

Tax credit checks



April 2017

Child Poverty Action Group works on behalf of the one in four children in Scotland growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good.

We provide training, advice and information to make sure hard-up families get the financial support they need.

Tax credit checks is one of a series of Child Poverty Action Group in Scotland leaflets giving guidance to advisers and those working with families in Scotland about aspects of the tax credit system of particular concern.

Introduction

There are two types of tax credit; *child tax credit* and *working tax credit*. You claim them together and may get either or both. Tax credits are administered by Her Majesty's Revenue and Customs (referred to as HMRC in this leaflet).

Tax credits are gradually being replaced by universal credit. If you are currently getting tax credits, you can continue to get them unless you make a claim for universal credit, and will be able to renew your claim until you are transferred onto universal credit. The process of transferring most people from tax credits to universal credit is planned to happen between 2019 and 2022. See [Tax credits: moving on to universal credit](#) for more information.

All tax credit claims are subject to automated verification checks before going into payment, for example, to match national insurance numbers. HMRC makes further checks on thousands of tax credit awards each year to make sure that the right amount of tax credit is paid. It has extensive powers to check tax credit claims. A tax credit check may range from a simple request for information that is needed to clarify a claim before an award is made, to an investigation for fraud that could lead to prosecution. HMRC might decide to check circumstances after noticing a discrepancy between the claim and other information held by it or because automated processes have identified the claim to be in a group considered at risk of being incorrect. It also selects at random a small number of cases for checking but only once awards are finalised at the end of the year.

Tax credit checks normally focus on personal circumstances. There are certain areas that HMRC is particularly concerned about:

- undeclared partners, ie someone living with a partner but claiming as a single person
- childcare costs, eg someone claiming more than they are paying
- hours worked, eg someone overstating their working hours
- whether work is remunerative, eg someone saying a hobby is remunerative work

The system includes penalties that can be imposed in certain circumstances. However, guidance advises that the checking policy is to help you get things right wherever possible rather than to penalise you.

Types of check

Tax credits are initially awarded on the basis of your circumstances during the tax year (6 April to 5 April) and your income in the previous tax year. You are required to notify HMRC of certain changes of circumstances during the year. At the end of the tax year, you are sent an annual review form to confirm details of your income and circumstances, and HMRC makes a final decision on the award for the year.

- Checks on initial awards, or before an award is made, are called examinations.
- Checks after a final decision are called enquiries.

Examinations

Starting an examination

An examination can start any time from the date of claim until the award is finalised after the end of the tax year. There can be more than one examination into an award. For example, there may be a new examination when you report a change of circumstances. If you make a new claim (rather than a renewal claim), there may be an examination before any payment is made.

Conduct of an examination

Although HMRC has legal powers to require you to provide any information or evidence it considers necessary to make a decision, the way the examination is conducted is left to guidance.

When processing staff at HMRC are verifying a claim, they may simply phone you for more information. Examinations are more formal and guidance advises that they should begin with a letter asking for specific information or supporting evidence. Couples making a joint claim should each receive the same letter. If you do not provide the required information, there are formal powers that could ultimately lead to penalties being applied (see Powers below).

The presumption is that HMRC considers that additional information is needed in order to make a decision on an award. Examinations are not expected to be made at random.

The initial letter may be followed up by a phone call.

Tax credit payments during examinations

For new claims (but not renewal claims) if an examination starts before an award is made, you will not normally be paid until the examination is finished. If an award has been made, HMRC will normally continue to make payments during the examination. If, however, you do not cooperate with HMRC and supply information within the time requested as part of the procedure, your payments may be postponed, or the decision maker may decide to revise or stop an award based on the facts they do have. Penalties may also be charged (see below).

The end of an examination

At the end of the examination HMRC will make a decision on the award. It may also decide to impose penalties (see *Powers* below).

HMRC must have reasonable grounds to amend or terminate an award following an examination during the tax year.

You have the right to request a mandatory reconsideration and then appeal against the decision on the award, and any penalties.

