

TAX CREDITS BRIEFING 1

ANNUAL REVIEW AND RENEWALS



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INTRODUCTION

Her Majesty's Revenue and Customs (HMRC) embarked on the task of reviewing and finalising all tax credits awards for 2015/2016 in April 2016. This is called the Annual Review. It is necessary because tax credits paid in a tax year are generally based on estimates of that year's earnings until the final figures are known after the end of the tax year when the final decision on entitlement for the year is then made.

HMRC wrote to everyone who claimed tax credits in the year 2015/2016 shortly after the end of the tax year (ie 5 April 2016), enclosing an annual review form. An annual declaration form was also included except where the claimant/s have an ongoing award for Income Support, Income-based Jobseeker's Allowance, Income related Employment and Support Allowance, Pension Credit and is/are still receiving one of those benefits for the family element only of Child Tax Credit or a nil award. These forms, once completed and returned, are the basis of the provisional claim for the new tax year 2016/2017.

Until the renewal claim has been processed, tax credits should continue to be paid at the 2015/2016 rate.

This briefing aims to cover the law and procedure applicable to the annual review and renewal process and to conclude by raising awareness of potential problems and how to deal with them.

Tax credits are one of the benefits that will be replaced by Universal Credit (UC) when it is introduced in Northern Ireland. UC is intended to gradually replace tax credits beginning sometime during 2017. Existing claimants of tax credits will be able to stay on the benefit (as long as existing conditions are met) until they are moved onto (migrated) UC.

At the time of writing it is not known what effect the introduction of the Personal Independence Payment (PIP) Managed Reassessment process, due to begin in December 2016, will have on the tax credit renewal process. Anyone whose tax credit renewal is negatively impacted by PIP reassessment should contact the Law Centre for advice.



1. THE LAW

Under Section 17 of the Tax Credits Act (2002), HMRC must issue a final written notice/annual review form to claimants (Form TC603R).

The notice will require a claimant to declare that the relevant circumstances set out in the notice are correct. In certain cases, the claimant will be informed that s/he will be treated as having made a declaration that the relevant circumstances were as specified unless s/he declares otherwise.

Where the information is not accurate, the claimant is obliged to set out any differences. In addition, the notice will require claimants to provide details of their actual income for the tax year 2015/2016 (or to declare that the income was no more than £2,500 above the figure stated). HMRC has the power to use real time information supplied by a person's employer in relation to PAYE. HMRC should give the person the opportunity to check that this information is correct.

In certain cases, the notice will inform the claimant that s/he will be treated as having made such a declaration in response to the notice except where the income fell outside of the specified range. This must be done by the date specified in the final notice/annual review form (see HMRC procedure section). The legislation allows HMRC discretion to treat a claimant as having made a declaration.

Under Section 18 of the Act, the information given or confirmed by a claimant is used by HMRC to make a final decision on entitlement for the last tax year (2015/2016). Where a claimant's entitlement is less than the amount s/he was paid, there will be an overpayment of tax credits. Where entitlement is greater than the amount paid, there will be an underpayment.

Following an adjustment of entitlement, the claimant will be sent a final notice of entitlement for the previous tax year. Any underpayment will be repaid in a lump sum. For details of how overpayments are dealt with, see *Encyclopedia of Rights A.7.Tax credits briefing 2 , Recovery of Overpayments*.

The declaration (or deemed declaration) about a claimant's circumstances and income made in connection with a final notice is also treated as a renewal claim for tax credits for 2016/2017. Under Section 14 of the Act, this is treated as an initial award which may be revised later in the year. A declaration completed by one member of a couple who separated during one renewal period is treated as a claim for tax credit for them both.

If the declaration is made (or treated as made) by the date specified in the final notice, then the claim is automatically backdated to 6 April 2016, if there is entitlement.

A claimant can specify in response to a final notice that s/he no longer wishes to claim tax credits for the forthcoming year.

