Tax credits - annual review

May 2021

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 credits – annual review 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 may get either or both. Tax credits are administered by Her Majesty's Revenue and Customs (HMRC).

Tax credits are being replaced by universal credit. You cannot make a new claim for tax credits. If you are currently getting tax credits, you can continue to get them unless you make a claim for universal credit, and you can renew your claim until you are transferred onto universal credit. The process of transferring most people from tax credits to universal credit is expected to happen between 2022 and 2026. See *Tax credits: moving on to universal credit* for more information.

Tax credit awards are given for tax years. The tax year runs from 6 April in one calendar year to 5 April in the next. This leaflet looks at the annual review, when entitlement is finalised and claims are renewed.

Initial awards

Tax credits are usually based initially on the income of the previous tax year and the current circumstances at the start of the tax year. If you are eligible but your income in the previous tax year was too high for you to qualify for payments, HMRC makes a 'nil award'.

The initial award is an estimate of how much you are likely to be entitled to for the rest of the year. It does not represent the final entitlement. When the final entitlement is calculated, it is possible for there to be an underpayment or an overpayment. This may happen because income in the year of the award was higher or lower than in the previous year, or because your circumstances changed during the period of the award.

It is important not to wait until the end of the tax year to tell HMRC of a change to personal or household circumstances but to notify the change immediately. If you wait more than one month, in some cases, there may be a financial penalty as well as an overpayment or, in other cases, it may not be possible to backdate any increased entitlement beyond one month. It is also important to report income changes. There is more information below about how income changes affect tax credit awards.

Finalising tax credit awards

The process of finalising awards begins soon after the end of the tax year. In May or June, HMRC sends out the Tax Credits Annual Review (TC603R) and Tax Credits Annual Declaration (TC603D).

If you received maximum tax credits because you are in receipt of income support, income-based jobseeker's allowance, income-related employment and support allowance or pension credit, you may only receive an annual review from (TC603R) and your claim may be renewed automatically. Automatic renewal can also happen based on real time information on wages from your employer, but you must still check the amount is correct.

If you stop getting tax credits during the tax year and become entitled to universal credit, your tax credits award can be reviewed and finalised at that point in the year, rather than waiting until the end of the tax year.

Example

Jen is a lone parent. She has an award of child tax credit. On 10 November 2020, her boyfriend, Luka, moves in with her. Luka is already entitled to universal credit, and this is treated as a joint claim from the start of his current assessment period, which is 28 October 2020.

Jen's tax credits award as a single person is finalised during the year, using her income from 6 April 2020 to 9 November 2020. She does not get an annual review form at the end of the tax year, and her final part-year entitlement is not affected by her income in the period 10 November 2020 to 5 April 2021. She is correctly entitled to tax credits as a single person until 9 November 2020, even though she is also correctly entitled to universal credit as a couple from 28 October 2020.

The annual review form

The annual review form sets out your circumstances for the tax year just ended. If the claim is a joint one, information for you and your partner is included. The form includes details such as:

- date of birth;
- residence in the UK;
- whether you work and how many hours;
- children's dates of birth, and details of any young people still in full-time, non-advanced education or on certain training courses;
- details of any disabilities;
- details of any eligible childcare costs;
- income (HMRC may use real time information on earnings from your employer)

The form shows the latest information known to the Tax Credit Office. You need to check that these details are correct but also that any changes of circumstances during the period of the award have been taken into account.

Whenever you report a change of circumstances, HMRC sends out a new award notice, form TC602. It is best to check through any award notices as well as the annual review form to make sure all changes have been notified and acted on. The notes that go with the annual review form (TC603RD) give details about which circumstances are relevant to the award. You are asked to confirm the details or agree to notify any necessary changes to the Tax Credit Office. There is a box to tick on the annual declaration form to show that this has been done. You can also renew online.

The annual declaration form

The annual declaration form asks you to supply details of your income for the tax year just ended and confirm that the details on the annual review form are correct.

The income figures are grouped under the following headings:

- taxable social security benefits;
- earnings from all jobs as an employee;
- company car and fuel, taxable vouchers and payments in kind from all jobs;
- income from self-employment;
- other income.

The notes that go with the annual review form explain what income counts and where to find a record of taxable income. You should calculate your income figures and put the totals in the appropriate boxes on the form. Figures in each group are rounded down to the nearest pound.

You can supply estimates for income if the final figures are not available, but final figures must be supplied by 31 January of the following year at the latest. This might be the case if you are self-employed and there has been a delay in preparing accounts.

