

Tax Credit Penalties
How tax credit enquiries are settled

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Introduction

The Government is committed to supporting families and tackling child poverty through the child tax credit, and making work pay through the working tax credit. As part of this support, it is important that people receive what they are entitled to.

Sometimes people may receive more than they are entitled to – through innocent error on their part or by the Revenue or where a claimant deliberately claims too much. The Inland Revenue has a duty to ensure that the claims process is as simple as possible, and allows genuine claimants to receive the right amount of tax credit at the right time.

At the end of the tax credit year we send you a notice asking you to confirm your income and circumstances for the year are correct. To check that you have received the right amount of tax credit, we may need to ask you for some more information. This will help us to understand your circumstances and look at your claim and award in full. We want to make sure that you have not received too little tax credit or too much. Either way, we will tell you if we find something wrong. We will then discuss with you how best to put things right. If your award was too low, we shall change it to the right amount. And if the extra information indicates that we have paid you too much tax credit, we shall talk to you about this so that we can help you correct it. We shall explain what we believe is wrong, and how that affects your award. Once we have agreed the correct award you will need to repay any overpayment of tax credits. We will discuss with you how best to arrange this. We call this process an “enquiry”.

In some cases, people fail to tell us about information which affects their award, deliberately give us incorrect information, or do not take enough care in completing their claim or the confirmation of their award. In these cases the person may need to pay a penalty. We shall explain why that is so.

There are three reasons that penalties may be charged: These are if

- we find deliberate or negligent errors in the claim or the information you have given to us, or
- you fail to tell us of changes in your circumstances when you should do, or
- you fail to supply information or evidence we ask for.

Why have you sent me this leaflet?

We have sent you this leaflet because

- you have asked us to, or
- our enquiry now suggests that you may have to pay a penalty.

If we have been enquiring into your claim you will already have been contacted by us to explain what happens during the enquiry. We will also have asked you for some more information. This will help us to understand your circumstances and look at your claim and award in full. We remind you what happens during an enquiry, here.

We also want you to be aware of

- why we would like you to co-operate with our enquiry
- the penalties you may have to pay, and
- your rights of appeal against those penalties and our decisions.

What if I claim as part of couple?

If you made a joint claim for tax credits with your partner, then we will send them a copy of this leaflet too. You are each responsible for the information you provide in your claim.

Any penalty will be chargeable only on the partner whose error or failure means that a penalty is due, unless we believe that the other partner must reasonably have known that the statement made or the information supplied was incorrect.

If both partners must reasonably have known that the statement made or the information supplied was incorrect then any penalty will normally be charged on the couple. So wherever this booklet mentions the amount of a maximum penalty it means the maximum that can be charged, whether to an individual claimant or to a couple. Normally the actual penalty will be much less, as we explain later in this leaflet (on page 7).

What if I have special needs?

If you have any special needs, for example related to a disability, we will help you as much as we can. If it would be helpful to meet to discuss any errors in your claim to tax credits, but your disability means it is difficult for you to travel to us, then we can visit you at home or at your place of employment if you ask us to.

Please explain your needs to the person who has written to you (their details are on any letter they have sent) or phone your local Inland Revenue Enquiry Centre and ask to speak to the Customer Services Manager. Office phone numbers are in your local phone book under 'Inland Revenue' and at www.inlandrevenue.gov.uk/local

If you phone, please have any letter we have sent you handy, as we may need to ask you for some details from it.

During the enquiry

Can I have help to deal with your enquiry?

We will assist you where we can but you may find it helpful or reassuring to get independent advice. This might be from a voluntary sector worker (such as Citizens Advice), an accountant or other professional adviser, or a friend or relative.

If you want us to deal with someone else on your behalf then you need to tell us in writing. Your letter should include your full name, address, postcode and any tax credit reference number you have.

If you have made a joint claim for tax credits, and you want us to discuss matters that are relevant to both of you with someone else, both you and your partner must sign the letter.

If you don't send us a letter, another person can still phone us on your behalf, as long as

- we are satisfied that you are with them at the time, and
- you confirm that you are happy for us to speak to them.

For couples, both of you must confirm that you are happy for us to speak to them, if you want us to discuss matters which are relevant to both of you.

Do I have to co-operate with your enquiry?

We would welcome your co-operation in establishing your entitlement to tax credits. The extent to which you co-operate and provide us with information is entirely a matter for you to decide. It may be a good idea to get independent advice on this.