If a claimant fails to respond by 31 January 2017, s/he cannot renew the claim. Instead, a fresh claim will have to be made. This can only be backdated a maximum of



31 days and any amount paid as a provisional award after April 2016 will be recovered as an overpayment.

2. HMRC PROCEDURE: ANNUAL REVIEW

2.1 Annual review packs

From April 2016 onwards, HMRC has been issuing annual review packs. This should be an automatic process and claimants should not have to ask for the pack. A pack is issued with the following details:

- The annual review form (TC603R) contains details of personal circumstances on which entitlement to tax credit in 2016/2017 is based. It includes:
 - the names and dates of birth of each claimant plus any qualifying children or young people;
 - details of any employment, and childcare costs;
 - details of any additional elements of Child Tax Credit and Working Tax Credit paid because of disability.

A claimant is expected to confirm the details are correct or to notify HMRC of any changes.

- The annual declaration form (TC603D) seeks details on each claimant's relevant income or an estimate of income for the tax year 2015/2016. The form also asks a claimant to confirm that the circumstances in the annual review form are correct or to set out any changes to the information supplied. The declaration must be signed alongside the notice that this constitutes a claim for tax year 2015/2016.

2.2 Automatic reply cases

In automatic reply cases, only TC603R will be issued. This will tell a claimant that s/he will automatically have the award finalised and the entitlement renewed unless the information provided of the previous and current year's details on the form is incorrect. The claimant is advised to contact HMRC if the details are wrong.

2.3 Supplying requested information

These forms must be returned by the date specified in the final notice otherwise any ongoing payments will be stopped and financial penalties may be imposed. The final date specified is usually 31 July unless the forms themselves were issued after 1 July of that year, in which case the person is given 30 days to respond and return the form/s. The provisional award for 2015/2016 may be revised at a later date when details of actual income are supplied. However, if the claimant fails to respond by 31 January



2017, the claim cannot be renewed. Instead, a fresh claim must be made which can only be backdated up to a maximum of one month.

It is possible to provide HMRC with the requested information by:

- returning the forms in the envelope provided;
- registering to complete the forms online at HMRC's website; or
- phoning the Tax Credits Helpline.

3. FAMILY ELEMENT OF CHILD TAX CREDIT & NIL AWARD

A claimant who is not receiving tax credits because s/he had a 'nil award' or is receiving Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance or Pension Credit and is still receiving one of those benefits or who is only receiving the family element of Child Tax Credit will receive a special version of the annual review form with details of personal circumstances. S/he is asked to check that these are correct and to notify HMRC of any changes.

The claimant is also asked to check that income for 2015/2016 is within the range stated in the form and, if not, to notify actual income.

The form confirms entitlement for 2015/2016 and sets out details of the award for 2016/2017, based on the details in the form and assuming there are no changes of circumstances to report.

The claimant is not sent or required to complete a declaration form. Instead, s/he is told that s/he will be treated as having declared that the information in the review form is correct and that s/he is claiming tax credits for 2016/2017 unless s/he contacts HMRC by the date specified in the final notice with different information.

The claimant is warned that if it later transpires that the information on the form was incorrect, then s/he may have to repay any overpayment and may be liable to financial penalties.

4. HMRC PROCEDURE: RENEWAL OF AWARDS

4.1 Provisional payments

From the beginning of 2016/2017, HMRC makes provisional payments while a claimant renews her/his claim.

The provisional payments have been calculated automatically, based on the current information HMRC holds about the claimant's circumstances. They do not take account of any overpayments. HMRC cannot issue a notice about this until a claim is renewed or a change of circumstances processed.



'Provisional payments' of tax credits for 2016/2017 replace 2015/2016 awards from April 2016. Provisional payments continue to be paid until the reconciliation and renewal process is completed. Where a claimant has not provided an up to date estimate of income, the provisional payments are based on the assumption that 2015/2016 has increased from the previous year in line with average earnings. However, payments of tax credits will stop if a claimant fails to return the declaration forms by the date specified in the final notice.

