law, both partners would remain liable to pay the full amount unless we sent out new notices saying otherwise.

In a case in which a couple had broken up and owed money in relation to tax credits before the break-up, we would look at each case on its facts and take into account the income and expenses of each of the former partners in reaching a decision.

There may also be cases in which tax credits have been overpaid because of fraud or neglect by one of the partners. If it can be shown that the other partner did not know about, and could not reasonably have been expected to know about, the other partner's fraud or neglect, we will not ask the innocent partner to repay the overpayment arising from it. We would send out new notices about the overpayment in these cases.

Official error

If we find that because we have made a mistake we have not paid you all the tax credit you are entitled to, we will pay the extra tax credit as a lump sum.

Mistakes by us that lead to overpaid tax credit will often happen because you gave us some information and we did not act upon it. If you tell us about a change, you can expect to get a revised award notice from us within a few days. But if you tell us something and we do not act upon it within [3] months, and you could reasonably think your tax credit award was correct, we will not ask you to pay back the additional tax credit you were paid because of our mistake. This would include cases where we instructed your employer to pay you the wrong amount of Working Tax Credit, provided you could reasonably think you were being paid the right amount.

It would have to be reasonable of you to think that your tax credit award was correct. For example, if we were paying you tax credits on the basis of the wrong number of children, that is the sort of thing we would expect you to spot on your award notice and tell us about. And we would also expect you to tell us if your employer was paying you more tax credit than your award notice said you were entitled to.

We will take the same approach where the mistake that led to the overpayment was made by another Government Department.

Who will we talk to about your tax credit affairs ?

Confidentiality

You have the right to exactly the same high degree of confidentiality about tax credit repayment matters as you have about all other aspects of your tax and tax credit affairs.

If you visit our offices, you can, if you wish, discuss your affairs in a private room where you cannot be overheard by other members of public.

Representation by someone else

If you prefer, we will deal someone else on your behalf. This might be an accountant or other professional adviser, a voluntary sector adviser (such as Citizens' Advice), or a friend or relative. If you want us to write to them or to discuss your affairs with them over the telephone, we will need a short letter, signed by you, which confirms that you have authorised us to do so. The letter should include your full name, address, postcode and any tax credit reference number you have. If you have claimed tax credits as a couple and you want us to discuss matters which are relevant to both of you with someone else, the letter will need to be signed by both you and your partner.

If we do not have such a letter from you, another person may still phone one of our contact centres on your behalf, as long as we are satisfied that you are present with them at the time and you confirm that you are happy for us to speak to them. For couples, we will need both you and your partner to confirm that you are happy for us to speak to someone else on your behalf if you want us to discuss matters which are relevant to both of you.

You will always remain personally responsible for the information provided by another person on your behalf and for paying back overpaid tax credit, and, if we cannot make any progress with them, we will contact you directly. We will also continue to send you copies of important documents as well, unless an appointee is acting for you.

Keeping you informed

You can ask us at any time to explain your rights, or why we have taken a particular action, or what you are obliged to do under the law in any given situation. Our leaflet IR141 'Open Government' also gives more information about this.

We will always try to get in touch with you before we take enforcement action. And we will always provide you with a written explanation of what will happen if we do have to take action of this sort.

How to complain

If you have a complaint and matters are not resolved to your satisfaction so that you want to take things further, please tell us. To help you complain, and to avoid adding to the inconvenience our mistakes might already have caused, we have a complaints procedure which is straightforward and easy to use.

You can complain in writing, by phone or fax, or by visiting your local office. We will try to settle your complaint as quickly as possible. So if you have a complaint, we recommend you follow the steps below.

Step one

When you have a complaint, it is usually best to contact the person you have been dealing with. However, if you prefer to contact that person's immediate manager, or the person in charge of the office, we will tell you who to contact.

Step two

If you cannot settle your complaint at step one, contact the Director with overall responsibility for the office you deal with. The office you have been dealing with will tell you who to contact, and the names and addresses of Directors are also [shown below](#). The Director will review your complaint objectively.

Step three

If you're not happy with the Director's response you can ask the Adjudicator to look into your complaint. The Adjudicator is a fair and unbiased referee whose recommendations are independent. You can contact the Adjudicator at:

The Adjudicator's Office

Haymarket House

28 Haymarket

London SW1Y 4SP.

Phone: **020 7930 2292** (typetalk facilities are available)

Fax: **020 7930 2298**

For more information ask for the [booklet AO1](#) or contact the Adjudicator by E-mail at adjudicators@qtnet.gov.uk, or visit the website at www.adjudicatorsoffice.gov.uk.

You can at any time ask your (or any) MP to ask the Parliamentary Ombudsman to investigate your complaint. The Ombudsman is independent and can also consider complaints about the Adjudicator's Office. If you want more information about the Parliamentary Ombudsman's services, please contact:

The Parliamentary Commissioner for Administration

Millbank Tower

Millbank

London SW1P 4QP

Helpline: **0845 015 4033**

Fax: **020 7217 4160**

You can also contact the Ombudsman by E-mail at opca-enqu@ombudsman.org.uk or visit the website at www.ombudsman.org.uk for more information.