

## 2007 No. 824

### TAX CREDITS

#### The Tax Credits (Miscellaneous Amendments) Regulations 2007

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| <i>Made</i> - - - -           | <i>13th March 2007</i> |
| <i>Laid before Parliament</i> | <i>14th March 2007</i> |
| <i>Coming into force</i> - -  | <i>6th April 2007</i>  |

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs.

The powers exercised by the Treasury are those contained in sections 7(8) and (9), 10(2), 12(3) to (5), 65(1), (7) and (9) and 67 of the Tax Credits Act 2002(a).

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those contained in sections 22(2), 24(7), 65(2) and 67(b) of that Act.

#### Citation and commencement

1. These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) Regulations 2007 and shall come into force on 6th April 2007.

#### Amendment of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

2. The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(c) are amended as follows.

3. In regulation 2(1)(d) (interpretation), for sub-paragraph (b) in the definition of "employment zone" substitute—

“(b) listed in the Schedule to the Employment Zones (Allocation to Contractors) Pilot Regulations 2006(e)”.

4. In regulation 4(2)(f) (circumstances in which a person shall not be regarded as engaged in qualifying remunerative work), after sub-paragraph (f) insert—

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(a) 2002 (c. 21).

(b) By virtue of section 65(2), the powers in sections 22(2) and 24(7) are exercisable by the Board. The Board is defined in section 67 as the Commissioners of Inland Revenue. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Inland Revenue shall be taken as a reference to the Commissioners for Majesty's Revenue and Customs.

(c) S.I. 2002/2005.

(d) The definition of "employment zone" in regulation 2(1) was amended by S.I. 2006/766. There are other amendments to regulation 2 which are not relevant.

(e) S.I. 2006/962.

(f) Relevant amending instruments are S.I. 2004/762 and 2006/766.

“(g) a person who—

- (i) is serving a custodial sentence or has been remanded in custody awaiting trial or sentence, and
- (ii) is engaged in work (whether inside or outside a prison) while he is serving the sentence or remanded in custody.”.

**5.**—(1) Regulation 5(1)(a) (time off in connection with childbirth and adoption) is amended as follows.

(2) After sub-paragraph (c) (ordinary maternity leave) insert—

“(ca) is absent from work during the first 13 weeks of an additional maternity leave period under section 73 of the Employment Rights Act 1996(b) or article 105 of the Employment Rights (Northern Ireland) Order 1996(c),”.

(3) In sub-paragraph (f) omit “or”.

(4) At the end of sub-paragraph (g) (ordinary adoption leave) insert—

“, or

(ga) is absent from work during the first 13 weeks of an additional adoption leave period under section 75B of the Employment Rights Act 1996(d) or article 107B of the Employment Rights (Northern Ireland) Order 1996(e)”.

**6.**—(1) Regulation 14 (relevant childcare charges for the purposes of working tax credit) is amended as follows.

(2) In paragraph (1A)(f) after sub-paragraph (c) insert—

“(d) a provider mentioned in regulation 14(2)(f)(ii), in circumstances where the care is excluded from being qualifying child care by Article 5(3)(d) of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007(g).”.

(3) In paragraph (2)(e)(h) —

- (a) in sub-paragraph (ia) omit “or”, and
- (b) after sub-paragraph (ia) insert—

“(ib) by a child care provider registered under the Childcare (Voluntary Registration) Regulations 2007(i); or”.

(4) In paragraph (2)(f)(j) after the words “the Domiciliary Care Agencies (Wales) Regulations 2004” add—

“or

- (ii) by a child care provider approved under the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007.”.

