



Inland
Revenue

CODE OF PRACTICE
COP26

What happens if we have paid you too much tax credit?

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This leaflet explains what happens if we have paid you too much tax credit and how to pay it back.

How we work out your tax credit

Your tax credit award for the tax year 2003-04 (the year 6 April 2003 to 5 April 2004) is based on your circumstances during that year. Your initial award is based on your income for the tax year 2001-02. Your entitlement to tax credit for 2003-04 will be decided finally when your income for that year is known. Your final tax credit will be based on

- your 2003-04 income, if that is lower than 2001-02's, **or**
- your 2001-02 income, if your 2003-04 income has risen but not by more than £2,500, **or**
- your 2003-04 income less £2,500, if your 2003-04 income has risen by more than £2,500. For example, if the rise were £3,000, your 2003-04 tax credit would only take £500 of the increase into account.

We do this so that we provide extra support if your income falls but also allow room for your income to rise before it affects your tax credits.

Once we have made a tax credit award, it can be adjusted if things have changed. We adjust awards

- during the tax year, if you tell us about a change in your circumstances or we need to correct the information your award is based on. We also adjust your award if you tell us that your income in 2003-04 is likely to be different from 2001-02's income. And we adjust awards to put right the amount we are paying you, so that we do not pay you too much tax credit for the year
- at the end of the year, when we have all the information about your circumstances and income and can make our final decision about your entitlement to tax credits for the year.

When we adjust an award, we may find that we have not paid you enough tax credit. If we do, we will pay out the extra straightaway in a single payment. We may also find that we have paid you too much tax credit. If we have, you will normally be expected to pay it back.

This Code of Practice explains what will happen if we find that you have been paid too much tax credit and how you will be expected to pay it back. It also explains what we will do if an overpayment is the result of a mistake on our part or paying back what you owe would cause you and your family hardship.

Adjusting awards during the year

During the tax year, we may find that we need to adjust your payments to avoid paying you too much tax credit over the year.

This might be because

- there was a delay before we knew about, or processed, a change in your circumstances that reduced your award, or
- you tell us that you expect your income for 2003-04 to be higher than the income on which we have based your award, or
- your award was not based on the right information or you have been paid the wrong amount for your circumstances and income.

If we find out during the year that we have been paying you too much tax credit, we will normally

- reduce the amount we are paying you from then on, so that we pay you the right amount of tax credit for the year, or
- not pay you any more tax credit for the rest of the year, if we have already paid you as much as, or more than, you are entitled to. If we have already paid you more than you are entitled to, we may also ask you to pay back the extra after the end of the year, once all the relevant information about your income and circumstances is available.

If we adjust your payments during the year, you should contact us if they are reduced to a level that causes you hardship or if you think a possible overpayment should not be recovered. We will then, depending on the size of your award, make additional payments to bring your tax credits back to a higher level. We will set those payments taking into account the maximum amounts by which we would reduce your award for the following year if we were collecting an overpayment from it. These additional payments will mean that you have an overpayment at the end of the year.

Stopping awards

If we find during the year that you were not entitled to a tax credit at all, we will stop your award of that credit. You will be expected to pay back all the payments of that tax credit we have made.

Finalising awards at the end of the year

After the end of the year, once all the information about your income and circumstances is available, we will compare your tax credit entitlement with what we have paid you.

We will write to you about your claim and ask you to confirm that we have a correct and complete picture of your circumstances during the year and to tell us your income (or an estimate of your income) for the year.

Once we have that information, we will send you a notice about your final tax credit entitlement for the year just ended. If we have paid you too much tax credit, we will usually expect you to pay it back. In the notice finalising your award for the year, we will tell you the amount you have been overpaid and explain why it arose. We will also tell you how we expect you to pay it back. If we have paid you too little tax credit, we will pay out the extra as a single payment.

There are several reasons why we might find at the end of the year that you have been paid too much tax credit. For example

- if we did not know about a change of circumstances that reduced your entitlement
 - if your income rose by more than £2,500 in tax year 2003-04, compared with your 2001-02 income, and we did not know about it,
- or
- if you told us about a change in your income during the year but your actual income is different from what you expected.

