STATUTORY INSTRUMENTS

2017 No. 396

TAX CREDITS

The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017

Made - - - -	*14th March 2017*
Laid before Parliament	*15th March 2017*
Coming into force - -	*6th April 2017*

The Treasury make the following Regulations in exercise of the powers conferred by sections 7(8), 65(1), (7) and (9) and 67 of the Tax Credits Act 2002(**1**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2017 and come into force on 6th April 2017.

(2) These Regulations have effect in relation to awards of tax credit for the tax year 2017-18 and subsequent tax years.

Amendment of the Tax Credits (Definition and Calculation of Income) Regulations 2002

2. The Tax Credits (Definition and Calculation of Income) Regulations 2002(**2**) are amended as follows.

3. In regulation 4 (employment income)—

(a) in paragraph (1)—

(i) in sub-paragraphs (c) and (e)(**3**) after "ITEPA" insert "or, where there is an optional remuneration arrangement, the relevant amount,",

(ii) in sub-paragraph (d) after "ITEPA" insert "or, where such a credit-token is provided pursuant to an optional remuneration arrangement, the relevant amount", and

(iii) after sub-paragraph (i) insert—

(**1**) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to "prescribed".

(**2**) S.I. 2002/2006 (the principal Regulations); relevant amending instruments are S.I. 2003/732, 2003/2815, 2006/766, 2007/824, 2007/1305 and 2010/751.

(**3**) Paragraph 1(c) to (e) have been amended by regulation 6 of S.I. 2003/732. "ITEPA" is defined in regulation 2 of the principal Regulations as meaning the Income Tax (Earnings and Pensions) Act 2003 (c. 1). The definition was inserted by regulation 4 of S.I. 2003/732.

"(ia) "the relevant amount in cases where a car is made available to the claimant or a member of the claimant's family pursuant to an optional remuneration arrangement where the car's CO_2 emissions figure exceeds 75 grams per kilometre;",

(b) in paragraph (4) after "disregarded" insert "except where the payment or benefit is provided pursuant to optional remuneration arrangements and is neither a special case benefit nor an excluded benefit", and

(c) after paragraph (5) insert—

"(6) For the purposes of this regulation, a benefit is provided pursuant to optional remuneration arrangements if it is provided under either—

(a) arrangements under which, in return for the benefit, the claimant gives up the right (or a future right) to receive an amount of earnings within Chapter 1 of Part 3 of ITEPA ("Type A arrangements"), or

(b) arrangements (other than Type A arrangements) under which the claimant agrees to be provided with the benefit rather than an amount of earnings within Chapter 1 of Part 3 of ITEPA.

(7) The relevant amount, in relation to a benefit provided pursuant to an optional remuneration arrangement, means the amount treated for income tax purposes as earnings from employment for the tax year by reason of the benefit being provided pursuant to optional remuneration arrangements.

(8) A benefit is a special case benefit if it is exempted from a charge to income tax by any of the following provisions in ITEPA—

(a) section 289A (exemption for paid or reimbursed expenses)(**4**),

(b) section 289D (exemption for other benefits)(**5**),

(c) section 308B (independent advice in respect of conversions and transfers of pension scheme benefits)(**6**),

(d) section 312A (limited exemption for qualifying bonus payments)(**7**),

(e) section 317 (subsidised meals)(**8**),

(f) section 320C (recommended medical treatment)(**9**), and

(g) section 323A (trivial benefits provided by employers)(**10**).

(9) A benefit is an excluded benefit if—

(a) it is exempted from a charge to income tax by any of the following provisions in ITEPA—

(i) section 239 (payments and benefits connected with taxable cars and vans and exempt heavy goods vehicles)(**11**),

(ii) section 244 (cycles and cyclist's safety equipment)(**12**),

(**4**) Section 289A was inserted by section 11 of the Finance Act 2015 (c. 11).
(**5**) Section 289D was also inserted by section 11 of the Finance Act 2015.
(**6**) Section 308B was inserted by section 54 of the Pension Schemes Act 2015 (c. 8).
(**7**) Section 312A was inserted by paragraph 5 of Schedule 37 to the Finance Act 2014 (c. 26).
(**8**) Section 317 has been amended by paragraph 1 of Schedule 17 to the Finance Act 2004 (c. 12) and section 60 of Finance Act 2010 (c. 13).
(**9**) Section 320C was inserted by section 12 of the Finance Act 2014.
(**10**) Section 323A was inserted by section 13 of the Finance Act 2016 (c. 24).
(**11**) Section 239 has been amended by section 48 of Finance Act 2008 (c. 9) and paragraph 14 of Schedule 1 to the Finance Act 2015.
(**12**) Section 244 has been amended by section 16 of the Finance Act 2005 (c. 7).