We will make notes of all meetings, and copies of these notes will be given to you or your adviser if you ask for them.

Our enquiry may show that an offence has been committed for which you may have to pay a penalty. This leaflet sets out how we work out any penalty.

In calculating the amount of the penalty, we will take into account the extent to which you have been helpful and have freely and fully volunteered any information about income or circumstances which were omitted or incorrectly stated.

What should I do now?

When we ask you for information you should reply as quickly as you can. If you need extra time, then let us know how much and why. You should tell us straight away if

- you have difficulty getting the information we need and we will discuss with you how to get it
- you think the information we have asked for is not relevant to our enquiry
- you believe you have already given us the information .

We will give you a reasonable amount of time to give us information or evidence that we need. As such, it is important that you let us know if you are unable to send us what we have asked for. Otherwise, you could be charged penalties.

In calculating any penalty where you made incorrect statements or have given us incorrect information or evidence, we will take into account the extent to which you

- have been helpful, and
- have freely and fully volunteered information about income or circumstances which you omitted or incorrectly stated.

What happens when you have all the information?

When you have given us all the information we work out and agree any change in your tax credits award and any overpayment or underpayment.

Before we work out your tax credit award, we may ask if you have given us full and complete details of your circumstances. So, we will ask you to sign a 'certificate of full disclosure'. You should consider carefully the statements and information you've given us before you sign it.

We want you to be sure that you have told us everything that could affect the amount of your tax credits award.

We get information from various sources at different times, including details of

- full-time and part-time earnings from employers
- pensions you receive
- self-employment
- rents you pay or receive
- interest you pay or receive
- dividends you receive
- income from trusts
- amounts paid to child carers
- other claims to tax credits.

We consider such information together with what you have said in your claim or during the enquiry. If a later enquiry reveals an irregularity that you had not made us aware of during an earlier examination or enquiry then a further or higher penalty is likely to be charged.

Once we have agreed the right amount of your tax credit award and the amount overpaid to you we will explain any penalty we may charge you.

Do I have to pay interest?

If we overpaid you tax credits because deliberately or without taking reasonable care

- you made an incorrect statement, or
- you gave us incorrect information or evidence

we may ask you to pay interest on the overpayment, and pay back the overpayment itself.

You have the right to appeal against our decision to charge you interest on an overpayment (see **Can I appeal?** on page 12).

Interest may also be payable if you are late in paying any penalty we have charged. You have no right of appeal against this interest charge.

Penalties - introduction

We hope that few people will deliberately or negligently make errors in their tax credit claims, or fail to provide information at the right time. But if that does happen the claimant may need to pay a penalty. Here, we tell you:

- when a penalty may be charged,
- the maximum penalty that we may charge,
- the factors we take into account in working out the penalty.

In practice, where you need to pay these penalties they will usually be much less.

Penalties - if I choose not to co-operate?

If you don't let us have the information we've requested within the time we specify, then we can refer your case to an appeals tribunal. They can impose **a penalty of up to £300**.

If you still don't give us the information, we can charge you **a further penalty of up to £60 for each day that you fail to do so**.

These are the maximum penalties for not supplying information. In practice, where we charge these penalties they will usually be much less.

If you fail to give us the information we've asked for, **we may decide that you should not have received any tax credit at all for the year under enquiry, and that your current payments should be reduced or stopped**. We will write to you to tell you of any action we propose to take.

You can appeal against

- both of the penalties mentioned above, and
- the decision to amend the amount of tax credits.

We do not treat your use of your right of appeal as non-co-operation. If you choose to appeal it will not affect the amount of penalty that we may charge.

For more information see **Can I appeal?** on page 12.

Penalties - because of errors in my claim or the information I give you?

We can charge you penalties when you have

- deliberately or negligently made an incorrect statement, or you did not take reasonable care in completing the claim form
- either deliberately, or because you did not take reasonable care, given incorrect information about your circumstances or in response to our questions

The penalty can be up to **£3,000**. In practice, where we charge penalties, they will usually be much less than this maximum amount.

When working out this penalty, we will take into account

- the extent to which you voluntarily told us about anything that was wrong
- your help in bringing our enquiry to an end
- the seriousness of your errors or omissions, and
- whether you have previously made an incorrect claim, given incorrect information, or failed to provide information.

