

Overpayment of tax credits

Working Tax Credit and Child Tax Credit are means-tested benefits paid by HM Revenue and Customs (HMRC). This fact sheet tells you what you can do if HMRC say they have paid you too much tax credit and ask you to pay it back. You may also find it useful to get help from an adviser, for example at a Citizens Advice Bureau (see under Further help for more details).

How an overpayment can occur

Overpayments for the previous tax year

Tax credits are worked out on a yearly basis, in line with the tax year (6 April –5 April). Your tax credit award is initially based on your income from the previous tax year. At the end of the next year, once all the information about your income and circumstances is available, HMRC will compare your actual tax credit entitlement with what they have paid you. If HMRC think they have paid you more than you are entitled to, this is called an overpayment, and they will expect you to pay it back - although they may not ask you to pay back all of it.

Reasons why HMRC might find, at the end of the year, that you have been paid too much tax credit include:

- you delayed telling them about a change in circumstances
- HMRC delayed recording a change in circumstances
- your income was over £5,000 more than in the previous year.

Overpayments for the current tax year

HMRC might also decide to adjust your tax credit entitlement during the course of the tax year if they find they have been paying you too much. This could be because of a change in your circumstances or income.

Asking HMRC to explain the overpayment

If you are asked to pay back tax credits, you should contact the Tax Credits Helpline (see under Further help for details) and ask for an explanation of how the overpayment has occurred. Keep a record of your telephone call, including the date and time of the call.

Overpayments because you separated from your partner or started living with a new partner

If you have been overpaid because you separated from your partner or started living with a new partner and reported this change late, your overpayment may be reduced or even written off. This is because, in most cases, HMRC will work out what you would have been paid if you had reported the change on time and will offset the overpayment against this amount. HMRC calls this amount **notional entitlement**. Check with the Tax Credits Helpline that they have offset your overpayment if this applies to you.

What if you disagree with HMRC's decision to recover an overpayment?

If you agree that you have been overpaid, but you don't think you should have to pay back the overpayment, you can ask HMRC to look at their decision again. This is called **disputing** an overpayment. You can do this in writing or by filling in form TC846 which you can get online at www.hmrc.gov.uk/forms/tc846.pdf or by calling HMRC on **0345 300 3900**. You should do this within three months of the date of:

- your final decision notice, or
- the decision on your annual review notice (if your award is renewed automatically), or
- the decision on your reconsideration, if you've already asked HMRC to reconsider their decision, or
- the decision on your appeal, if you have appealed to a tribunal.

Even if you are outside the three-month time limit, you can still dispute an overpayment but HMRC may refuse to consider your case. It is important to give your reasons for being late.

You may find it helpful to attach a separate letter to the form. You should give all the information you can, including exactly what you did and why you think you should not repay the tax credits. If you have any evidence of a mistake made by HMRC, for example, copies of any correspondence and the original claim form, you should include this as well.

You should also try to include details of the dates and times you have phoned the Tax Credit Helpline, in case HMRC need to check what advice you were given. Return the form and any other information you want to include to the Tax Credit Office (see under Further Help for the address).

HMRC will still collect the overpayment while they consider whether you must pay it back, unless you are appealing the decision which led to the overpayment for example, a decision that you have started living with a partner. When you dispute recovery of an overpayment, HMRC will check whether they have met all their responsibilities towards you and whether you have met all your responsibilities towards them. They will then make a decision about whether the overpayment should be paid back. HMRC's responsibilities include:

- accurately recording any information you gave them when you made or renewed your claim
- accurately recording any information you gave them when you reported a change of circumstance and acting on it within 30 days of you reporting the change
- accurately calculating and paying you your correct entitlement
- including accurate information on your award notice
- giving you correct advice if you contacted them.

www.adviceguide.org.uk

Your responsibilities include:

- giving HMRC accurate information when you claimed tax credits
- reporting any changes of circumstance in the timescales listed on the checklist which comes with your award notice
- reporting any errors on your award notice within 30 days of receiving it
- checking that your payments match the amounts on the award notice and reporting any errors.

If HMRC have met **all** of their responsibilities but you haven't met yours, you'll normally be asked to pay back all of the overpayment.

If you have met **all** of your responsibilities but HMRC haven't met theirs, you won't be asked to pay back all of the overpayment.

If both you and HMRC have failed to meet some of your responsibilities, HMRC may write off parts of an overpayment, depending on the circumstances.

HMRC should send you their decision, along with the reasons for it, in writing.

If you are still unhappy with HMRC's decision, you can only ask them to reconsider it if:

- you have **new** information which they didn't know about before, or
- you feel they haven't considered information you've given them previously.

If either of these situations applies to you, you should write to HMRC as soon as possible.

If there is no new information but you are still unhappy with the decision, you should get advice about what options are open to you. You should do this as soon as possible as there are strict time limits about when you can take further action. In certain circumstances, this might include going to court.

If you think the amount of your tax credits award was wrong

You have no right to appeal against a decision to recover an overpayment of tax credits. However, you do have the right to appeal against a decision about the **amount** of an overpayment.

Before you can appeal, you must ask HMRC to look at their decision again. This is called a **mandatory reconsideration**. You must normally contact them within 30 days of the date shown on the decision notice. You can also ask them to look at any penalty they have charged in connection with your tax credits claim or if they are charging interest on the overpayment.

When you get the mandatory reconsideration decision notice, if you are still not satisfied, then you can appeal to an independent tribunal. You must normally do so within 30 days of the date on the decision notice. The decision notice will tell you how to appeal if you're still not happy with the decision.

Problems with paying back your overpayment

If you've been asked to pay back a lump sum after your entitlement to tax credits has ended, you can phone HMRC on 0345 302 1429 and ask for more time to pay the money back.

If you have difficulty in paying back any overpayment, you can ask HMRC for more time to pay it back.

In exceptional circumstances, HMRC may write off all or part of an overpayment if it would cause you or your family hardship to pay it back, for example, if you're unable to pay for essential living expenses.

Making a complaint

If you aren't happy with the service you've received from HMRC, you can try and sort the problem out informally first with someone at the office which dealt with your claim. If you're not satisfied with the response, you can complain to the Complaints Manager at the same office. If you're still not satisfied, you can ask for the decision to be looked at again.

If you don't get a satisfactory response to your complaint, you can ask the **Adjudicator** to investigate it. Strict time limits apply. You can contact the Adjudicator at:

Tel: 0300 057 1111

E-mail: adjudicators@gt.net.gov.uk

Website: www.adjudicatorsoffice.gov.uk

If you are not satisfied with the service that has been provided by HMRC or the way your complaint is being handled, you can ask your MP to refer your case to the **Parliamentary and Health Service Ombudsman** (see below). Strict time limits apply. You must usually have complained to the Adjudicator first, before making a complaint to the Ombudsman.

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#), or look under C in your phone book.

HMRC Tax Credits Helpline

Tel: 0345 300 3900

Textphone: 0345 300 3909

Welsh language speakers: 0300 200 1900

HMRC Tax Credits Office

Preston

PR1 0SB

For more information about tax credits overpayments and how to dispute them, you can ask HMRC for a copy of their leaflet '**What happens if we've paid you too much tax credits?**' (COP 26).

Advicenow.org.uk (England and Wales only)

There is a useful guide on tax credit overpayments on the Advicenow website called Tax credit overpayments. Go to www.advicenow.org.uk.

Other information on Adviceguide which might help

- Child tax credit and working tax credit
- How to use an ombudsman

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