You cannot stop an examination taking place. Neither can you ask for an examination to be closed. If you feel that the examination should not have been started, or has not been properly conducted, the only redress is to make a complaint.

Enquiries

Notification of an enquiry

An enquiry is a more formal process than an examination. It must by law start with a letter to you giving notice of an enquiry.

Only one enquiry may be made into a year's tax credit claim. Where you have had more than one decision in the year for different periods in the same claim, one enquiry will be made into all of them together. But where you have had more than one claim in the year for example because your household changed, separate enquiries may be made into each claim. Couples claiming jointly must be sent a separate notice.

Example

Matt had 2 awards in 2016/2017:

6 April 2016 to 14 November 2016 – as a single claimant

15 November 2016 – 5 April 2017 – as a couple after his partner, Pat, moved in.

HMRC has doubts about the number of hours Matt worked. They start two enquiries. They send one enquiry notice to Matt as a single claimant, one enquiry notice to Matt as a couple and also one enquiry notice to Pat.

Enquiry time limits

Enquiries must be made within strict time limits, but the timescale depends on the specific circumstances of the claim. In all cases however they can only be started once a final decision has been made on an award.

If you are receiving maximum tax credits because you are in receipt of certain means-tested benefits, the Annual Review form will be the final award notice for the year, unless there are changes to report. If income and circumstances are as stated in the form, the final decision date is taken as 31 July.

The usual time limit for starting an enquiry is 12 months after the deadline for the claimant to reply to the annual review. This is usually 31 July following the year of claim, but can be 31 January following the year of claim if estimated figures were used to reply to the annual review.

For a claimant who submits a self assessment tax return, the enquiry must start by the date the self assessment return becomes final. This is usually 12 months from 31 January following the year of claim, but will be extended if the self assessment return is filed late or amended.

Example

Courtney makes a claim for tax credits on 8 June 2016. This is a claim for the tax year 2016/17. She is awarded tax credits on 14 July 2016 and claims for the rest of the year. Courtney receives an annual review and declaration form in May 2017, which must be returned by 31 July 2017. She returns this on 25 June 2017. A final award notice for 2016/17 is issued by HMRC on 19 July 2017. Courtney is not required to file a self-assessment income tax return for 2016/17.

HMRC could start an examination into the claim from 8 June 2016 until 18 July 2017. It could start an enquiry into the claim during the period 19 July 2017 until 31 July 2018.

If the time limit has passed, HMRC cannot start an enquiry into the award for that year. The final decision can still be changed in your favour within five years if there has been an official error. The final decision can also be revised if HMRC decides that it was wrong due to fraud or neglect on your part, or if there is a change in tax liability.

When does an enquiry end?

There is no time limit for the completion of an enquiry. Following the enquiry HMRC decides whether you had an entitlement to tax credits during the year in question and, if so, at what rate. The enquiry comes to an end when HMRC gives you notice of this decision. Before the enquiry is completed you can apply to an appeal tribunal to direct HMRC to bring the enquiry to an end. The tribunal should give a direction to this effect unless it is satisfied that HMRC has reasonable grounds for not doing so.

Conduct of an enquiry

The basic approach is similar to that for examinations. See the section above, Conduct of an examination, for details.

HMRC does not normally give a reason for starting an enquiry. Some enquiries are selected on a random basis to check that the tax credit system is working as it should.

Asking for help

You can ask someone else to deal with HMRC on your behalf. This needs a signed form of authority from you saying who you would like to act for you. Your partner must also sign if you claim as a couple. Advisers can use the official form [TC689](#) Authority for an intermediary to act on your behalf.

Ending the enquiry

At the end of the enquiry, HMRC may have found errors. They must write to you, or to both you and your partner in the case of a joint claim, telling you of the outcome of the enquiry and giving the new decision on entitlement. You have a right to request a mandatory reconsideration and then appeal against this decision. You must request a review within 30 days although late requests up to one year can be accepted in special circumstances. Once you have been notified of the outcome of the

mandatory reconsideration, you can appeal to a First-tier Tribunal within one month, although late appeals up to one year can be accepted in special circumstances.

