**http://www.hmrc.gov.uk/manuals/tctmanual/Index.htm**

**TCTM02010 - Entitlement: residence rules - introduction**

The general rule is that, to claim tax credits, a person must be aged 16 or over and live in the United Kingdom, short absences abroad for holidays or on business will not affect eligibility. Some people may be eligible even if they, or the child/ren or qualifying young person/s they are claiming for, do not live in the United Kingdom.

The Tax Credits (Residence) Regulations 2003, referred to in this section, were made in March 2003 and were amended in the Tax Credits (Residence) (Amendment) Regulations 2004 made in April 2004 and by regulations 4 and 5 of the Tax Credits (Miscellaneous Amendments) Regulations 2006 made in March 2006.

**Aged 16 or over and in the UK**

**The Tax Credits Act 2002, Section 3(3) and Section 3(4)**

To be eligible for CTC or WTC, a person must be aged 16 or over and be in the United Kingdom (section 3(3)). If a person ceases to be in the United Kingdom, their entitlement to CTC and WTC ends from that point (section 3(4)).

The circumstances in which a person is to be treated as being, or as not being, in the United Kingdom are set out in regulations. [TCTM02020](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02020.htm) onwards provides details.

The United Kingdom is England, Scotland, Wales, Northern Ireland and adjacent islands. It does not include the Isle of Man or the Channel Islands.

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02010.htm#top)

**Couples where only one partner is in the United Kingdom**

A person should make a single tax credit claim if one of the following applies:

* they are in the United Kingdom and their partner lives outside the United Kingdom, and they don’t have any children;
* they are in the UK and their partner and children live outside the European Economic Area (EEA) or Switzerland - unless they are a Crown Servant posted overseas, in which case it should be a joint claim;
* they have permanently split up from their partner and have children in the EEA or Switzerland who are financially dependent on them;
* they are in the UK, they don’t have any children and their partner has been abroad for longer than eight weeks (or longer than 12 weeks, if they’re abroad because either they or someone close to them is getting medical treatment or has died).

A person should make a joint claim for tax credits if one of the following applies:

* they are in the United Kingdom and their partner and children are living or working in the EEA or Switzerland;
* they are both in the UK and their partner goes abroad for eight weeks or less (or for up to 12 weeks if they or someone close to them is getting medical treatment or has died);
* their partner is a Crown Servant working anywhere overseas, for example in the armed forces.

**TCTM02021 - Entitlement: Residence rules - Present and ordinarily resident: The general rules: present, ordinarily resident and 'right to reside'**

**Tax Credits Act 2002, section 3(3) and Tax Credits (Residence) Regulations 2003, Reg. 3(1) and Reg. 3(5)**

The general rule is that to be treated as being in the United Kingdom for the purposes of CTC and WTC, a person must be **both** present and ordinarily resident here throughout the period of the award. For new claims on or after 1 May 2004 for the purposes of CTC, to be treated as being in the United Kingdom a person must also have a 'right to reside' in the United Kingdom.

# TCTM02022 - Entitlement: Residence rules - Present and ordinarily resident: Present in the United Kingdom

### Tax Credits Act 2002, section 3(3)

The requirement to be present in the United Kingdom is that a person be “in the United Kingdom”. On its own, this would require the person to be physically present here on each day throughout the period of an award. However, there are rules to allow entitlement to continue during temporary absences of limited duration. These rules are explained at [TCTM02040](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02040.htm).

# TCTM02023 - Entitlement: Residence rules - Present and ordinarily resident: Ordinarily resident in the United Kingdom

### Tax Credits (Residence) Regulations 2003, Reg. 3(1)(2)(3)(4)

The requirement to be ordinarily resident in the United Kingdom as imposed by regulation 3(1) of the Tax Credits (Residence) Regulations 2003 is subject to certain exceptions and these are explained at "Ordinary residence: people deported to the UK" (below) and at [TCTM02060](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02060.htm).

# TCTM02024 - Entitlement: Residence rules - Present and ordinarily resident: Right to reside in the United Kingdom

### Tax Credits (Residence) Regulations 2003, Reg. 3(5)

The requirement to have a right to reside only applies to claims for CTC. However a WTC claimant who is a national of an EEA member state or Switzerland but who is not exercising their free movement rights in the UK, under Regulation (EU) 492/2011 or Regulation (EC) 883/04, will not be treated as ordinarily residence in the UK unless they have a right to reside in the UK.