The annual declaration then asks you to confirm that your personal circumstances for the tax year just ended are correctly shown on the annual review form. If the details are incorrect, you should contact HMRC with the correct information right away. The final part of the form is a declaration to be signed by you and your partner, if you are claiming jointly. Signing and returning the form enables the tax credit award for the tax year just ended to be finalised. It also acts as a claim for tax credits for the current tax year, unless you state that you wish to withdraw your claim. A declaration made by one member of a couple in a joint claim may be treated as made by both.

Households on middle incomes

If your income for tax credits purposes is too high to qualify for a tax credits award, HMRC may write to you to give notice that your claim will be withdrawn. This may apply to you if you have one child and your income is more than around £26,000 or two children and an income around £32,000 but this is **not** an income cut-off point as it also depends on your circumstances, such as how many children you have, childcare costs and disabilities. The amount you receive may be reduced to nil, so your payments will stop. However, you can still renew a nil award if you contact the Tax Credits Helpline within 30 days to request that it continues.

It is advisable to renew a nil award if there is a possibility that your income will go down. This may lead to an initial 'nil award' decision for the new tax year, but this can be revised later to make payments for the whole tax year. Waiting until circumstances change before making a new claim can mean that you lose out on a substantial amount. Families on more than £26,000 may still be entitled to a substantial amount of tax credits, especially if there are disabilities or childcare costs. In these cases, HMRC should not withdraw your claim and it should be renewed as normal.

How changes in income affect an award

The annual declaration asks for details of income for the tax year just passed. For example, to calculate entitlement for 2020/21, you must give income details for the tax year 2020/21 in the annual review that takes place in the summer of 2021.

HMRC, in the initial decision at the beginning of the year, usually bases the award on income in the previous tax year (the exception to this is where you are on income support, income-based jobseekers allowance, income-related employment and support allowance or pension credit, when your income is treated as nil). For example, for an award made in 2021/22, the initial award is based on income in 2020/21. Following the annual review, the final award may either continue to be based on income in the previous tax year or switch to income in the year of the award (current year). The rules say that you use the previous year's income as the basis for a tax credit award unless:

- income in current year has gone down by more than £2,500, compared to previous year's income. In this case, the current year income is used, *plus £2,500*;
- income in the current year has gone up by more than £2,500, compared to the previous year's income. In this case, the current year income is used *minus £2,500*.

Example – decreased income

Millie and Neville are a couple with children, who have had a joint claim for tax credits for several years. In 2020/21, Millie earned £7,000 and Neville earned £10,000. Millie and Neville's initial award for 2021/22 is based on their 2020/21 joint income of £17,000. However, Neville's hours have changed and their estimated joint income in 2021/22 is £15,000. Their tax credit award for 2021/22 is not adjusted because their income has not gone down by more than £2,500.

Example – increased income

Millie and Neville's initial decision for 2022/23 will be based on their actual income in 2021/22 of £15,000. However, Millie gets a new job and their joint income in 2022/23 increases to £22,000. Their joint income has increased by more than the £2,500 disregard, so their entitlement for 2022/23 will be based on their 2021/22 income, minus the £2,500 disregard. If they do not report this estimated increase at the start of 2022/23, they may be overpaid.

After 6 April but before the award is finalised, you continue to receive provisional payments of tax credits based on the information HMRC holds about your earnings, with the assumption that your income has increased in line with average earnings. During this period you should tell HMRC without delay of any other change in income or circumstances. If you notified HMRC of an increase in income in one year, the disregard does not apply from the start of the following tax year

Responding to the annual review

You can respond to the annual review and make your annual declaration by:

- Post: return the completed annual declaration form in the envelope provided.
- Telephone: keep a note of the date, time and content of the call, in case of problems later.
- Online: including if you have changes to report. www.gov.uk/manage-your-tax-credits

The annual declaration finalises the claim for the last year. It also acts as a renewal claim for the new tax year. If the declaration is not made by 31st July, tax credit payments stop. You should receive a notice informing you that your claim is being terminated. The law allows you at least 30 days from the date of this notice to make your declaration, and your claim should be restored. If you have not returned the annual declaration within the time allowed, you can still send it in up to 31 January of the following year but you must show you have 'good cause' for the delay. If HMRC accepts that you have good cause for the delay, the renewal claim is backdated to 6 April. The law does not define what might amount to good cause. Guidance suggests that having a serious, unexpected illness or close relative dying would count, but other reasons should also be considered. If HMRC refuses to accept good cause, it is arguable that you have the right of a review then an appeal against this decision. You should request a review then appeal and ask for the matter to be referred to the First-tier Tribunal to decide whether it is an appealable decision, and seek advice.

