HM Revenue & Customs

What happens if we've paid you too much tax credit?

Code of Practice

COP26

Contents

Introduction 1

When you can appeal 1

When you should dispute an overpayment 1

How we work out the amount of your tax credits 2

How an overpayment happens 2

Changes in your circumstances or income 3

If you start living with a partner, you separate from your partner or your partner dies 3

Our responsibilities and yours 4

If we fail to meet our responsibilities 5

If you fail to meet your responsibilities 6

If we both fail to meet our responsibilities 6

If it takes you some time to tell us we didn't meet our responsibilities 6

Exceptional circumstances 7

Challenging the recovery of an overpayment 7

How to dispute an overpayment 7

Historic debt 8

Where we got a decision wrong 9

How we decide whether you should pay back some or all of an overpayment 9

If you still think you shouldn't pay back an overpayment 10

Paying back an overpayment 11

From an ongoing tax credits award 11

By direct payment 12

From an ongoing tax credits award and by direct payment 12

Asking for more time to pay back a direct payment 12

By an adjustment to your tax code 12

From an ongoing Universal Credit award 12

Financial hardship 13

If you can't pay for your essential living expenses 13

If you and your partner separate 13

Contact us 15

Customer service 15

Your rights and obligations 15

We have a range of services for people with disabilities, including guidance in Braille, audio and large print. Most of our products are also available in large print. Please contact us on any of our phone helplines if you need these services.

This leaflet explains why overpayments happen and how to pay them back. It also tells you when you don't have to pay them back and how to dispute an overpayment.

Introduction

An overpayment means we've paid you more money than you're entitled to.

When you can appeal

You can **appeal** if you think the amount of tax credits you were awarded was wrong. You must normally do this within 30 days of the date shown on your decision notice.

You can also appeal against any penalty we've imposed in connection with your tax credits claim or if we decide to charge interest on any overpayment.

We'll always tell you on your decision notice if you have a right of appeal.

To find out more, including how to make an appeal, go to **hmrc.gov.uk/taxcreditsappeals**
You can also see our leaflet WTC/AP *What to do if you think our decision is wrong*. You can get a copy:

- online at **hmrc.gov.uk/leaflets/wtc_ap.pdf** or
- if you do not have access to the internet, by phoning our helpline (see page 15).

When you should dispute an overpayment

You should **dispute** our decision to recover an overpayment if you don't agree that you should pay back the overpayment.

For more information on how to dispute an overpayment and by when, see page 7 of this leaflet.

Please contact us (see page 15) if you:

- don't agree that you've been overpaid, or
- don't know if you should **appeal** against a decision that has been made or **dispute** a decision to recover an overpayment.

How we work out the amount of your tax credits

Tax credits depend on your income and your family circumstances. When your income or family circumstances change then your entitlement or the amount we pay you may change.

We pay you tax credits for a tax year - from 6 April one year to 5 April the next. When we first work out what to pay you, we look at your family's circumstances now and your income for the previous tax year. If you think your income for the current tax year is going to be lower than in the previous year you can give us an estimate of what it will be. If we use this lower figure it is important you tell us if your income is going to be higher. If you don't you are likely to be overpaid.

After 5 April each year, we send you a renewal pack asking you to:

- check the information we hold about you
- tell us how much income you had in the previous tax year.

You should complete and return your renewal form as quickly as possible. We'll then work out the actual amount due to you for the year that has just ended and also the amount for the year that started on 6 April.

How an overpayment happens

An overpayment can happen if:

- you don't give us the right information either when you claim or when you renew your claim at the end of the year
- you're late telling us about a change in your circumstances
- your income in 2013-14 is more than £5,000 higher than it was in 2012-13 (more than £10,000 prior to 2012-13 or more than £25,000 prior to 2011-12)
- you report an estimated current year income which turns out to be too low
- you give us wrong information when you tell us about a change in your circumstances or income
- we make a mistake when we record the information you give us
- we don't act on information you give us.

Changes in your circumstances or income

You should keep us up to date with any changes in your income and your family circumstances. The law says that you must tell us about certain changes **within one month** of them happening.

Sometimes it might not be clear exactly when there has been a change so you must tell us **within one month** of the date when you realised a change has happened.

You should use the checklist that we sent with your award notice to check what changes you need to tell us about. If you need to tell us about a change, you may find it helpful to keep a note of the date you contacted us, the name of the person you spoke to and details of the change.