The following groups are regarded as having a right to reside in the United Kingdom when claiming CTC:

* all United Kingdom nationals and those with a right to reside in the Common Travel Area (which covers the United Kingdom, the Republic of Ireland, the Channel Islands and the Isle of Man);
* all EEA and Swiss workers legally working in the UK - there are special rules for nationals of the eight central European countries that acceded to the EU on 1 May 2004 and for nationals of Bulgaria and Romania, which acceded to the EU on 1 January 2007 (see [TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm));
* all EEA and Swiss nationals who are self-employed in the UK;
* work-seekers from the pre-1 May 2004 EEA Member States, Cyprus and Malta who have a reasonable chance of finding work and A2 nationals who have been admitted under the Highly Skilled Migrants Programme or who hold a certificate confirming they have unconditional access to the UK labour market;
* non EEA or Swiss nationals with permission to stay or remain in the UK;
* all EEA or Swiss nationals who have a permanent right to reside (see [TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm));
* all EEA or Swiss nationals who family members of a qualified person ([TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm));
* all EEA or Swiss nationals who are extended family members of a qualified person with responsibility for the qualified person’s child who is in the UK or where access to the child must take place in the UK (up the age the dependent child is 21)([TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm));
* EEA or Swiss nationals who have been working lawfully and is temporarily unable to work as the result of illness or accident ([TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm)).

The following groups only have a right to reside in the UK if they have sufficient resources not to become a burden on the social assistance system of the UK, that is, they are self-sufficient:

* A2 nationals (apart from those admitted under the Highly Skilled Migrants’ Programme) who are looking for work, including those who lose their job before lawfully working in the UK without interruption for a period of 12 months or more and who don’t get another job within 30 days;
* all EEA or Swiss nationals, including nationals of the A8 and A2 countries, who are economically inactive and do not have retained worker status, a permanent right to reside, a right to reside as a family member or extended family member of a qualified person and are not a retired worker.

For these groups, all the claimant's personal circumstances are taken into account when deciding whether they are self-sufficient. Such factors could include whether or not they have claimed social assistance (i.e. Income Support or State Pension Credit) from the Department for Work and Pensions in Great Britain or the Department for Social Development in Northern Ireland.

More detailed guidance is set out in [TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm)

# TCTM02025 - Entitlement: Residence rules - Present and ordinarily resident: Special cases

There are special rules for Crown servants posted overseas and their partners (see [TCTM02050](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02050.htm)) and for nationals of EEA member states or Switzerland and their partners who are living in another EEA country or Switzerland (see [TCTM02070](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02070.htm)).

**TCTM02026 - Entitlement: Residence rules - Present and ordinarily resident: Meaning of “ordinarily resident” for tax credits**

The term “ordinarily resident” is not defined, but its established meaning is that a person is ordinarily resident if they are normally residing in the United Kingdom (apart from temporary or occasional absences), and their residence here has been adopted voluntarily and for settled purposes as part of the regular order of their life for the time being.

All the circumstances of a particular case need to be considered to decide whether a person is ordinarily resident.

“Ordinary residence” is a concept, which is also used for income tax, national insurance and Child Benefit. For guidance on the meaning of “ordinarily resident” for

* tax purposes, see the Residence Manual.
* national insurance, the National Insurance Manual.
* Child Benefit, the Child Benefit Technical Manual.
* tax credits, the guidance here should be used.

# TCTM02027 - Entitlement: Residence rules - Present and ordinarily resident: Making decisions about whether a person is ordinarily resident

When initially deciding if a person is ordinarily resident (under section 14 of the Tax Credits Act 2002) or later for a revised decision (under section 15 or 16), consider the facts that apply at the time. When making final decisions (under section 18) at the end of the year, consider if the decisions made during the year were correct based on the facts known at the time those decisions were made. For example, if a person intended to stay in the United Kingdom for several years at the time of our initial decision but later left the United Kingdom, our original decision should not be changed as at the time it was made that person was ordinarily resident in the United Kingdom.

Generally, decisions about entitlement for a year should not be adjusted retrospectively if people end up spending more, or less, time in the United Kingdom than was reasonably expected when the decisions were made. Decisions about entitlement must be based on the facts as they exist at the time.

However, a decision can be revisited where it turns out the facts at the time were different from the facts as we understood them at the time we made our decision.

# TCTM02028 - Entitlement: Residence rules - Present and ordinarily resident: Ordinary residence: what to consider

A person is ordinarily resident if they normally reside in the United Kingdom (apart from temporary or occasional absences), and their residence here is voluntary and part of the regular order of their life for the time being. Decisions about whether a person is ordinarily resident are based on all the circumstances of the particular case.

A person can be ordinarily resident in more than one country. A person can have a home in another country and be ordinarily resident in the United Kingdom.

If a person lives in the United Kingdom year after year, they should be treated as ordinarily resident here.

**TCTM02029 - Entitlement: Residence rules - Present and ordinarily resident: Ordinary residence: coming to live in the United Kingdom**

A person coming to the United Kingdom is ordinarily resident here if they live here as part of the regular order of their life for the time being. Often this will be obvious, on other occasions not, we need to consider all the relevant factors to build up an overall picture of the person’s position.

Examples of factors which may be relevant are given below. These factors may help to indicate whether or not a person is ordinarily resident. Normally, no single one will be the determining factor, all the circumstances of a particular case must be considered.

