



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 4

EMPLOYMENT INCOME: EXEMPTIONS

CHAPTER 11

MISCELLANEOUS EXEMPTIONS

Living accommodation

313 Repairs and alterations to living accommodation

- (1) This section applies where living accommodation is provided by reason of a person's employment.
- (2) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of—
 - (a) alterations and additions to the premises which are of a structural nature, or
 - (b) landlord's repairs to the premises.
- (3) In this section "landlord's repairs" means repairs of a kind which are the obligation of the lessor under the covenants implied by section 11(1) of the Landlord and Tenant Act 1985 (c. 70) (lessor's repairing obligations in short leases) where premises are let under a lease to which that section applies.

314 Council tax etc. paid for certain living accommodation

- (1) This section applies if living accommodation provided for an employee falls within the exception in one of the following provisions—

Status: Point in time view as at 01/06/2019.

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section 99(1) (accommodation necessary for proper performance of duties),
 section 99(2) (accommodation provided for better performance of duties), or
 section 100 (accommodation provided as a result of security threat).

- (2) No liability to income tax arises by virtue of—
- (a) any payment to, for or on behalf of the employee, or
 - (b) any reimbursement of any payment by the employee,
- in respect of council tax or rates, or water or sewerage charges, in respect of the accommodation.

315 Limited exemption for expenses connected with certain living accommodation

- (1) This section applies if—
- (a) living accommodation is provided for an employee in a tax year, and
 - (b) conditions A and B are met.
- (2) Condition A is that the accommodation falls within the exception in one of the following provisions—
- section 99(1) (accommodation necessary for proper performance of duties),
 section 99(2) (accommodation provided for better performance of duties), or
 section 100 (accommodation provided as a result of security threat).
- (3) Condition B is that there is an amount of earnings from the employment in the tax year by virtue of expenditure, or the reimbursement to the employee of expenditure, on—
- (a) heating, lighting or cleaning the premises,
 - (b) repairs to the premises, their maintenance or decoration, or
 - (c) the provision in the premises of furniture, equipment or other items which are normal for domestic occupation.
- (4) If this section applies, no liability to income tax arises in respect of the earnings mentioned in subsection (3) to the extent that they exceed—

$$\left(10\% \times NE \times \frac{DA}{DE}\right) - \text{SMG}$$

where—

DA is the number of reckonable days in the tax year (a “reckonable day” being a day on which—

- (a) the accommodation is provided, and
- (b) the employment is held by the employee),

DE is—

- (a) the number of days in that year, or
- (b) if the employment is held for only part of that year, the number of days in that part,

NE is the net amount of the earnings from the employment in the tax year (see subsection (5)),

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SMG is, where the expenses are incurred by a person other than the employee, so much of any sum made good by the employee to that other person as is properly attributable to the expenses.

(5) To calculate the net amount of the earnings from the employment—

Step 1

Take the earnings from the employment, leaving out of account the expenses in question.

Step 2

Add, in the case of employment by a company, the earnings from any employment by an associated company.

A company is “associated” with another for this purpose if one has control of the other or both are under the control of the same person.

Step 3

Deduct any deductions allowable under—

- (a) section 232 (giving effect to mileage allowance relief) or Part 5 of this Act,
- [^{F1}(b) sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or]
- (c) section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions from earnings).

Textual Amendments

F1 Words in s. 315(5) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 35 para. 59](#) (with [Sch. 36](#))

Work accommodation, supplies etc.

316 Accommodation, supplies and services used in employment duties

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision for an employee of accommodation, supplies or services used by the employee in performing duties of the employment if conditions A and B are met.
- (2) Condition A is that any use of the accommodation, supplies or services for private purposes by the employee or members of the employee’s family or household is not significant.
- (3) For this purpose, use “for private purposes” means—
 - (a) use that is not use in performing the duties of the employee’s employment, and
 - (b) use that is at the same time both use in performing the duties of an employee’s employment and other use.
- (4) Condition B is that where the provision is otherwise than on premises occupied by the person making it—

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- (a) its sole purpose is to enable the employee to perform the duties of the employee's employment, and
 - (b) what is provided is not an excluded benefit.
- (5) The following are excluded benefits unless regulations under subsection (6) provide otherwise—
- (a) a motor vehicle, boat or aircraft, and
 - (b) a benefit that involves—
 - (i) the extension, conversion or alteration of living accommodation, or
 - (ii) the construction, extension, conversion or alteration of a building or other structure on land adjacent to and enjoyed with such accommodation.
- (6) The Treasury may make provision by regulations as to what is an excluded benefit for the purposes of subsection (4)(b).
- (7) The regulations may provide that a benefit is an excluded benefit only if such conditions as may be prescribed are met as to the terms on which, and persons to whom, it is provided.

[^{F2}316A Homeworker's additional household expenses

- (1) This section applies where an employer makes a payment to an employee in respect of reasonable additional household expenses which the employee incurs in carrying out duties of the employment at home under homeworking arrangements.
- (2) No liability to income tax arises in respect of the payment.
- (3) In this section, in relation to an employee—
 - “homeworking arrangements” means arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home; and
 - “household expenses” means expenses connected with the day to day running of the employee's home.]