If you start living with a partner, you separate from your partner or your partner dies

After you tell us about a change we'll work out the new amount of tax credit payments you're due and send you a new award notice.

You must let us know **within one month** if:

- you marry or enter into a civil partnership or start living with someone as though you are married or in a civil partnership
- you are married, or in a civil partnership, and you separate legally or in circumstances likely to be permanent
- you stop living with someone as though you are married or in a civil partnership
- your partner dies.

Your claim will legally end in these circumstances. If you are still able to claim tax credits, you will need to make a new claim. If you do make a new claim, it may be backdated up to one month.

The longer you delay telling us about this type of change, the bigger any overpayment may be. If you have started a new claim we may consider reducing the amount that you have to pay back. We will work out how much you would have been paid in your new claim if you had told us about the change on time and take that amount off your overpayment.

Our responsibilities and yours

To help get your award right and to help avoid building up an overpayment it's important that we meet our responsibilities and you meet yours.

Our responsibilities are:

- **When you contact us for information we should** give you correct advice based on the information you give us. We'll offer you support, for example, if you want us to explain your award notice to you, we'll talk you through it in detail.
- **When you make or renew your claim we should** accurately record and use the information you give us to work out your tax credits and pay you the correct amount.
- **When we send you an award notice we should** include information you've given us about your family and your income. If you tell us that there is a mistake or something missing on your award notice, we should put it right and send you a corrected award notice.
- **When you contact us to tell us about a change of circumstance we should** accurately record what you've told us and send you a new award notice **within 30 days**. The 30 days doesn't start until we get all of the information we need from you to make the change. It is therefore important that you give us all of the information when you tell us about a change.

Your responsibilities are:

- **When you make or renew your claim you should** give us accurate, complete and up-to-date information.
- **You should tell us about any changes of circumstance throughout the year** so we have accurate and up-to-date information. The law says you must tell us about certain changes **within one month** of them happening – you should use the checklist we sent with your award notice to check what these changes are. To reduce the chance of building up an overpayment, we recommend that you tell us about any changes in income as soon as possible.
- **Each time you get an award notice you should** use the checklist we send with it. You should check all the items listed and tell us if anything is wrong, missing or incomplete. You must tell us about some changes **within one month** of them happening – these are listed on the back of the checklist.

The main details we expect you to check are:

- whether it's a joint award (for you and your partner) or a single award (based on your individual circumstances)
- the hours you work
- whether you get Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or Pension Credit
- that a disability element is shown if you, or anyone in the household, is entitled to it
- the number and age of any children in your household
- any childcare costs
- your total household income for the period shown on the award notice.

We'll send you a corrected award notice if you tell us anything is wrong, missing or incomplete. **If you don't get an award notice within 30 days of telling us about a change in circumstance let us know as soon as possible.**

- **You should check that the payments you get match** what we said they should be on your award notice. You should tell us if you get any payments that don't match what is shown on your award notice.
- **If you spot a mistake on your award notice you should tell us within 30 days** of getting it. Please make a note of when you got your award notice and when you told us about the mistake. We may ask you for this information to show that you acted **within 30 days**.

If you had difficult personal circumstances that meant you couldn't check your award notice, or bank payments, for example a member of your family has been seriously ill, let us know as soon as possible.

If you don't understand any award notice phone our helpline (see page 15).

If we fail to meet our responsibilities

If we fail to meet our responsibilities, but you meet **all** of yours, we won't ask you to pay back all of an overpayment caused by our failure.

However – you must tell us about any mistakes on your award notice within 30 days of getting it. If you do, then you won't be responsible for an overpayment caused by our mistake. If you tell

us about a mistake **more than 30 days** after getting your award notice we may ask you to pay back an overpayment until the time you contacted us.

Example 1

On 1 September you tell us about a change in your circumstances but we don't change your award until 16 October. We won't collect back any overpayment that arises **after** 30 September.

Example 2

On 12 August you tell us about a change in your income. We send you a new award notice which you get on 19 August, but we haven't correctly recorded the information you gave us. If you spot this and tell us about the mistake by 18 September (30 days from 19 August) we won't collect any overpayment caused by our mistake.

Example 3

On 12 August you tell us about a change in your income. We send you a new award notice which you get on 19 August, but we haven't correctly recorded the information you gave us. If you spot this and don't tell us about the mistake until 27 September (38 days from 19 August) you may be responsible for the overpayment until the date you contacted us.