Examples of relevant factors:

* why has the person to the United Kingdom? If they are here for recreational or temporary purposes (such as a holiday), this is likely to be a sign they are not ordinarily resident;
* does the person intend to leave the United Kingdom (other than for temporary absences of limited duration) in the next two or three years? If so, this may indicate they are not here for a settled purpose and so not ordinarily resident;
* does the visit to the United Kingdom form part of a pattern of regular and significant visits over a number of years, or is such a pattern expected to emerge? If so, this may indicate the person is ordinarily resident. The more frequent, and the longer, the visits, the more likely they are ordinarily resident;
* has the person’s family (spouse or partner and any children) also come to live in the United Kingdom? If so, this may indicate that person (and their family) has a settled intention to remain in the United Kingdom, and is therefore ordinarily resident;
* does the person have a settled home in the United Kingdom - for example, have they bought or leased accommodation? If so, this may indicate they are ordinarily resident. If not, this does not necessarily mean they are not ordinarily resident. Consider whether there are other reasons for this, such as lack of means;
* how long has the person lived in the United Kingdom? The longer they have lived in the United Kingdom, the stronger the indication they are ordinarily resident. If a person has already lived here for three years or more, they should normally be accepted as ordinarily resident. (This does not mean people who have lived here for less than three years are necessarily not ordinarily resident. A person can be ordinarily resident from the first day they arrive in the United Kingdom if they have genuinely come to make their home here.)

**TCTM02030 - Entitlement: Residence rules - Present and ordinarily resident: Ordinary residence: leaving the United Kingdom**

Deciding if a person leaving the United Kingdom is no longer ordinarily resident here, means considering if they have, for the time being, ceased to live here as part of the regular order of their life. All the relevant factors should be considered to build up an overall picture of the person’s position.

For time limits attached to notification of Change of Circumstances see [TCTM05100](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05100.htm)

Various factors may be relevant and help to indicate a person’s residency. Normally, no one factor on its own will determine if a person is ordinarily resident. A decision should be made according to all the circumstances of the particular case.

Examples of relevant factors:

* will the person be returning to the United Kingdom? If so, this may indicate ordinary residence continues during the period(s) abroad (the sooner, more frequent or longer the return visits, the stronger that indication). If the person does not intend to return, this indicates they ceased to be ordinarily resident.
* what is the purpose of any return visit? Visits to see family who have remained at the person’s home in the United Kingdom or holidays spent at such a retained home in the United Kingdom may indicate continued ordinary residence. Visits connected to the absence abroad (for example, being sent to the UK for training by an overseas employer) are less likely to indicate ordinary residence.
* will the person’s family (spouse or partner and any children) be going abroad as well? If so, this may indicate the person (and their family) is no longer ordinarily resident, particularly if they do not maintain a home in the United Kingdom. If their family remains in the United Kingdom it may indicate the person continues to be ordinarily resident here.
* will the person retain a home in the United Kingdom during their period abroad? If so, this may indicate continuing ordinary residence during the period of absence. If not, the person is less likely to remain ordinarily resident.
* if the person retains a home in the United Kingdom, will it be available for their use when they return? If so, this is an indication ordinary residence may continue. If not - for example, because it is let on a long lease - then it is less likely the person will remain ordinarily resident.
* will the person be returning to the United Kingdom at the end of the period abroad? If so, this may indicate ordinary residence continues. If not, this may indicate the person ceases to be ordinarily resident, particularly if they do not retain a home in the United Kingdom during their absence.
* how long has the person lived in the United Kingdom? The longer the period, the stronger the indication the person is ordinarily resident.

# TCTM02031 - Entitlement: Residence rules - Present and ordinarily resident: Ordinary residence: people deported to the UK

### Tax Credits (Residence) Regulations 2003, Reg. 3(3)

To be ordinarily resident in the United Kingdom, a person must be here voluntarily. This may not apply to people who are here as a result of deportation, expulsion or some other legal form of compulsory removal from another country. To avoid any doubts about their eligibility for tax credits such people are, therefore, automatically treated as ordinarily resident for the purposes of both WTC and CTC.

### The Tax Credits (Residence) Regulations 2003, Reg. 3(4)

Nationals from countries in the European Economic Area (EEA) and Switzerland who are exercising their rights as workers in the United Kingdom, or their right to reside here, under Community law can claim WTC. For the purposes of WTC, EEA or Swiss nationals are treated as being ordinarily resident in the UK whilst they are exercising their right to work here, even though they may not be ordinarily resident here.

CTC is a family benefit under Community law, and is therefore subject to EC Regulation 883/2004 and 987/2009. This means that in certain circumstances, these EC Regulations help the claimant (or claimants in the case of a couple claim) meet the presence and ordinarily resident requirement for CTC. For new claims made on or after 1 May 2004 a claimant in the United Kingdom needs to have a 'right to reside' in the United Kingdom to be entitled to CTC.