Where the errors mean that you have been overpaid, the overpayment can be recovered from any ongoing award of tax credits in the same household. Otherwise, HMRC can ask for repayment directly from you – see our leaflet [Tax credit overpayments](#).

There may also be interest and penalties.

Powers

HMRC has wide powers to request information, charge interest and penalties, and, in the case of suspected fraud, to search buildings.

Requests for information

HMRC is likely to ask for bank statements, wage slips, household bills and details of income and family circumstances. For an in-year examination, the information asked for should only be such as is needed to make a decision about an award. For example, if HMRC considers that you may in fact be part of a couple although you claimed as a single person, the requests for information should centre on evidence relevant to this decision.

The request for information is likely to be by letter and may include third parties. Employers and childcare providers may be contacted where this is relevant.

The letter requesting information will give a date by which HMRC wants to receive the information. If you have not provided the information requested by the date specified, your payments may be postponed. HMRC may also seek to apply a penalty if the information is withheld without reasonable excuse. HMRC considers destruction of documents by fire, flood or theft a reasonable excuse. Ill health may also be relevant.

Powers where fraud is suspected

Revenue powers are strengthened when serious fraud is suspected. In such cases, the Special Compliance Office will usually be involved and the claimant may be interviewed under caution. The Special Compliance Office is a department of HM Revenue and Customs which investigates serious tax fraud. There may also be a single investigation run jointly with the DWP and local authorities.

You will be given an opportunity to get professional help – usually from a solicitor. You will be told why your claim is being investigated.

HM Revenue and Customs also has the right to apply to the court for an order that documents be delivered to HMRC. It is a criminal offence to conceal, destroy, falsify or otherwise dispose of documents requested. There is also a right to apply to the court for a warrant to enter and search premises. In addition, claimants involved in fraud may be prosecuted through the courts.

Penalties

If the examination or enquiry reveals that you have failed to tell HMRC within one month of certain changes of circumstances, you may be charged a penalty of up to £300. You are required to notify HMRC within one month of certain changes of circumstances, such as becoming part of a couple (see CPAG in Scotland leaflet, Tax credits – reporting changes of circumstances for more information).

If the examination or enquiry finds that you have fraudulently or negligently made an incorrect statement or declaration or supplied incorrect information or evidence, HMRC can impose a penalty of up to £3,000.

If you fail to provide information requested, HMRC can apply to the Tribunals Service for a hearing at which it will be decided whether a penalty should be imposed. The initial penalty can be up to £300. A further penalty of £60 per day can be imposed for continuing delay.

For more information, see CPAG in Scotland factsheet [Tax credits and penalties](#).

Leaflets and fact sheets used during tax credit checks

The following leaflets have been prepared by HM Revenue and Customs for use in tax credit checks. You can get these from the HMRC website, www.gov.uk/benefits-credits/tax-credits

- WTC/FS1 Tax credits enquiry
- WTC/FS2 Tax credits examinations
- WTC/FS3 Tax credits formal request for information
- WTC/FS4 Tax credits meetings
- WTC/FS9 Tax credits - suspension of payments
- WTC7 Tax credits penalties.

There is also official guidance for decision makers on the HMRC website on all aspects of tax credit checks called the [Claimant Compliance Manual](#).

Further information and advice

Child Poverty Action Group in Scotland

0141 552 0552 advice line for advisers on benefits and tax credits,
Monday to Thursday 10am to 4pm, Friday 10am to 12 noon

Email: advice@cpagscotland.org.uk

email advice for advisers on benefits and tax credits

Website: www.cpag.org.uk/scotland/taxcredits

for more tax credit leaflets from CPAG in Scotland

CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credits for claimants and advisers.

CPAG in Scotland's advice line is only for advisers. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact your citizens advice bureau or other local welfare rights service.

HM Revenue and Customs

Tax Credit Helpline 0345 300 3900
(textphone 0345 300 3909)

Website: www.gov.uk/benefits-credits/tax-credits

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