Whenever you tell us about a mistake we won't collect an overpayment that may build up if we fail to correct our mistake from this time.

If you fail to meet your responsibilities

If you fail to meet your responsibilities, but we meet **all** of ours, we'll normally ask you to pay back all of an overpayment. For example if you tell us about a mistake on your award notice **more than 30 days** after getting it, then you may have to pay back an overpayment which has built up until the time you contacted us. But also see 'Exceptional circumstances' on page 7.

If we both fail to meet our responsibilities

If we both fail to meet one or more of our responsibilities, we'll look at the circumstances of your case and may write off parts of an overpayment.

If it takes you some time to tell us we didn't meet our responsibilities

We ask you to tell us about any mistakes we've made **within 30 days** of you getting your award notice. If you don't tell us **within 30 days**, we'll ask you to pay back an overpayment up to the date you told us. **We won't ask you to pay back an overpayment, which is caused by our mistake, after the date you told us.**

Exceptional circumstances

We understand that exceptional circumstances may mean that it wasn't possible for you to meet your responsibilities on time. For example, you or a close family member may have been seriously ill so you couldn't report a change, check your award notice or tell us about our mistake **within 30 days** of getting your award notice. Please let us know if you think this applies to you, or if you're not sure whether we've made a mistake.

If you don't understand why there is an overpayment, please contact us. We can give you an explanation over the phone or in writing. Our leaflet WTC8 *Why do overpayments happen?* gives more information about things that can cause overpayments. You can get a copy:

- online at **hmrc.gov.uk/leaflets/wtc8.pdf** or
- if you do not have access to the internet, by phoning our helpline (see page 15).

Challenging the recovery of an overpayment

How to dispute an overpayment

If you don't agree that we should ask you to pay back an overpayment you can ask us to look at this again. We call this **disputing** an overpayment. To do this, we recommend you fill in form TC846 *Tax credits overpayment*. You can get a copy:

- online at **hmrc.gov.uk/forms/tc846.pdf**
- if you do not have access to the internet, by phoning our helpline (see page 15).

You may write to us instead, but you'll need to give us all of your details, and tell us:

- in what tax year the overpayment being disputed happened
- if and when you contacted us
- why you think the overpayment happened
- why you think you shouldn't have to pay back the overpayment.

If you would like to challenge the recovery of an overpayment you need to do so quickly. We will only consider disputes received up to three months after:

- the date of your final decision notice
- the date of the decision on your Annual Review notice (if your award is renewed automatically)
- the date of the letter which gives you the decision of your appeal, if you have lost your appeal.

If your decision is later revised and you receive another decision notice for the same year, you have three months from the date of that notice.

We will only accept a late dispute in exceptional circumstances, for example, if you were in hospital for that three month period.

Historic debt

If you are no longer in receipt of tax credits, you will have been informed on past notices that, if you wish to dispute an overpayment, you should do so as quickly as possible. If you have failed to do so you can no longer dispute overpayments from previous awards, where it has been more than three months since you received your final decision notice. However, if you can show there are exceptional circumstances as to why you haven't previously disputed the overpayment, such as being in hospital, we will consider the dispute.

If you are no longer in receipt of tax credits, but have received a final decision notice from us in the last three months you will be able to dispute any overpayment shown on that.

Example 4

You receive your tax credit renewal pack on 21 May 2013 which requires you to confirm family details and income for the previous 12 months ending in April 2013. You check your household details and decide you have no changes to report. We send out a final decision notice on 15 August 2013. The letter shows you have been overpaid tax credits because your eldest child left school in September 2012 though your award was only changed in January 2013.

You do not notice the information about the overpayment until December 2013 when you realise your monthly tax credit payments are being reduced to automatically pay it back. You agree there has been an overpayment but believe you should not have to pay it back because you told HMRC about your daughter

leaving school in September 2012 and we did not amend your award until January. You have three months to dispute the overpayment from 15 August 2013. This means that you need to send us your dispute against the overpayment by 15 November 2013. As you are now out of time you cannot dispute the overpayment unless you can show there are exceptional circumstances for missing the deadline, such as being in hospital.

Where we got a decision wrong

In some cases, we can revise an incorrect award for up to five years from the date of the award notice where we made the mistake. We can only do this where it would be in your favour to make the change and the mistake was mostly our fault. Where a dispute is found in your favour we will refund the amount already recovered.