Since April 2016 onwards, HMRC have been issuing annual review and declaration forms. These are first sent to claimants receiving Child Tax Credit with Income Support, Jobseeker's Allowance, Income-related Employment and Support Allowance or Pension Credit. Claimants receiving the child and family element of Child Tax Credit, Child Tax Credit family element only, Working Tax Credit only and those with finalised tax credits receive their forms last.

4.2 Deadline for returning declarations

The date specified in the final notice, usually 31 July, is the deadline for returning declarations and notifying changes in circumstances. Where the annual declaration is issued after 31 July, the claimant will be given at least 30 days to respond.

HMRC issues a reminder about outstanding declarations.

In automatic cases: the previous year's award will be finalised. The claim for 2016/2017 year will be renewed automatically based on the details contained in the TC603R already issued unless there are changes.

In reply required cases:

- if the declaration is returned by the date specified in the final notice, the claimant will receive a final notice of entitlement for 2015/2016 and a new award notice for 2016/2017. The claim and award for 2016/2017 will be backdated to 6 April 2016. Any arrears due will be paid to the claimant (including arrears due to provisional payments being paid at last year's rates);
- if the declaration is not returned by the date specified in the final notice, provisional payments of tax credits will stop from that date. The claimant will be asked to repay payments made since 6 April 2016. A final previous year award notice will be issued based on the information held.

Where the declaration is not returned by the date specified in the final notice, the claimant will receive a notice that tax credits have ceased. If the renewal claim is returned within 30 days of the date of the notice then the renewal claim will be backdated to 6 April 2016.

Where the declaration is not returned within 30 days of the notice that tax credits have ceased but is returned before 31 January 2017, then a claimant must show 'good cause' for returning the renewal form late in order to have the claim backdated to 6



April 2016. Good cause is not defined but HMRC guidance, in its Tax Credits Technical Manual, suggests it includes very exceptional reasons, for example, bereavement or serious illness. If the reason for the delay is not accepted, a claimant can request a mandatory reconsideration and then appeal the decision not to find good cause once the mandatory reconsideration notice/decision has been issued. See *Encyclopedia of Rights*, A.7. Tax Credits, 11.1 'Action before appeal/Mandatory Reconsideration'.

Where the annual declaration form is returned between the date specified in the final notice and good cause is not accepted, then a new claim must be made. This will only be backdated 31 days and backdating should be specifically requested.

The rules allowing a late return of a declaration do not apply if:

- the previous claim was based on the claimant being single and s/he is now a member of a couple; or
- the previous claim was based on the claimant being a member of a couple but s/he is now single.

4.3 Final deadline

31 January 2017 is the final deadline for returning declarations and notifying actual (as opposed to estimated) income for 2015/2016.

If the declaration is not returned by 31 January 2017, there will be no 'deemed claim' from 6 April 2016. Any new claim for tax credits will only be backdated for a maximum of 31 days under the normal rules. This applies regardless of the reasons for the delay in the reply. There will also be a recovery of any payments made from 6 April 2016 to the date of the new claim.

5. POTENTIAL DIFFICULTIES

Claimants and advisers face a number of potential problems with these procedures. They include those set out below.

5.1 Providing relevant information

The system relies on a claimant being able to confirm or provide relevant information about income and personal circumstances.

HMRC guidance suggests that this will include, where appropriate, a P60 tax form, final pay slip or self employed tax return for 2015/2016 when completing the forms. Details of taxable social security income for 2015/2016 may be provided by the Social Security Agency.



In some cases, a claimant will not have this information and will find it difficult to estimate income. In such cases, it is better to send in the form with estimated figures rather than delaying a response.

Staff at local HMRC offices should be able to provide some guidance on issues relating to income. Likewise, Social Security Agency staff should be able to give any necessary information about social security benefits.

In certain circumstances, HMRC can rely on real time information supplied by employers for the purposes of PAYE.