## **Amendments of the Tax Credits (Definition and Calculation of Income) Regulations 2002**

**7.** The Tax Credits (Definition and Calculation of Income) Regulations 2002(k) are amended as follows.

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- (a) Regulation 5 was amended by S.I.s 2003/701 and 2004/762.
  - (b) 1996 (c.18). Section 73 was amended by paragraph 32 of Schedule 1 to the Work and Families Act 2006 (c.18).
  - (c) S.I. 1996/1919 (N.I.16). As amended by article 9 of and Part 1 of Schedule 4 to S.I. 1999/2790 (N.I.9), article 3 of S.I. 2002/2836 (N.I.2) and article 13 and paragraph 31 of Schedule 1 of S.I. 2006/1947 (N.I.16).
  - (d) Section 75B was inserted by paragraph 34 of Schedule 1 to the Work and Families Act 2006.
  - (e) Article 107B was inserted by article 3 of S.I. 2002/2836 (N.I.12) and amended by paragraph 33 of Schedule 1 of S.I. 2006/1947.
  - (f) Paragraph 1A was inserted by S.I. 2003/701.
  - (g) S.I. 2007/226 (W.20).
  - (h) In sub-paragraph (2)(e), sub-paragraph (ia) was inserted by S.I. 2005/769.
  - (i) S.I. 2007/730.
  - (j) Sub-paragraph (2)(f) was inserted by S.I. 2004/2663.
  - (k) S.I. 2002/2006.

**8.**—(1) Regulation 2(2) (interpretation) is amended as follows.

(2) For sub-paragraph (ii) in the definition of “employment zone”(a) substitute—

“(ii) listed in the Schedule to the Employment Zones (Allocation to Contractors) Pilot Regulations 2006.”.

**9.**—(1) Regulation 3 (calculation of income of claimant) is amended as follows.

(2) In paragraph (6A)(b) for the words “ending on 28th March” substitute “ending on 31st March”.

**10.**—(1) Regulation 4 (employment income) is amended as follows.

(2) In paragraph (1)(c), after sub-paragraph (l) insert —

“(m) any amount paid to a person serving a custodial sentence or remanded in custody awaiting trial or sentence, for work done while serving the sentence or remanded in custody.”.

(3) In Table 1 (payments and benefits disregarded in the calculation of employment income) —

(a) after item 3 (travel facilities provided for members of the armed forces) add—

“**3A.** The payment by the Secretary of State for Defence of an operational allowance to a member of Her Majesty’s forces in respect of service in an operational area specified by the Secretary of State for Defence.”, and

(b) after item 11E (provision of subsidised meal vouchers) add—

“**11F.** The provision of one mobile telephone for an employee in respect of which no liability to income tax arises by virtue of section 319 of ITEPA(d).”.

**11.**—(1) Regulation 8 (student income) is amended as follows.

(2) In paragraph (a)(e) for sub-paragraphs (i) and (ii) substitute—

“(i) under regulation 41 of the Education (Student Support) Regulations 2006(f) in relation to an academic year which begins on or after 1st September 2006 but before 1st September 2007; or

(ii) under regulation 43 of the Education (Student Support) Regulations 2007 in relation to an academic year which begins on or after 1st September 2007(g);”

**12.**—(1) Regulation 10 (investment income) is amended as follows.

(2) In the first column of item 7 of Table 4 (unclaimed accounts held by Holocaust victims) for “Extra Statutory Concession A100” substitute “section 756A of ITTOIA(h).”.

(3) In the second column of item 7 of Table 4 for “treated as exempt by the Extra Statutory Concession” substitute “of interest exempted from income tax under section 756A of ITTOIA.”.

**13.**—(1) Regulation 12 (foreign income) is amended as follows.

(2) In paragraph (3) after sub-paragraph (a) insert—

“(aa) any monies paid by a bank or building society which are exempted from income tax under section 756A of ITTOIA (interest on certain deposits of victims of National-Socialist persecution).”.

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(a) The definition of “employment zone” was substituted by S.I. 2006/766.  
(b) Sub-paragraph (6A) was inserted by S.I. 2003/732.  
(c) Paragraph 1 was amended by S.I. 2003/732 and 2815.  
(d) Section 319 was substituted by section 60 of the Finance Act 2006 (c. 25).  
(e) Paragraph (a) was substituted by S.I. 2006/766.  
(f) S.I. 2006/119.  
(g) S.I. 2007/176.  
(h) Section 756A was inserted by section 64(2) of the Finance Act 2006.



