

SUBSIDIARY LEGISLATION 123.81**TAX CREDIT (PERSONS RETURNING TO
EMPLOYMENT) RULES**

1st January, 2005

LEGAL NOTICE 110 of 2005, as amended by Legal Notices 4 of 2006, 130 and 409 of 2007, 67 of 2008, 104 and 193 of 2009, 208 of 2014 and 316 of 2016.

1. The title of these rules is the Tax Credit (Persons Returning to Employment) Rules.

Citation.
Amended by:
L.N. 316 of 2016.

1A. In these rules:

"employment" means employment either as an employee or as a self-employed person:

Definitions.
Added by:
L.N. 130 of 2007.

Provided that the employment for at least twenty-four consecutive months mentioned in rule 2 shall mean only employment as an employee.

2. These rules apply in any one of the following cases:

Applicability.
Substituted by:
L.N. 104 of 2009.
Amended by:
L.N. 316 of 2016.

- (a) where a person, who has not attained the statutory retirement age and who returns to employment on or after the 1st January, 2008 after having been absent from any gainful occupation for at least five years immediately preceding the date of the said return to employment and whose name was not during the said time on the unemployment register (Parts 1 and 2) as established by Jobsplus and who has never been, prior to the date of the said return to employment, in receipt of a pension in view of past employment and who, moreover, had previously been in employment for at least twenty-four consecutive months; or
- (b) where a woman has a child or children who is or are under sixteen years of age and returns to employment on or after the 1st January, 2008 after having been absent from any gainful occupation for at least five years immediately preceding the date of the said return; or
- (c) where a woman has a child or children born on or after the 1st January, 2007 and continues in employment, or returns to employment on or after the 1st January, 2007.

3. (1)(a) Any person to whom rule 2 applies, including a married woman who, or whose spouse has, opted for a separate computation for the purposes of article 50 of the Income Tax Act, hereinafter referred to as "the Act", and who is chargeable to tax at the rates specified in article 56(1)(b) of the Act, shall benefit from a tax

Tax credit.
Amended by:
L.N. 4 of 2006;
L.N. 409 of 2007;
L.N. 104 of 2009;
L.N. 208 of 2014;
L.N. 316 of 2016.
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credit of two thousand euro (€2000) which shall be set-off against the tax in respect of gains or profits from the said employment:

Provided that in the case of applicability under rule 2(b) or 2(c), a woman shall benefit from a tax credit as aforesaid in respect of every child as mentioned in rule 2.

- (b) The tax credit as aforesaid may only be set-off against the tax on employment income referred to in rule 2 but may be availed of over a period of two consecutive years of assessment commencing from the year of assessment during which the return to employment occurs. It shall not be available as a set-off against the person's other sources of income, if any, or against her or his spouse's income:

Provided that in the case of a woman who qualifies under rule 2(b) or 2(c), the tax credit may be availed of over a number of consecutive years not exceeding the number of children plus one but shall in any case not exceed €2000 in any one year:

Provided further that where a woman is availing herself of the tax credit as aforesaid after qualifying under rule 2(a) or 2(b) and becomes entitled to a further tax credit under rule 2(c), the new tax credit shall commence in the final year in which the tax credit under rule 2(a) or 2(b) is available but shall not exceed €2000 in any one year:

Provided also that in the case of a woman who qualifies under rule 2(c) in the year 2007, the tax credit shall commence from the year of assessment 2009.

- (c) The income in respect of which a tax credit is granted under these rules shall be deemed to constitute the first part of that person's total income for the relative year of assessment.
- (2) (a) Any person to whom rule 2 applies and who is chargeable to tax jointly with his or her spouse at the rates specified in article 56(1)(a) of the Act, shall benefit from a tax credit of two thousand euro (€2,000) which shall be set-off against the tax on that part of the total income of the married couple representing her employment income:
- Provided that in the case of applicability under rule 2(b) or 2(c), a woman shall benefit from a tax credit as aforesaid in respect of every child as mentioned in rule 2.
- (b) The tax credit as aforesaid may be availed of over a period of two consecutive years of assessment commencing from the year of assessment during which the return to employment occurs:

Provided that in the case of a woman who qualifies under rule 2(b) or 2(c), the tax credit may be availed of over a number of consecutive years not exceeding the number of children plus one but shall in any case not exceed €2,000 in any one year:

Provided further that where a woman is availing herself of the tax credit as aforesaid after qualifying under rule 2(a) or 2(b) and becomes entitled to a further tax credit under rule 2(c), the new tax credit shall commence in the final year in which the tax credit under rule 2(a) or 2(b) is available but shall not exceed €2,000 in any one year:

Provided also that in the case of a woman who qualifies under rule 2(c) in the year 2007, the tax credit shall commence from the year of assessment 2009.

- (c) The income in respect of which a tax credit is granted under these rules shall be deemed to constitute the last part of that married couple's total income for the relative year of assessment.

4. (1) Notwithstanding the provisions of rule 3, any woman to whom rule 2(b) or 2(c) applies may opt for a tax credit instead of the one mentioned in rule 3, in respect of each child, equivalent to the tax chargeable on the gains or profits from the employment referred to in rule 2 earned in the year of return to employment, and this tax credit shall be set-off against the said gains or profits for the year:

Option.
Added by:
L.N. 193 of 2009.
Amended by:
L.N. 208 of 2014.

Provided that the credit as aforesaid may not exceed €5000:

Provided further that in the case of a woman to whom rule 2(c) applies and who returned to employment in the year 2007, the tax credit shall be availed of in the year of assessment 2009.

(2) Where a woman qualifies for a tax credit in respect of more than one child at the time of the exercise of the option referred to in sub-rule (1), the tax credit shall be availed of in consecutive years until exhausted and the option in that respect cannot be revoked.

(3) The income in respect of which a tax credit is granted in terms of the option referred to in sub-rule (1) shall be deemed to constitute the first part of that woman's total income for the relative year of assessment.

(4) Where a woman exercises the option referred to in sub-rule (1), she shall be chargeable to tax on all her income at the rates laid down in article 56(1)(b) of the Income Tax Act, for the year or years in which the tax credit in accordance with the said option is availed of.

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(5) The option referred to in sub-rule (1) shall be made on the prescribed form submitted with the tax return for the year of assessment in respect of which it is exercised.

Clarification of
applicability.
Added by:
L.N. 208 of 2014.

5. (1) Rule 2(b) and (c) applies also to cases where a child is adopted.

(2) In the case where rule 2(b) or (c) applies:

- (a) only one woman can avail herself of the tax credit, granted under rules 3 and 4, in respect of each child;
 - (b) a woman can avail herself of the tax credit granted under rules 3 and 4 only once in respect of each child.
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