5.2 Lost forms

There will also be the problem of lost forms and declarations. It is wise to advise a claimant to take a copy of all forms being returned and proof of postage. It is always advisable when sending anything to HMRC to use recorded or special delivery as proof of receipt.

5.3 Separate forms

A claimant will be sent a separate set of forms for each claim made in 2015/2016. This will affect separating and divorcing couples (or, if they are a same-sex couple, separating or having their civil partnership dissolved) and single people who became part of a couple during the year.

Where a couple on tax credits separate during the year and then make further claims for tax credits either as individuals or as members of new couples, they will receive a set of forms to complete for each claim. All the separate claims must be returned.

When an award ceases mid-year, the claimant is still required to complete an end of year declaration to finalise the award for that year.

5.4 Changes of circumstances

There are different rules for backdating the renewal claims and for backdating when there are changes of circumstances.

Certain changes of circumstances resulting in increased entitlement to tax credits (eg birth of a child or increase in childcare costs by more than £10 a week for four weeks in a row) which occur prior to the claimant returning the declaration must be reported within one month in order to secure full backdating.

If a claimant only notifies the change when returning the declaration, s/he will only receive up to one month arrears from the date of notification. If the claimant notifies the change before the declaration has been returned, HMRC will alter the provisional award.



6. CONCLUSION

The Annual review and renewal is an enormous and complex administrative task. The potential difficulties for claimants obtaining all the information required of them demonstrate how the process can pose problems even if everything else runs relatively smoothly.

Keeping up-to-date with the way the process is going will be vital for advisers who are likely to face a significant number of tax credit inquiries in the months ahead.

Advisers and claimants are urged to work with HMRC to provide all the necessary information as promptly as possible and to check all correspondence with care to avoid later disputes.

7. USEFUL ADDRESSES

7.1 Her Majesty's Revenue and Customs

Postal correspondence

Tax Credit Office, Preston PR1 4AT

Local enquiry centres

Antrim

12-14 Castle Street, Antrim BT41 4JE

Ballymena

Kilpatrick House, 38-54 High Street, Ballymena BT43 6DR

Banbridge

Bridgewater House, 25 Castlewellan Rd, Banbridge BT32 4AX

Belfast

Beaufort House, 31 Wellington Place, Belfast BT1 6BH

Coleraine

Fern House, 1A Adelaide Avenue, Coleraine BT52 1AJ

Craigavon

Marlborough House, Central Way, Craigavon BT64 1AH

Enniskillen

Abbey House, Head Street, Enniskillen BT74 7JL



Lisburn

Moira House, 121 Hillsborough Road, Lisburn BT28 1LA

Derry/Londonderry

Foyle House, Duncreggan Road, Londonderry BT48 0AA

Telephone helpline

0345 300 3900

0345 300 3909 (text phone)

Welfare rights workers priority helpline (Intermediary Helpline)

0845 300 3946 or 0345 300 3946

Website

www.hmrc.gov.uk

7.2 Adjudicator

Adjudicator's office

PO Box 10280, Nottingham, NG2 9PF

Telephone

0300 057 1111

Website

www.adjudicatorsoffice.gov.uk

7.3 Ombudsman

The Parliamentary and Health Service Ombudsman

Millbank Tower, Millbank, London SW1 4QP

Telephone

0345 015 4033

0300 061 4298 (text phone)



E-mail

By completing the contact form found at www.ombudsman.org.uk/about-us/contact-us

Website

www.ombudsman.org.uk

7.4 Law Centre (NI)

Belfast office

124 Donegall Street, Belfast BT1 2GY

Advice line: 028 9024 4401; 9.30 am-1.00 pm (Monday to Friday)

Textphone: 028 9023 9938

Western Area office

9 Clarendon Street, Derry BT48 7EP

Advice line: 028 7126 2433; 9.30 am-1.00 pm (Monday to Friday)

Website

www.lawcentreni.org

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