Example 5

You have received Working Tax Credit since 2008. You became entitled to Disability Living Allowance in 2009 and asked us whether you were entitled to the disability element of Working Tax Credit.

We wrongly advised you and said you were not entitled to the disability element. In 2013 you visited the Citizens Advice Bureau with a query about your tax credit award. The adviser noticed that you qualified for the disability element but it was not included on your award. You contacted us and asked about our original advice. Since our decision was wrong, solely because of our error, your awards would be revised all the way back to 2009.

How we decide whether you should pay back some or all of an overpayment

We'll check:

- that we accurately recorded and acted on any information you gave us **within 30 days** of you telling us about a change of circumstance
- that we accurately calculated and paid you your correct entitlement
- that the information we included on your award notice was accurate at the date of the notice
- what you told us if you contacted us, and whether the advice we gave you based on that information was correct
- whether you contacted us to discuss any queries on your award notice, and whether we answered them correctly.

We'll also check:

- that you gave us accurate and up-to-date information when you claimed tax credits
- that you told us about any changes of circumstance at the right time
- that you checked your award notice **within 30 days** of getting it and if and when you told us about any mistakes
- that you checked that the payments you got matched the amounts on your award notice and if not, that you told us **within 30 days** of getting your award notice
- whether you told us of any exceptional circumstances that meant you couldn't tell us about a change of circumstance or about our mistake **within 30 days**.

Once we've checked whether we've met our responsibilities and you've met yours we'll decide whether an overpayment should be paid back.

We'll decide whether you must pay back all or only part of an overpayment. We'll give you our decision, along with our reasons, normally in writing. However, we won't stop collecting an overpayment while we do this.

We may not ask you to pay back an overpayment if you contacted us to tell us that your difficult personal circumstances meant you couldn't check your award notice or bank payments. For example, a member of your family may have been seriously ill. If this is the case please let us know as soon as possible.

If you still think you shouldn't pay back an overpayment

If you're still unhappy that we have decided to continue collecting an overpayment you can ask us to look at the decision again if you provide new and relevant information. You can only ask us to review this decision once and you will have to do this within 30 days of receiving your dispute decision letter. We will only accept a late request for a review in exceptional circumstances, for example, if you were in hospital for that 30 day period. However, we won't stop collecting an overpayment while we do this.

If you don't have any new information to give us, but you're still unhappy with our decision, you may wish to contact a professional adviser or organisation, for example, Citizens Advice to consider what options are open to you, including any through the courts.

If you're not happy with our service please see 'Customer Service' on page 15.

Paying back an overpayment

We can collect back an overpayment from you in a number of ways. We can:

- reduce your payments from an ongoing tax credits award
- ask you to make direct payments to us
- adjust your tax code, or
- reduce your payments from an ongoing Universal Credit award.

In some exceptional cases we may ask you to do more than one of the above.

From an ongoing tax credits award

If you're still getting tax credit payments as the same household for which an overpayment arose, we'll automatically reduce these payments to recover an overpayment from your ongoing tax credits award. How much we reduce your payments by will depend on how much you're getting. We reduce awards at different levels, see the table below.

If you want help understanding which recovery rate applies to you, please contact us (see page 15).

Your tax credit award	The most we'll take back
If you're getting the maximum tax credits with no reduction due to income	10%
If you're only getting the family element of Child Tax Credit	100%
All other awards - for example, those entitled to Child Tax Credit above the family element, or Working Tax Credit below the maximum	25%

By direct payment

If you're no longer entitled to tax credits, we'll ask you to make a direct payment to us. We'll also ask you to make a direct payment to us if your tax credit award has ended (this might happen if there is a change in your household, for example, you were single and now you're in a couple). We'll do this even if you're getting another award of tax credits for a new household you're part of.

From an ongoing tax credits award and by direct payment

This may happen if you have an overpayment from an old award which ended and you have an overpayment from a current award. For example, you and your partner separated and you then made another claim as a single person or in a new couple. We could ask you to pay back an overpayment from your current award as well as a direct payment from your previous award.

If this happens we may be able to stop some of your repayments temporarily. But we can only do this if the payments of your current award have been reduced by 10 per cent or 25 per cent. We call this 'dual recovery provision'.

If this applies to you, you can ask for the direct payment to be put on hold until you've paid back the overpayment from your ongoing tax credit payments.