If we identify an overpayment when we finalise your tax credit award, we can ask you to pay it back by one of the following methods

- reducing your tax credit award for the current year
- adjusting your PAYE code to collect the amount overpaid by increasing the tax you pay on your earnings. This will apply for overpayments relating to 2004-05 and later years. For overpayments from the tax year 2003-04, you can pay back the amount overpaid in 12 monthly instalments
- making a payment to us direct, due **within 30 days**. But for overpayments arising in 2003-04, you will be able to pay in 12 monthly instalments if you wish.

Where we can, we will ask you to pay back overpaid tax credit from the previous year by taking the money from a tax credit award you are entitled to for the current year. Depending on the size of your award, we will not take more than a certain percentage of your tax credits for the next year to pay off what you owe us.

The maximum amounts by which we would reduce your award are

- 10% for claimants receiving the maximum award
- 100% for claimants receiving only the family element of Child Tax Credit
- 25% for all other claimants.

If we ask you to pay back a tax credit overpayment direct because you have no continuing tax credit award, we will write to you setting out the amount you owe. We will also send you a payslip telling you what to do if you want to pay over 12 months.

If you disagree with our decision during the year that you are entitled

Appealing against the amount due

to less tax credit, or that you were not entitled to a tax credit at all, you can appeal against it. You can also appeal if you disagree with our decision about your tax credit entitlement after the end of the year.

You can only appeal about our decisions on your entitlement. If you accept that our decision about your entitlement is right, but object to our decision about recovering an overpayment, you should get in touch with us straightaway to discuss this.

You have **30 days** from the date shown on the notice of our decision in which to appeal. You can make an appeal after that if you had a reasonable excuse for not meeting the time limit. If you only realised that you needed to appeal once you had received a detailed calculation from us, we would regard that as a reasonable excuse. You should make any appeal to

Tax Credit Office
Preston
PR1 0SB.

In Northern Ireland, please make any appeal to

Tax Credit Office
Dorchester House
52-58 Great Victoria Street
Belfast
BT2 7WF.

If you want more information about how to make an appeal, please ask for our leaflet WTC/AP 'How to appeal against a tax credit decision or award'.

Tax credits can be claimed by

- individuals

Couples

- married couples who are living together, or
- a man and a woman who are living together as husband and wife.

For couples, you and your partner must claim tax credits jointly. You both take responsibility for the information in the claim and for changes you tell us about. If you have been paid too much tax credit, all the information above about how we recover overpayments still applies. In addition, however, because you make a joint claim, we can ask either of you to pay us back the amount we have overpaid you.

Where we can, we will recover an overpayment by reducing a continuing tax credit award to you and your partner. If we have to ask you to pay direct, our first step will be to ask you jointly to pay us the money. For 2003-04 overpayments identified at the year end, you can pay in instalments over 12 months if you wish.

At a later date, after looking at the facts in individual cases, we may also ask

- the partners in a couple to pay us different amounts of the overpayment, or
- one partner to pay us the whole of the amount.

But we would only do this if, in an individual case, there were a difference between the partners' ability to pay. And, in law, both partners would remain liable to pay the full amount unless we sent out new notices saying otherwise. Different payment methods could apply to each of the partners.

In a case in which a couple had broken up and owed money in relation to tax credits before the break-up, we would look at each case on its facts and take into account the circumstances, income and expenses of each of the former partners in reaching a decision.

We may decide that you should not be asked to pay back all or part of an overpayment, if

- you were paid too much because of a mistake by us and it was

When might we not recover an overpayment?

reasonable to think your award was right, or

- it would cause hardship to you or your family if you had to pay the tax credit back. We may also accept payment over a longer period of time in a case of this kind.

If we find that, because we have made a mistake, we have not paid you all the tax credit you are entitled to, we will pay you the extra tax credit in a single sum straightaway.

Overpayments if we have made a mistake

We will not ask you to pay back an overpayment if it arose because we made a mistake and you could reasonably have thought your award was right. This would include cases where we instructed your employer to pay you the wrong amount of Working Tax Credit, provided you could reasonably think you were being paid the right amount.

Some mistakes by us that lead to overpaid tax credit may happen because you gave us some information and we did not act upon it. If you tell us about a change, you can expect to get a revised award notice from us within a few days. But if you tell us something and we do not act upon it **within a month**, and you could reasonably think your tax credit award was correct, we would not ask you to pay back the additional tax credit you were paid.