If you filled in the claim form with the guidance we sent you, but this guidance was incorrect and was the cause of the error, then we consider you to have taken reasonable care. **You will not be liable to a penalty or interest charge for this error.**

If we tell you that a penalty is due, you have the right to appeal against our decision. For more information see **Can I appeal?** on page 12.

Penalties - for not telling us of a change in circumstances?

We can also charge you penalties if you did not tell us **within three months** about certain changes in your circumstances in the year under enquiry, which would have affected the amount of your award.

The changes in circumstances you need to tell us about are

- your weekly child care costs go down to nil or by at least £10 a week for four weeks in a row
- you start, or stop, being a partner in a couple
- you or your partner leave the UK permanently, or go abroad for more than 8 weeks (12 weeks if you remain abroad because you are ill or because a family member is ill or has died).

The maximum penalty we can charge you for failing to tell us about one of these changes within 3 months is **£300**. In practice, where we charge this penalty it will usually be much less than this maximum amount.

Where you tell us about a change of circumstances as part of your notice finalising the tax credit award you may be liable to this penalty when your reply is more than three months after the date on which the change of circumstances occurred.

When working out this penalty, we will take into account

- the seriousness of your failure, and
- whether you have previously failed to tell us about changes in your circumstances, which you should have told us about.

You can appeal against the decision to charge this penalty. For more information see **Can I appeal?** on page 12.

This penalty is due even if the failure

- was not deliberate, or
- was not because you failed to take reasonable care.

But, we will not charge the penalty if you had a reasonable excuse (a valid reason) for not telling us about your change of circumstances.

What is a reasonable excuse?

A reasonable excuse is something that stops you from telling us about the change in your circumstances.

We consider each case on its own facts. For example, if you had a serious illness immediately before the deadline, and from that date to the time you told us of the change,

the illness stopped you from dealing with your affairs. We would regard that as a reasonable excuse.

If you have suffered a coma, major heart attack, stroke or any other serious mental or life-threatening illness, we would regard that as a reasonable excuse.

Where an illness involves a lengthy stay in hospital or convalescence, we would normally expect you to arrange to tell us of a change of circumstances in time.

We do not regard 'being too busy' as a reasonable excuse.

It is important that you tell us if you think you have a reasonable excuse. It helps if you do this as soon as possible.

SUMMARY TABLE OF PENALTY AND INTEREST CHARGES

Situation	Penalty	Interest payable on Overpaid Credits
Failure to supply information	Maximum £300	No
Continued failure to supply information	Maximum £60 per day	No
Fraudulently or negligently providing incorrect information in claim or in response to request	Maximum £3000	Yes
Failure to notify change of circumstances	Maximum £300	No

Notes:

- In practice the penalties charged will usually be much less than the maximum amount
- Interest is payable on penalties that are paid late.

The end of the enquiry

What happens at the end of the enquiry?

Normally, by the time our enquiry into your claim has ended we will have agreed with you

- the amount of any tax credits overpaid or underpaid
- how you should repay any overpayment, and
- any change to the amount of your current tax credits award.

We will tell you if we believe a penalty is payable either in a meeting or in a letter. You or your adviser (if you have one) can give your side of things. We will then tell you the amount of the penalty that we think is due.

It is important that you tell us about any facts you think might affect our decision to charge a penalty, or the amount of that penalty. This includes anything you think we have not given enough attention to. We will then consider the effect this has on the amount of penalty we had in mind, and comment on any figure that you have suggested. As a result, we might be able to reach an agreement either straightaway or after a few days.

Also, if we have not already done so, we will tell you the amount of interest we could charge you.

What if my claim is correct, or you don't charge interest and penalties?

If there is nothing wrong with your claim or award, or we are satisfied that

- any error was not made deliberately, or
 - you took reasonable care despite making an error, or
 - you had a reasonable excuse for not notifying a change of circumstances
- then we will not charge interest or a penalty, and will close the enquiry.

What if the enquiry shows you have underpaid me?

We will pay you the correct amount in a single lump sum. If we establish that your current tax credit award should also increase we will increase your current tax credits payments so that you receive your full entitlement for the year.

Can I claim compensation for my costs arising from the enquiry?

If an underpayment has arisen as a result of a mistake or unreasonable delay by us then we will pay back reasonable costs that are a direct result of our mistake or unreasonable delay. In some circumstances we will pay compensation for distress. Our code of practice called "Putting things right – how to complain" (COP1) gives further details.