Asking for more time to pay back a direct payment

If we've asked you to pay back an overpayment from a previous award directly, but you need more time to pay it back, please phone our Payment Helpline on **0845 302 1429** as soon as possible. We can arrange for you to pay it back in equal instalments. If you would like more details on different direct payment options, tell us when you phone.

By an adjustment to your tax code

If you are in PAYE employment or getting pension income and have a tax credits overpayment of £3,000 or less we may be able to adjust your tax code to collect your overpayment. We will write to you and let you know if we can collect your overpayment this way. If we do write to you and you would prefer not to have your tax code adjusted, you can contact us to pay in full or to agree an instalment arrangement.

From an ongoing Universal Credit award

If you're getting Universal Credit we'll ask the Department for Work and Pensions to reduce your payments of Universal Credit to recover your tax credits overpayment. How much they reduce your payments by will depend on how much you are getting. For more information contact the Department for Work and Pensions.

Financial hardship

If you need to discuss financial hardship with us, but exceptional circumstances such as a family crisis mean that you don't have time to give us the full details, please try and give us a quick call to explain this. We'll put the recovery on hold until you can discuss your situation in detail.

When you phone we may ask you about any family circumstances that may lead to extra living costs. For example if you're looking after someone who is chronically ill or disabled. In some exceptional circumstances, we may cancel an overpayment altogether.

If you can't pay for your essential living expenses

If you can't pay for your essential living expenses such as your rent, gas or electricity and:

- you're paying back an overpayment directly
- we've reduced your ongoing payments so you can pay back an overpayment, or
- we've asked you to pay back an overpayment

phone our Payment Helpline on **0845 302 1429**. We'll ask you about your circumstances in more detail.

If you can't pay for your essential living expenses and you are getting Universal Credit, you should contact the Department for Work and Pensions.

Whether you are repaying your overpayment from a reduction in your tax credit payments or through a direct payment, we may offer you an option for extending the period over which you pay back the overpayment. We can do this by reducing the amount being recovered each month or stopping recovery in exceptional circumstances.

If we do reduce the amount of your repayments, it will take you longer to pay off an overpayment.

In some exceptional circumstances, we may cancel an overpayment altogether.

If you and your partner separate

If you and your partner separate and your joint claim ends, we'll work out if you've been overpaid. If you have, we'll write to you both, usually at the end of the tax year to:

- tell you how much we've overpaid you by
- ask you to contact us to arrange to pay back the money.

You and your ex-partner are both responsible for paying back an overpayment from your joint claim. The letter sent to each of you will show the total overpayment that you both owe.

You should first of all try to agree with your ex-partner how much each of you should pay. The options are that:

- each of you pays half
- each of you pays a different amount
- one of you pays the full amount.

When you have reached an agreement with your ex-partner, you should phone the Payment Helpline on **0845 302 1429** to arrange repaying the overpayment. You will then get a letter confirming what you have to pay back.

You might not be able to talk it over with your ex-partner, either because you don't want to contact them or you don't know where they are. Even if you do speak to them you might not be able to agree on what each of you should pay back.

If this happens, you should still speak to the Payment Helpline as quickly as possible. You will then be asked to pay back half of the overpayment, with your partner being asked to pay back the rest. You will not be asked to pay back more than half of the overpayment.

You can make a new claim as a single person or with a new partner. To make a claim please phone our helpline (see page 15). However, we can't reduce your payments from your new claim to collect back an overpayment from an earlier claim. You must pay back a previous overpayment directly.

Contact us

When you contact us please tell us:

- your full name
- your National Insurance number
- a daytime phone number.

By phone:

- Tax Credits Helpline **0345 300 3900**
- Payment Helpline **0845 302 1429**
- textphone **0345 300 3909**
- if you prefer to speak in Welsh **0300 200 1900**
- from abroad if you can't get through on the helpline, please phone **+44 2890 538 192**.

In writing:

- write to us at
  - the address shown on your award notice, or
  - Tax Credit Office
    PRESTON
    PR1 4AT

Online:

- go to **hmrc.gov.uk/taxcredits**

Customer service

For information about our complaints procedures go to **hmrc.gov.uk** and under *Quick links* select *Complaints & appeals.*

Your rights and obligations

Your Charter explains what you can expect from us and what we expect from you. For more information go to **hmrc.gov.uk/charter**

These notes are for guidance only and reflect the position at the time of writing. They do not affect any right of appeal.

HMRC Digital Service
October 2013 © Crown copyright 2013

HMRC 10/13

HM Revenue & Customs