**Note**: EC Regulations 883/2004 and 987/2009 do not apply to nationals of Norway, Iceland, Liechtenstein and Switzerland - for those countries EC Regulations 1408/71 and 574/72 continue to apply.

# TCTM02040 - Entitlement: residence rules - temporary absence from UK

### Tax Credits (Residence) Regulations 2003, Reg. 4

Although the requirement to be in the United Kingdom implies physical presence here on a day-to-day basis, a person who is not physically present in the United Kingdom may nevertheless be treated as such for up to the first twelve weeks of temporary absence.

Regulation 4 of the Tax Credits (Residence) Regulations 2003 does not simply provide for entitlement to continue during certain periods of absence from the United Kingdom. Rather, it provides that people are to be treated as still being in the United Kingdom, which means there is nothing to prevent them making a new claim, or renewing an existing claim, during such periods.

Where a claimant is no longer present or treated as present, the change must be reported to HMRC within 1 month.

There are three key points to note:

* the period of absence must be unlikely to exceed 52 weeks. If the absence is expected to last for longer than 52 weeks, the person ceases to be treated as being in the United Kingdom from the time they leave. The question of whether the absence is unlikely to exceed 52 weeks needs to be addressed only once, at the beginning of the absence (regulation 4(2);
* the person must remain ordinarily resident throughout (unless specifically exempted from this requirement). If the claimant ceases to be ordinarily resident, they should no longer be treated as being in the United Kingdom;
* in calculating how long the person has been absent, the start should be from the day after the last day they were physically present in the United Kingdom, even if they were only physically present here for a short period (including a day or part of a day).

## Permitted periods of temporary absence

### Tax Credits (Residence) Regulations 2003, Reg. 4

### Regulation 4(1)(a)

People continue to be treated as being in the United Kingdom during the first eight weeks of any temporary absence.

### Regulation 4(1)(b)

People continue to be treated as being in the United Kingdom during the first twelve weeks of any temporary absence where the absence, or its extension beyond eight weeks, is in connection with:

* the treatment of the person’s illness or physical or mental disability;
* the death or treatment of an illness or disability of the person’s partner or a child or qualifying young person for whom they are responsible; or
* the death or treatment of an illness or disability of one of the person’s relatives, or the person’s partner’s relative.

For this extension to twelve weeks to apply, however, the absence, or its extension, must be **in connection** with the death or with the treatment of an illness or disability. It is not enough for the two things simply to coincide. For example:

* where a person is on holiday and spends a few days of that holiday with a relative who happens to be receiving treatment, they are not entitled to the extension unless the reason they stayed away for more than eight weeks was because they were visiting their relative and the reason they visited the relative was because he or she was receiving treatment;
* if someone always goes abroad to stay with their daughter for twelve weeks every year, they would not be entitled to the extension for a year in which the daughter just happened to be receiving treatment; and
* if a person stays abroad while they are receiving treatment for some minor ailment, they would not be entitled to the extension if the illness or disability did not prevent them from travelling home and the treatment they were receiving would equally be available to them in the United Kingdom.

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02040.htm" \l "top)

## Meaning of relative

### Tax Credits (Residence) Regulations 2003, Regulation 2(1)

Relative is defined as brother, sister, ancestor or other lineal descendant.

# TCTM02101 - Entitlement: Immigration rules: Introduction

In general, people whose right to enter or remain in the United Kingdom is subject to a limit or conditions are not entitled to CTC or WTC. However, there are a number of exceptions to this general rule. The rules are set out in the Tax Credits (Immigration) Regulations 2003, which were made in April 2003 under sections 42 and 65 of the Tax Credits Act 2002.

**TCTM02102 - Entitlement: Immigration rules: General exclusion of people subject to immigration control from entitlement to CTC or WTC**

**The Tax Credits (Immigration) Regulations 2003, Reg. 3(1)**

The general rule is that people whose right to remain in the United Kingdom is subject to a limitation or restrictions are not entitled to CTC or WTC.

This general exclusion applies to people who are subject to immigration control. The term “person subject to immigration control” is defined in the Immigration and Asylum Act 1999 and means people:

* who require permission to enter or remain in the UK and do not have it;
* whose permission to enter or remain in the UK is subject to the condition that they do not have recourse to public funds;
* whose leave to enter or remain in the UK is given as a result of a maintenance undertaking. (They are sometimes known as “sponsored immigrants”.) A maintenance undertaking means a written undertaking given by another person (or persons), under the Home Office’s immigration rules, to be responsible for the maintenance and accommodation of the person in question; or
* who qualify under Section 78 of the Nationality, Immigration and Asylum Act 2002 in that they may not be removed from the UK while there is an outstanding appeal against a decision to vary or not to vary his permission to remain in the UK. The person will remain subject to immigration control in this period.