It would have to be reasonable to think that your tax credit award was correct. For example, if we were paying you tax credits on the basis of the wrong number of children, that is the sort of thing we would expect you to spot on your award notice and tell us about. And we would also expect you to tell us if your employer was paying you more tax credit than your award notice said you were entitled to.

In deciding whether it was reasonable to think your award was correct, we will consider all the circumstances of your case.

We will take the same approach where the mistake that led to the overpayment was made by another Government Department.

If we have adjusted your tax credit payments to avoid overpaying you for 2003-04, and you think we should not have made the adjustment because the overpayment was our mistake, you should contact the

2003-04 adjustments

Tax Credit Office or Helpline. We will consider whether to make additional payments to you to correct the position.

Cases where payment would cause hardship

After considering the facts in individual cases, we may decide not to collect all or part of an overpayment of tax credit, or to allow you more time to pay, if payment would cause you and your family hardship.

What factors we will take into account

We will look sympathetically at your proposals for paying us what you owe but we must take account of all the circumstances before we make a decision. We may need to talk to you before we make a decision and may ask for more information.

When we consider whether it would cause you and your family hardship if we tried to recover an overpayment, or whether we should agree to you paying back the amount over a period of time, we will take account of

- your current and future income and essential living expenses
- your savings, investments and other assets which you could use over the short to medium term to make the payments - these might make it more appropriate to delay payment than not ask for payment at all
- your other liabilities, for example, repayments of your mortgage, rent or rent arrears, overpayments of social security benefits or other debts
- whether you are due to make other payments to us, and how paying the current debt over a period of time might affect them
- how long it will take you to pay back the overpayment
- your previous payment history with us
- whether paying what you owe us would result in you not being able to afford essential services, such as gas, electricity or water, immediately or over time, because you would not be able to continue paying those bills if you were paying back your debt to us
- whether you have a child or children under five or a chronically ill or disabled person in the family whose health could be affected by your paying back the debt, even over an extended period

- any other factors which are relevant.

If you have difficulty making a payment when it is due

If you are due to make a payment to us but do not expect to be able to make it when it is due, you should tell us immediately. Contact the Helpline at the number shown on your end of year notice, notice to pay or reminder.

When you contact us, we will ask

- for the reference number shown on the latest correspondence from us and any other information we need to identify the right tax credit bill
- how much you can pay on the date the payment is due, and
- when you will be able to pay the rest.

Your local Citizens Advice Bureau or other local advice centre, or your accountant or tax adviser, can help you to work out what level of payment you could reasonably afford.

If you do not keep to a payment arrangement with us without telling us, we will have to pursue what you have not paid in the same way as any other debt, taking legal proceedings to recover the debt if necessary.

If you miss the date for making a payment to us, we will get in touch to remind you and give you the chance to pay before we take further action.

If you miss making a payment to us

If you still do not pay what you owe, we will contact you again. This may be by letter or by telephone. If we have been unable to get in touch with you, we may try to contact you by visiting you at your home or, if you are self-employed, at your business premises. We may ask you to call at our offices. You can call at a local office convenient for you, for example, close to your home or work.

We will deal promptly with letters from you or from anyone acting for you and will normally reply **within 28 days**. If we cannot reply quickly, for instance because of the amount or complexity of the material you

have sent us, or because we have to involve another office, we will let you know the reason for the delay and say when you can expect a response.

If we visit you, we will show you identification to prove who we are.

Our action will depend upon the circumstances and, in particular, the amount you owe, your previous payment history, your financial circumstances and the extent to which you have kept us informed.

If we cannot agree a payment arrangement with you or you have not replied to our requests, we will, as a last resort, take steps to enforce payment. Any enforcement action may involve legal costs, which you have to pay. We will always try to get in touch with you before we do this.

What we will do if you continue not to pay

Help and advice

If you would like advice about tax credits, you can

- phone our Helpline on **0845 300 3900** (England, Scotland and Wales) or **0845 603 2000** (Northern Ireland)
- textphone the Helpline on **0845 300 3909** (England, Scotland and Wales) or **0845 607 6078** (Northern Ireland)
- visit any Inland Revenue Enquiry Centre.

Our Helplines are open between 8.00am and 8.00pm, seven days a week (except Christmas Day, Boxing Day, New Year's Day and Easter Sunday).

You may also want to get advice about tax credits from your accountant or tax adviser or from local advice services such as a Citizens Advice Bureau.