Regulation 5 inserts, in regulation 5 of the Entitlement Regulations, references to additional maternity and adoption leave periods under sections 73 and 75B of the Employment Rights Act 1996 (c. 18) and articles 105 and 107B of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I.16)). A person is treated as being engaged in qualifying remunerative work during the first 13 weeks of an additional maternity or adoption leave period.

Regulation 6 amends regulation 14 of the Entitlement Regulations which prescribes categories of eligible child care for the purposes of entitlement to the child care element. One of the amendments provides for the introduction of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 (S.I. 2007/226 (W.20)) (“the Welsh Child Care Scheme”) which came into force on 1st February 2007 subject to a prohibition on the granting of approvals under the scheme before 6th April 2007. Another amendment provides for the introduction of the Childcare (Voluntary Registration) Regulations 2007 (S.I. 2007/730) which come into force on 1st April 2007.

In regulation 6, paragraph 2 provides that charges in respect of child care which is excluded from being qualifying child care under article 5(3)(d) of the Welsh Child Care Scheme cannot be child care charges for the purposes of section 12 of the Tax Credits Act 2002 (c. 21) (“the Act”). Paragraphs 3 and 4 insert child care providers registered under the Childcare (Voluntary Registration) Regulations 2007 and child care providers approved under the Welsh Child Care Scheme into the list of persons who can provide eligible child care.

Regulation 7 introduces the amendments to the Income Regulations.

Regulation 8 updates the definition of “employment zone” to reflect the replacement of the Employment Zones (Allocation to Contractors) Pilot Regulations 2005 (S.I. 2005/1125) with the new Employment Zones (Allocation to Contractors) Pilot Regulations 2006 (S.I. 2006/962).

Regulation 9 amends paragraph (6A) of regulation 3 of the Income Regulations. This paragraph deals with the conversion rate at which foreign income must be converted to sterling. The HMRC website now shows average exchange rates for the 12 months up to 31st March so paragraph (6A) is amended to reflect this.

Regulation 10(2) amends regulation 4(1) of the Income Regulations by adding a new sub-paragraph to that provision. The new sub-paragraph applies to a person who is serving a custodial sentence or has been remanded in custody awaiting trial or sentence and who is paid an amount for work done while he is serving the sentence or remanded in custody. That amount is treated as “employment income”.

Regulation 10(3) amends Table 1. The Table contains a list of payments and benefits which are disregarded in the calculation of employment income. Two items are added to the list: (a) payment by the Secretary of State for Defence of an operational allowance in respect of service by members of the armed forces in an operational area specified by him and (b) the provision of one mobile telephone which is exempted from tax by section 319 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

Regulation 11 amends regulation 8 of the Income Regulations to reflect the introduction of the Education (Student Support) Regulations 2007 (S.I. 2007/176).

Regulations 12 and 13 update the Income Regulations to reflect the replacement of an extra statutory concession by section 756A of the Income Tax (Trading and Other Income) Act 2005 (c. 5) which exempts certain unclaimed accounts containing compensation paid to Holocaust victims from income tax. Regulation 12 amends Table 4 contained in regulation 10 of the Income Regulations which lists payments which are to be disregarded in the calculation of investment income and regulation 13 amends regulation 12 (definition of foreign income) of the Income Regulations.

Regulation 14 amends the Tax Credits (Claims and Notifications) Regulations 2002. Regulation 14(2) amends regulation 11(3)(a) of those regulations by bringing forward from 31st August to 31st July the date by which a person or persons claiming tax credits must make a declaration in response to a notice under section 17 of the Act for that declaration to be treated as a claim treated

as made on the preceding 6th April. Regulation 14(3) amends regulation 33(a) of those regulations by bringing forward one of the dates by which a person or persons must make a declaration or statement in response to a notice under section 17(2) or (4) of the Act, from the 31st August to the 31st July following the end of the tax year to which the notice relates.

Regulation 15 amends regulation 12(3) of the Tax Credits (Payments by the Commissioners) Regulations 2002 to give the Commissioners for Her Majesty's Revenue and Customs discretion in determining the amount of any further payments of tax credit where an award of tax credit is amended.

Regulation 16 omits a provision which is now spent as a consequence of regulation 14(2) of these Regulations.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.