There are a number of exceptions from the general exclusion, and these are explained from [TCTM02104](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02104.htm). There are also special rules for couples, and these are explained at [TCTM02113](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02113.htm).

# TCTM02113 - Entitlement: Immigration rules

## The treatment of family members

### The Tax Credits (Immigration) Regulations 2003, Reg. 3(2) and (3)

Provided one member of a couple is not subject to immigration control, or is covered by one of the exceptions to the general exclusion, or is benefiting from the transitional rules, the couple is entitled to CTC or WTC (or both) as though:

* neither of them were subject to immigration control (as if the other partner were not subject to immigration control); or
* both of them were covered by the exception or transitional rule that applies to the other partner.

Entitlement to CTC and WTC is not limited according to the immigration status of any children or young people for whom the claimant is, or claimants are, responsible.

# TCTM02202 - Entitlement: CTC entitlement: normally lives with you

### The Child Tax Credit Regulations 2002, Reg. 3(1), Rule 1.

For a claimant or claimants to be treated as being responsible for a child or qualifying young person that child or qualifying young person must be "normally living with” the claimant(s).

The “normally living with” test is not defined in the regulations, therefore it should be given its ordinary every day meaning of regularly, usually, typically lives with them which allows for temporary or occasional absences.

# TCTM02203 - Entitlement: CTC entitlement: Competing claims ("main responsibility")

### The Child Tax Credit Regulations 2002, Reg. 3(1), Rule 2.

If two or more people make separate claims (that is, not a single joint claim made by a couple) for CTC in respect of a child or qualifying young person, only one claimant can be treated as responsible for that child or qualifying young person for tax credits purposes.

The child or qualifying young person will be treated as the responsibility of whichever of them has "main responsibility".

“Main” responsibility is not defined in the regulations therefore the term is given its normal everyday meaning - someone who is normally answerable for, or called to account for, the child or qualifying young person.

**TCTM02204 - Entitlement: CTC entitlement: Shared responsibility**

**The Child Tax Credit Regulations 2002, Reg. 3(1), Rule 3.**

Where a child or qualifying young person can be said to normally live with more than one family, or it is unclear which family the child is living in and as a result more than one claim is made for the same child or qualifying young person. Those claimants making the competing claims may jointly elect which one of them satisfies the main responsibility test for the child or qualifying young person.

Facts that can be considered as indicating whether a claimant has the main responsibility for a child or qualifying young person when the claimants are trying to decide who has main responsibility include:

* who the child or qualifying young person normally lives with and where they keep the majority of their belongings such as clothes, toys
* who is responsible for the day to day spending for the child or qualifying young person such as buying clothes, food and providing pocket money
* who the main contact is for school/college/nursery/childcare
* who is responsible for the health care and hygiene of the child or qualifying young person such as making appointments with the doctor/dentist, doing the child or qualifying young person's laundry
* what is the registered address for contact for the school/college/nursery/child care, healthcare
* who has legal custody of the child or qualifying young person.

This list is not exhaustive.

**TCTM02205 - Entitlement: CTC entitlement: Disputes in responsibility**

**The Child Tax Credit Regulations 2002, Reg. 3(1), Rule 3.**

Where two or more people are unable to agree on who has main responsibility for a child or qualifying young person, the Commissioners for HM Revenue & Customs may determine who has the main responsibility based on the information available to them at the time of the decision.

Facts that can be considered as indicating whether a claimant has the main responsibility for a child when the Commissioners for HM Revenue & Customs are trying to decide who has main responsibility include:

* who the child or qualifying young person normally lives with and where they keep the majority of their belongings such as clothes, toys
* who is responsible for the day to day spending for the child or qualifying young person such as buying clothes, food and providing pocket money
* who the main contact is for school/college/nursery/childcare
* who is responsible for the health care and hygiene of the child or qualifying young person such as making appointments with the doctor/dentist, doing the child or qualifying young person's laundry
* what is the registered address for contact for the school/college/nursery/childcare, healthcare
* who has legal custody of the child or qualifying young person.

This list is not exhaustive.

When deciding main responsibility for a child or qualifying young person, the fact that someone receives Child Benefit for that child or qualifying young person must not be considered.

# TCTM02206 - Entitlement: CTC entitlement: Person responsible for child/qualifying young person and their child

### The Child Tax Credit Regulations 2002, Reg. 3(2) (a) & (b).

Where a person is treated as responsible for a child or qualifying young person, and that child or qualifying young person has a child of their own, the claimant can also be treated as responsible for the child of the child or qualifying young person. This is irrespective of which one has main responsibility.

**Example -** A seventeen year old girl and her baby live with her mum. The young mum attends full-time non-advanced education at the local college so she remains a qualifying young person for child tax credits. Grandma can claim for both her daughter and grandchild unless the young mum claims CTC for herself and baby in her own right.