Who will we talk to about your tax credit affairs?

Confidentiality

You have the right to the same degree of confidentiality about tax credit repayment matters as you have about all other aspects of your tax credit affairs.

If you visit our offices, you can, if you wish, discuss your affairs in a private room where you cannot be overheard.

Representation by someone else

If you prefer, we will deal with someone else on your behalf. This might be a voluntary sector adviser (such as a Citizens Advice Bureau), your accountant or other professional adviser or a friend or relative.

If you want us to write to them or to discuss your affairs with them over the telephone, we will need written authority from you on a form 64-8 or a short (signed) letter, to confirm that we can do so. The letter, signed by you, should include your full name, address, postcode and any tax credit reference number you have. If you have claimed tax credits as a couple and you want us to discuss matters relevant to both of you with someone else, we will need written authority from both you and your partner.

If we do not already have authority from you, another person may still phone one of our contact centres on your behalf, as long as we are satisfied that you are present with them at the time and you confirm that you are happy for us to speak to them. For couples, we will need both you and your partner to confirm that you are happy for us to speak to someone else on your behalf if you want us to discuss matters that are relevant to both of you.

You will always remain personally responsible for the information provided by another person on your behalf and for paying back overpaid tax credit, and, if we cannot make any progress with them, we will contact you directly. We will also continue to send you copies of important documents as well, unless an appointee is acting for you.

You can ask us at any time to explain your rights, or why we have taken

Keeping you informed

a particular action, or what you are obliged to do under the law in any given situation. Our leaflet IR141 'Open Government' also gives more information about this.

How to complain

If you have a complaint and matters are not resolved to your satisfaction so that you want to take things further, please tell us. You can contact us by

- phone on **0151 966 1151**
- fax on **01772 239067**, or
- writing to
Tax Credit Office
Preston
PR1 0SB.

For more information about how to make a complaint, or taking cases to the Adjudicator or the Ombudsman, please see our leaflet COP1 'Putting things right. How to complain.'

Further information

We produce a wide range of leaflets. Some you might find useful are

- WTC1 Child Tax Credit and Working Tax Credit. An introduction
- WTC2 Child Tax Credit and Working Tax Credit. A guide
- WTC5 Help with the costs of childcare. Information for parents and child care providers
- WTC6 Child Tax Credit and Working Tax Credit. Other types of help you may be able to get
- WTC/AP How to appeal against a tax credit decision or award.

Our leaflets are available at www.inlandrevenue.gov.uk and from any Inland Revenue office or Enquiry Centre. Most offices are open to the public from 8.30am to 5.00pm, Monday to Friday. Addresses are in your local phone book under 'Inland Revenue' and at www.inlandrevenue.gov.uk/local

You can get most of our leaflets from our Orderline, seven days a week (except Christmas Day, Boxing Day and New Year's Day) by

- phone or textphone (for Minicom users) on **0845 9000 404** between 8.00am and 10.00pm
- fax on **0845 9000 604**
- e-mail at saorderline.ir@gtnet.gov.uk
- writing to
PO Box 37
St Austell
Cornwall
PL25 5YN.

Orderline calls are charged at local rates.

Your library or Citizens Advice Bureau may also have copies of some of our leaflets, but may not have them all.

We have a full range of services for people with disabilities, including leaflets in Braille, audio and large print. For details, please ask your local Inland Revenue office or Enquiry Centre.

Our Service Commitment to you

The Inland Revenue and Customs and Excise are committed to giving you the best service we can by

acting fairly and impartially

We

- treat your affairs in strict confidence, within the law
- want you to pay or receive only the right amount due.

communicating effectively with you

We aim to provide

- clear and simple forms and guidance
- accurate and complete information.

providing good quality service

We aim to

- handle your affairs promptly and accurately
- be accessible
- keep your costs to the minimum
- help customers with special needs
- be courteous and professional.

taking responsibility for our service

We

- publish our customer service aims and achievements annually
- want to hear from you if you wish to comment, or complain, so we can improve our service. We advise you how to do this.

We can provide better service if you help us by

- keeping accurate and up-to-date records
- letting us know if your personal or business circumstances change
- giving us correct and complete information
- paying on time.

Further information on customer service is available at Inland Revenue and Customs and Excise local offices, set out in our Charters, complaint leaflets and Codes of Practice.

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

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