Even with good cause, you are expected to act as soon as possible to sort the tax credit position out. You may also be expected to make arrangements to submit the form on time if there is a foreseeable difficulty. For example, if you know in advance that you will be in hospital at the time when the form should be completed, you might be expected to make arrangements to submit the form on time. When returning a form late, it is best to give a full explanation for the delay.

If you fail to renew:

- your current year claim lapses;
- a new claim for tax credits will be needed. This can only be backdated for 31 days, so there will be a gap in entitlement;
- payments received from 6 April until 31st July (or longer if payments do not stop at once) may need to be repaid;
- an initial penalty of up to £300 may be charged, followed by daily penalties of up to £60 per day. However, so far, penalties in this situation have been rare.

> Example
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> Usha is a lone parent. She was sent her annual declaration form in May 2021. By the end of July 2021 she has not returned it. HMRC stops her award. They ask her to repay all the tax credits paid to her since April 2021. In October 2021, she completes the annual declaration and returns it. She explains that she suffers from severe anxiety and depression, has been unable to work or deal with her affairs and has had nobody to help her. HMRC accepts this as good cause for the delay and reinstates the award back to April 2021.

If you return the form after 31 January, it should be treated as a new claim which cannot be backdated more than 31 days, no matter how good the reason for the delay. This is still legally possible even though new claims are not possible in most cases. A claim for 2021/22 is still possible if you had an award of tax credits in 2020/21, but HMRC might not accept this if there has been a gap in entitlement to tax credits.

> Example
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> Liam has a learning disability. He works part time and claims working tax credit. He cannot read forms and does not return his annual declaration. After 31 July 2020, his award stopped. Later, he is asked to repay the working tax credit paid to him since April 2020. By the time he gets advice, it is February 2021. It is past the final deadline and too late to have his renewal claim backdated to April 2020 even though there were good reasons for the delay. Instead, he asks for his late declaration to be treated as a new claim and backdated for the maximum 31 days. HMRC tell him to claim universal credit instead. He does not want to claim universal credit and will have to get advice to challenge HMRC's refusal to accept his late renewal claim.

The final award notice

Once the annual declaration has been returned, HMRC finalises your award for the previous year. It aims to do this within 30 days of receiving the information by sending out a final award notice. This notice sets out your final entitlement for the previous year. If you have been underpaid or overpaid, this will be shown on the notice. Underpayments are normally paid to you as a lump sum. Overpayments are normally deducted from a continuing award. There is official guidance in leaflet COP26 about when and how HMRC can recover an overpayment. It explains when you can ask for it to be written off.

If you were not sent an annual declaration to complete, the final notice is set out in the annual review form. Only if the figures are incorrect, and you were required to report a change to the Tax Credit Office, will a separate final award notice be sent out. HMRC also sends out an award notice for the current year.

If you disagree with the decision

You must first request a review of a final decision within 30 days from the date given on the decision letter, although late requests (up to one year after the end of the 30 day period) may be accepted in special circumstances. HMRC refers to this as mandatory reconsideration, and must notify you of the outcome of its review. If you are still unhappy, you have the right of appeal to a First-tier Tribunal against the decision.

If you are on certain means-tested benefits, you may not get a separate final decision notice. In this situation the annual review notice should state what the final decision will be and the date on which it will be made, usually 31 July. The deadline for review is 30 days after this date.

If the dispute is about the recovery of an overpayment, there is no right of review/appeal about this. Instead you can ask HMRC to use its discretion not to recover the overpayment and complain if you are not happy with the result. For more information see official guidance
What happens if we have paid you too much tax credit, (COP26) and CPAG in Scotland's factsheet *Tax credits – overpayments*.

Claiming universal credit

When you claim UC, your tax credits stop. Your tax credits award may be finalised during a tax year rather than waiting for the annual review at the end of a tax year. Your tax credits award will be finalised by using an income figure based on what you have actually earned up to the point in the year when you move onto UC. This means your tax credits award may reflect your actual income at the point when you move onto UC, which is apportioned over a year and compared with your previous year income.

If you have an outstanding tax credits overpayment when you claim universal credit, you should register any dispute or mandatory reconsideration/appeal with HMRC and request that recovery of any overpayment is not transferred to the DWP until this is concluded.

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

cpag.org.uk/scotland/welfare-rights/tax-credits for more tax credit factsheets 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)

gov.uk/topic/benefits-credits/tax-credits

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