# TCTM02301 - Entitlement: WTC entitlement: Qualifying remunerative work

### The Tax Credits Act 2002, Section 10.

### The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, Reg. 4

To be entitled to WTC a person, or either or both persons in the case of a joint claim, must be in qualifying remunerative work ([TCTM02400)](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02400.htm).

# TCTM02311 - Entitlement: WTC entitlement

## Basic element

### The Tax Credits Act 2002, Section 11(2) and (4).

### The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, Reg. 4

An element which is included for all people entitled to WTC. One element per couple, in the case of a joint claim.

# TCTM02315 - Entitlement: WTC entitlement

## Lone parent element

### The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, Reg. 3(1)(c) & Reg. 12

An additional element which is included for single claimants who are responsible for a child or qualifying young person.

# TCTM05001 - Changes in circumstances: Changes in circumstances

### The Tax Credits Act 2002, section 6, and The Tax Credits Notification of Changes of Circumstances (Civil Partnerships) (Transitional Provisions) Order 2005

## Introduction

The main categories of change which could affect a tax credits award are:

* Changes in the adults in a household, for example, if a couple breaks up or when people begin living together as a couple, or either claimant leaves the UK;
* Changes in circumstances which determine the tax credits and elements for which people are eligible, such as the arrival of a new child or qualifying childcare;
* Changes in the number of hours a claimant works, for example when they stop working the required hours for WTC entitlement, or for entitlement to the 30 hour premium;
* Changes in income between the current and previous year;
* Changes having occurred with the coming into force of the Civil Partnership Act, on 5 December 2005, where two people of the same sex are living together as a couple; and
* Where a claimant notifies a change to the information HMRC hold.

See [TCTM05340](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05340.htm) for further information about notifying a change to the information that HMRC hold.

**TCTM05100 - Changes in circumstances: Changes in circumstances that must be notified (mandatory)**

**The Tax Credits (Claims and Notifications) Regulations 2002, Reg 21 and the Tax Credits Act 2002, Section 32**

There are prescribed time limits attached to the notification of a change of circumstances.

If the change results in tax credits being reduced or stopping because:

* Of changes in the adults heading a household, for example, if a couple breaks up or when people begin living together as a couple;
* The claimant (or in a joint claim, either claimant) loses their right to reside in the UK or is no longer classed as being in the UK. This includes claimants who have been temporarily out of the UK for more than 8 weeks, or 12 weeks if its because of their illness or the illness or death of a partner or relative;
* An award of WTC contains a child care element and the claimant stops paying for childcare for at least 4 weeks in a row;
* The award of WTC contains a child care element and the relevant weekly childcare cost **goes down** by at least £10 a week, or are reduced to nil, for at least 4 weeks in a row (further details on how to calculate average weekly childcare costs can be found at [TCTM02640](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02640.htm));
* A claimant, or their partner stop working:-
  + the required hours for WTC entitlement. This could be 16, 24 or 30 hours a week (see [TCTM02410](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02410.htm))
  + at least 16 hours a week for entitlement to the disability element (see [TCTM02501](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02501.htm))
  + at least 16 hours a week for entitlement to the childcare element (see [TCTM02610](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02610.htm))
  + the required hours for entitlement to the 30 hour element (see [TCTM02313](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02313.htm))
  + the required hours for entitlement to the second adult element (see [TCTM02314](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02314.htm))
* A child or qualifying young person leaves the family and moves to live with someone else. This includes children who have been taken into care, or fostered to another family. It also includes children who have been found guilty by a court and sentenced to custody or detention for a period of more than 4 months;
* A qualifying young person that the claimant is responsible for leaves full time education, or approved training before they reach 20 or stops being registered with a careers service, Connexions Service or equivalent;
* A claimant has given notification that a child is expected to undertake full time non-advanced education or approved training after the 31 August following the date they attain the age of 16, but that child does not go on to undertake full time, non-advanced education or approved training;
* A child dies.

The change must be notified within 1 month of the date the change occurred, or if later from the date the claimant realised there had been a change, unless advance notification had already been given.

Prior to 6 April 2007 the change must have been notified within 3 months of the date the change occurred, or if later from the date the claimant realised there had been a change, unless advance notification had already been given.

There is a risk of being overpaid tax credit if HMRC are not told of these changes.

Penalties of up to £300 may also be levied.

# TCTM05200 - Changes in circumstances: Changes in circumstances that should be notified (non-mandatory)

### Tax Credits (Claims and Notifications) Regulations 2002, Reg 25

Some changes may result in an increase in tax credits, while others may result in a decrease and result in an overpayment.

Except for certain circumstances ([TCTM05300](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05300.htm)) any increase can only be backdated for up to 1 month. Any reduction in tax credits will usually be backdated to the date of change. However in certain circumstances the claimant may continue to be entitled to a ‘run on period’ of tax credits for example if the claimant’s job ends or they cease to undertake work for the required number of hours, at least 16, 24 or 30 per week or if childcare costs have reduced by more than £10.00 per week.