What happens after we agree the penalties chargeable?

At the end of an enquiry, you will normally have to pay the overpaid tax credits, any interest and penalties as soon as possible. If we find that you should not have received any tax credits, we will ask you to pay it all back.

We will tell you how much you must repay and whether any interest is payable. We will then add this to any penalties and ask you to pay one sum.

We will explain that we do not normally take formal action to charge penalties or interest. Instead, we normally ask you to offer to pay any overpaid tax credits, penalties or interest, in a single payment. If you are prepared to make such an offer, we will suggest

- an amount that we would accept (the amount of any penalty will be what we have already explained as being appropriate), and
- a date that you should pay it by.

We will ask you to send us a formal letter offering to pay the agreed amount by a specific date. If we are happy, we will then send you a letter accepting your offer.

This exchange of letters forms a legally binding agreement (or contract) between us and binds us both by its terms. If you keep to the terms of the agreement, then we will too. In accepting your offer, we cannot take formal penalty action by issuing charge notices formally determining the amount of the penalty.

If you offer us a different sum that we cannot accept, we will tell you in writing why we are not happy. We will ask you to make a revised offer.

When we send you the acceptance letter, we will include a payslip showing where to send your payment. If you pay under the terms of the agreement, that will be an end to the matter. If not, we may charge you interest for late payment. And we could take court action to recover the whole amount due under the terms of the binding agreement.

What if I cannot pay?

If you agree with the amount you should pay, but cannot pay it all straightaway, you can ask to pay by instalments. If we agree, we will expect you to make as large a down payment as you can and to pay the rest, including additional interest, by agreed instalments as quickly as possible.

If you could pay at the time we reached our agreement but your circumstances change and you find that you cannot pay the agreed instalments, you should tell us as soon as possible.

What if I do not make an offer?

If you do not want to make an offer or you make one that we cannot accept, we will formally issue legal notices charging the penalty, and any interest.

You can appeal against these notices. **See Can I Appeal?** on page 12.

If you do not appeal against these notices then you will have to pay the penalties and the interest, as well as any overpaid tax credits.

We will take action to recover the overpaid tax credit in the same way as any other debt, taking legal proceedings to recover the debt if necessary.

Making an appeal

Can I appeal?

You have a right to appeal against the decision

- whenever we decide to amend or end your tax credit award
- when we or an independent tribunal decides to impose a penalty
- when we decide to charge interest on an overpayment.

You have **30 days** from the date shown on the decision notice, to make your appeal **in writing**.

You can find out more about appeals by reading our leaflet WTC/AP 'How to appeal against a tax credit decision or award', available on our website at www.inlandrevenue.gov.uk or from any Inland Revenue Enquiry Centre. Or, if you prefer, we will explain to you how to make an appeal.

What happens after I have appealed?

We will try, wherever possible, to reach agreement with you about the amount of tax credits you are entitled to and about penalties and interest we believe are appropriate.

If we reach agreement with you on the amount of award, penalty or interest, we will send you a letter setting out the details of the agreement. If this agreement affects the decision we have already made, we will send you a notice of our new decision. If you change your mind about our agreement, you must write to us **within 30 days**. Otherwise the agreement stands.

You do not have to reach an agreement with us, and you can ask for advice at any time.

If we cannot reach agreement, we will send your appeal, along with an explanation of the law and facts we used to make our decision, to the Appeals Service. An appeals tribunal will then hear your appeal. Both the Appeals Service and the appeals tribunal are completely independent of the Inland Revenue.

The tribunal may decide on an appeal against:

- the award – the amount of that award
- the penalty – the amount, which may be less or more than the amount we've set out
- the interest – whether interest is chargeable

We may use the information or documents that you gave us during the enquiry in any appeal proceedings.

Can I still negotiate after formal action has started?

Yes. If you want to make an offer to pay you can reopen negotiations with us at any time before we finish the formal penalty action.

Further information

We produce a wide range of leaflets. You might find these useful.

WTC1	Child Tax Credit and Working Tax Credit. An introduction
WTC/AP	How to appeal against a tax credit decision or award.
COP1	Putting things right - how to complain
COP 27	Working Tax Credit and Child Tax Credit: Local Office Enquiries

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.

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