Universal credit: capital limits

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LITRG gives a brief overview of capital rules for universal credit claimants.

There have been many new claimants of universal credit since the COVID-19 pandemic began to affect people's livelihoods.

If you encounter clients who might need to claim welfare benefits, it is important to be aware that – unlike tax credits – the universal credit means test takes into account a claimant's capital. If the would-be claimant has:

- over £16,000 in capital: there is no entitlement to universal credit;
- between £6,000 and £16,000 in capital: universal credit 'tariff income' rules apply, treating the claimant as having income of £4.35 a month for each £250 (or part thereof) over £6,000; and
- below £6,000: capital is disregarded, so there is no restriction on universal credit.

In valuing capital, generally debts secured on assets are deducted from the value of the asset against which they are secured, whereas unsecured debts are not deductible.

As a means-tested benefit, universal credit requires people to make a joint claim if they are part of a couple (with a few limited exceptions). The capital rules apply to both claimants in a joint claim in the same way as the income rules do and the capital limit of £16,000 is the same whether it is a single or joint claim.

Disregards

Some capital is 'disregarded' in the universal credit assessment. For example, business assets for self-employed claimants are disregarded. DWP have confirmed that this can include money set aside to pay a tax bill relating to business profits if it is in a business bank account or if the claimant can evidence the amount set aside.

More information on disregarded amounts can be found in DWP's advice for decision making staff (see tinyurl.com/mon9rbg, chapter H2).

Deprivation

One point we have been asked about recently via enquiries to LITRG's website is whether capital can be 'used up' so that a potential universal credit claimant becomes entitled to the benefit. Two example situations which have arisen are:

- capital received on a divorce settlement, which the divorcee wished to spend on home furnishings and a car; and
- an inheritance received and whether this could be used for items such as house repairs or given away to family.

Not being benefits experts, we cannot comment specifically on these situations. However, what the would-be universal credit claimant needs to consider in these scenarios is the capital 'deprivation' rules (Universal Credit Regs, SI 2013/376 reg 50).

These rules mean that a person can be treated as having 'notional capital', that is capital they do not actually have, if they have deprived themselves of it to get universal credit or increase their universal credit award. Note in particular the last part of this sentence – that there has to have been an intention to get or increase universal credit.

A person is not considered as depriving themselves of capital if they have used it to pay off a debt, or they purchase goods and services which was a reasonable use of the funds in their case.

Tax advisers well acquainted with the many cases disputing terms such as 'reasonable excuse' and 'reasonable care' in the context of tax penalties will have already spotted the potential problem with the second part of this definition! What is reasonable is, of course, a matter of judgement.

DWP's advice to its decision makers (see tinyurl.com/mon9rbg, chapter H1) lists many factors to be taken into account when judging whether a claimant has deprived themselves of capital, including:

- when the alleged deprivation took place;
- mental capacity at the time of deprivation;

- whether the person had a choice in their actions; and
- whether the person knew that capital affected a potential universal credit award.

Getting help

Limited information on universal credit (focusing largely on tax interactions and the move to universal credit from tax credits) can be found on LITRG's Revenue Benefits website for advisers (see https://revenuebenefits.org.uk/universal-credit).

You might need to direct clients to a specialist welfare rights adviser if they are considering claiming universal credit. The LITRG website gives some information about organisations and you can signpost people to 'How can I get help with benefits?' (see tinyurl.com/yyg42tqa).