Claimants should notify the changes as soon as possible. For types of changes that **must** be notified see [TCTM05100](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05100.htm).

The following are the types of changes that **should** be notified

## Changes in the number of children the claimant is responsible for

For example

* When a baby is born or placed with a family for adoption
* A child or qualifying young person joins a family

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05200.htm#top)

## A qualifying young person starts or stops full time education or approved training

Regulation 5 of the Child Tax Credit Regulations 2002 prescribes that HM Revenue & Customs should be notified if:

* A young person returns to full time non advanced education or approved training before they reach 20 provided they started, were enrolled or accepted on that course before they reach the age of 19.

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05200.htm#top)

## Changes in Childcare

Regulation 16 of the Working Tax Credit (Entitlement and Maximum) Regulations 2002 prescribes that a change of circumstances occurs if a claimant:

* starts paying for registered and approved childcare and is now able to claim help with the cost of childcare through WTC, or
* already gets help with costs for childcare through WTC and the weekly childcare costs **go up** by £10 a week or more, or by an average of £10 a week or more. For details on how to calculate the relevant change including variable costs see [TCTM02660](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02660.htm).

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05200.htm#top)

## Changes in Employment

A change of circumstances occurs if:

A claimant changes their employer. If the claimant qualifies for WTC their entitlement will continue as long as their change of employment is within 28 days.

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05200.htm#top)

## Changes in income - Income increase disregards and income decrease disregards

Tax credits awards are based on annual income. Initially, tax credits awards are based on annual income for the previous tax year, that is to say awards for the year 2013/2014 will be based on income for the tax year 2014/2015. But note, initially, awards for the tax year 2003/2004 were based on the annual income for the year to 5 April 2002, nevertheless the same rule applies.

The amount of tax credits can change if a claimant's income (for couples this is joint income) in the year to 5 April 2013 is different from the claimant's income in the previous year.

Claimants should notify the following changes of income:-

* If income for the year to 5 April 2015 is expected to be less than the income to 5 April 2014 (by more than £2,500), the claimant may be entitled to extra tax credits
* If income for the year to 5 April 2015 is expected to be more than £5,000 higher than income for the year to 5 April 2014, the claimant may get less tax credits.

Claimants should still notify a change (although it is not mandatory) if they expect their income for the year to 5 April 2015 to be no more than £2,500 lower than their income for the year to 5 April 2014. It will make no difference to the amount of tax credits they will receive for the current year but the decreased income will be taken into account in the following year.

Claimants should still notify a change (although it is not mandatory) if they expect their income for the year to 5 April 2015 to be no more than £5,000 higher than their income for the year to 5 April 2014. It will make no difference to the amount of tax credits they will receive for the current year but the increased income will be taken into account in the following year.

For examples of income increase disregards and increase decrease disregards see [TCTM07042](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM07042.htm).

**Note - income increase disregard**

Before 6 April 2006, claimants should still have notified a change if they expected their income to be no more than £2,500 higher than their previous year’s income.

From 6 April 2006 to 5 April 2011, claimants should still have notified a change if they expected their income to be no more than £25,000 higher than their previous year’s income.

From 6 April 2011 to 5 April 2013 the income increase disregard was lowered to £10,000.

From April 2013 the income increase disregard was lowered to £5,000

**Note - income decrease disregard**

From 6 April 2012 an income disregard of £2,500 for falls in income was introduced.

[Top of page](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM05200.htm#top)

## Other changes of circumstances

HM Revenue & Customs should also be notified if the claimant, partner or child or young person they are responsible for becomes or stops being disabled or severely disabled.

This is because they may become entitled to, or stop being entitled to the disabled or severely disabled elements of the tax credits.

# TCTM09301 - Decision Making, Joint or Single claims: Introduction

The guidance in this chapter is to help decision makers determine whether two people should be claiming tax credits jointly as a couple.

The general principle is that all couples should be treated in a similar way. For example a couple who are living together as husband and wife, or as civil partners, should be treated in the same way as if they were married or in a civil partnership. The principle behind this is that an unmarried couple (or same-sex equivalent) should not be treated more or less favourably than married couples or civil partners.

In some circumstances when one member of a couple lives in the UK and the other works in another country or vice versa we may not treat them as a couple, see [TCTM09370](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM09370.htm).

Any references to marriage in this chapter should be read as including civil partnership.

**TCTM09310 - Decision Making, Joint or Single claims: Who should make a joint claim?**

**The Tax Credits Act 2002, Section 3(3)(a), (b) and (4)**

A claim for tax credits should be made jointly by members of a couple. Anyone who is not part of a couple should make a single claim.

Entitlement to tax credits after a claim or award is made ends when:

* in the case of a joint claim/award, the persons by whom it was made could no longer make a joint claim, or
* in the case of a single claim/award, the person by whom it was made could no longer make a single claim.

There are some exceptions to the above when one partner is working abroad or the worker is a national of a European Economic Area (EEA) country or Switzerland and exercising their right to work in the United Kingdom (UK) whilst their family remains in another EEA country.

By UK we mean England, Scotland, Wales, Northern Ireland and adjacent islands but not including the Isle of Man or the Channel Islands. For a list of countries included in the EEA see [TCTM02088](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02088.htm)

# TCTM09371 - Decision Making, Joint or Single claims, Couples where only one partner is in the UK: Introduction

Where one member of a couple is in the United Kingdom (UK) and the other is not, whether they make a joint or single claim will depend on their circumstances and the tax credit being claimed. In some circumstances it could mean couples make a joint claim for CTC but a single claim for WTC, dependant on their family circumstances and whether domestic and European (EU) Law apply.

A general guide about residence rules and when couples where only one partner is in the UK should make a joint or single claim is covered in [TCTM02010](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02010.htm).

Short-term absences from the UK for one or both partners will not generally affect the way they should claim or their joint award.

# TCTM09372 - Decision Making, Joint or Single claims, Couples where only one partner is in the UK: Temporary absences from the UK

An absence from the UK can only be regarded as temporary if, at its start, it is expected to last for no more than 52 weeks.

People continue to be treated as being in the United Kingdom during the first eight weeks of any temporary absence from the UK.

Therefore if a couple have a joint claim for tax credits and one member of the couple is temporarily absent from the UK for more than eight weeks the joint claim should end and the remaining claimant in the UK should submit a new single claim. Where the partner returns to the UK after eight weeks the new single claim will end and a new joint claim should be made. If the same circumstances were repeated the whole process should start again.

The eight weeks of temporary absence may be extended to twelve weeks in certain circumstances, see [TCTM02040](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02040.htm)for further details. So, there may be circumstances where one member of a couple is temporarily absent from the UK for up to 12 weeks and still retain a joint award for tax credits.

**Example - joint claim, usually living with a partner**

A couple who LTACP where one of them works as a long distance lorry driver spending several days at a time driving on the Continent. She normally returns home when not working but occasionally has a few days layover while waiting for another load to bring back. They should continue to make a joint claim unless her absence from the UK goes beyond 8 weeks.

Different rules apply to Crown Servants who are posted overseas and their partners, see [TCTM02050](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02050.htm). Generally those posted overseas are treated as remaining in the UK during their posting.

# TCTM09373 - Decision Making, Joint or Single claims, Couples where only one partner is in the UK: Leaving the UK

### Tax Credits (Residence) Regulations 2003, Reg 4 Leaving the UK

Where one member of the couple leaves the United Kingdom (UK) temporarily leaving their partner and children behind, the person who left the UK continues to be treated as present in the UK for the first 8 weeks of any absence. This can be extended to 12 weeks in specific circumstances, for instance illness or death.

For an explanation of what ‘temporary absence’ means and when the 12 weeks may apply see [TCTM02040](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM02040.htm) and [TCTM09372](http://www.hmrc.gov.uk/manuals/tctmanual/TCTM09372.htm).

In those circumstances the couple are able to make a joint claim to tax credits and any joint award can continue in payment

Where their absence from the UK is not temporary, or where the period for which they are treated as being present in the UK under temporary absence rules has elapsed, the person not in the UK cannot be treated as being in the UK.

At that point, the couple cannot make a joint claim and any joint award must cease.

The person remaining in the UK can make a new claim as a single person and any subsequent award will be based on their individual circumstances and is dependent on that person meeting the entitlement conditions.

**Example - temporary absence affects claim/award**

A UK national works in Saudi Arabia for 3 months at a time. His absence is therefore a temporary absence. His partner and children remain in the UK whilst he’s working away. When he comes home on leave the couple make a joint claim to tax credits and any award will continue until he’s been absent form the UK for 8 weeks. Once the 8 weeks has expired their joint claim will end and his partner should make a single claim. When he returns home any single award will end and they should make a new joint claim.

**Example - temporary absence doesn’t affect award**

A woman goes to visit relatives in America for 6 weeks leaving her partner and children in the UK. Her absence was therefore a temporary absence. Whilst away she becomes ill and is unable to return home for a further 4 weeks. As her extended absence beyond 8 weeks was due to illness and she returns to the UK within 12 weeks of leaving their joint award is not affected.

**Example - absence not a temporary absence**

An unmarried man decides to leave his long term partner and move permanently to America. As his absence was from the start expected to exceed 52 weeks it cannot be regarded as a temporary absence. The joint award he has with his partner will not continue for the first 8 weeks of his absence. His partner should claim as a single person immediately. However, on arrival the man is refused entry to America and sent back to the UK. His partner reluctantly agrees to take him back. She can no longer continue to claim as a single person and should make a fresh joint claim with her partner from the date they started LTAHAW again.