Textual Amendments

- F2** S. 316A inserted (with effect in accordance with s. 137(2) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 137\(1\)](#)

Workplace meals

317 Subsidised meals

- [^{F3}(1) No liability to income tax arises in respect of the provision for an employee by the employer of free or subsidised meals if they are provided—
 - (a) in a canteen, or
 - (b) on the employer's business premises, and conditions A to [^{F4}D] are met.]
- (2) Condition A is that the meals are provided on a reasonable scale.

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(3) Condition B is that all the employer’s employees or all of them at a particular location may obtain one or both of the following—

- (a) a free or subsidised meal, or
- (b) a free or subsidised meal voucher or token.

(4) Condition C is that if the meals are provided in the restaurant or dining room of a hotel or a catering or similar business at a time when meals are being served to the public—

- (a) part of the restaurant or dining room is designated for the use of employees only, and
- (b) the meals are taken in that part.

[^{F5}(4A) Condition D is that the provision is not pursuant to—

- (a) relevant salary sacrifice arrangements, or
- (b) relevant flexible remuneration arrangements.]

(5) In this section “free or subsidised meal voucher or token” means a voucher, ticket, pass or other document or token which—

- (a) is intended to enable a person to obtain a meal, and
- (b) is provided to the employee free of charge or for less than the cost of the meals to be obtained by it.

[^{F6}(5A) In this section—

“relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of free or subsidised meals;

“relevant flexible remuneration arrangements” means arrangements (whenever made, whether before or after the employment began) under which the employee and employer agree that the employee is to be provided with free or subsidised meals rather than receive some other description of employment income.]

(6) In this section “meals” includes light refreshments.

Textual Amendments

- F3** S. 317(1) substituted (with effect in accordance with Sch. 17 para. 1(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 17 para. 1\(1\)](#)
- F4** Word in s. 317(1) substituted (with effect for the tax year 2011-12 and subsequent tax years in accordance with s. 60(5) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [s. 60\(2\)](#)
- F5** S. 317(4A) inserted (with effect for the tax year 2011-12 and subsequent tax years in accordance with s. 60(5) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [s. 60\(3\)](#)
- F6** S. 317(5A) inserted (with effect for the tax year 2011-12 and subsequent tax years in accordance with s. 60(5) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [s. 60\(4\)](#)

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Childcare

[^{F7}318 Childcare: exemption for employer-provided care

- (1) [^{F8}No liability to income tax arises] in respect of the provision for an employee of care for a child if conditions A to D are met.

For the meaning of “care” and “child”, see section 318B.

- (2) If those conditions are met only as respects part of the provision, no such liability arises in respect of that part.
- (3) Condition A is that the child—
- (a) is a child or stepchild of the employee and is maintained (wholly or partly) at the employee’s expense,
 - (b) is resident with the employee, or
 - (c) is a person in respect of whom the employee has parental responsibility.

For the meaning of “parental responsibility”, see section 318B.

- (4) Condition B is that—
- (a) the premises on which the care is provided are not used wholly or mainly as a private dwelling, and
 - (b) any applicable registration requirement is met.
- (5) The registration requirements are—
- [^{F9}(za) in England, that under ^{F10}... Part 3 of the Childcare Act 2006;]
 - (a) in ^{F11}... Wales, that under [^{F12}Part 2 of the Children and Families (Wales) Measure 2010];
 - (b) in Scotland, that under [^{F13}Part 5 of the Public Services Reform (Scotland) Act 2010] ;
 - (c) in Northern Ireland, that under Part XI of the Children (Northern Ireland) Order 1995.

- (6) Condition C is that—
- (a) the premises on which the care is provided are made available by the scheme employer alone, or
 - (b) the partnership requirements are met.

In this section “scheme employer” means the employer operating the scheme under which the care is provided (who need not be the employer of the employee).

- (7) The partnership requirements are—
- (a) that the care is provided under arrangements made by persons who include the scheme employer,
 - (b) that the premises on which it is provided are made available by one or more of those persons, and
 - (c) that under the arrangements the scheme employer is wholly or partly responsible for financing and managing the provision of the care.
- (8) Condition D is that the care is provided under a scheme that is open—
- (a) to the scheme employer’s employees generally, or

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(b) generally to those of the scheme employer’s employees at a particular location,

and that the employee to whom it is provided is either an employee of the scheme employer or is an employee working at the same location as employees of the scheme employer to whom the scheme is open.]

Textual Amendments

- F7** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F8** Words in s. 318(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 16\(5\)](#)
- F9** S. 318(5)(za) inserted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), [regs. 1, 2\(a\)](#)
- F10** Words in s. 318(5)(za) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), [regs. 1\(2\), 2](#)
- F11** Words in s. 318(5)(a) omitted (1.9.2008) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), [regs. 1, 2\(b\)](#)
- F12** Words in s. 318(5)(a) substituted (6.4.2011) by [The Income Tax \(Qualifying Child Care\) Regulations 2011 \(S.I. 2011/775\)](#), [regs. 1, 2](#)
- F13** Words in s. 318(5)(b) substituted (28.10.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications of Enactments\) Order 2011 \(S.I. 2011/2581\)](#), [art. 1\(2\)\(b\)](#), [Sch. 2 para. 6\(a\)](#)

[^{F7}318A Childcare: limited exemption for other care

- (1) If conditions A to [^{F14}D] are met in relation to the provision for an [^{F15}eligible] employee of care for a [^{F16}child—
- (a) no liability to income tax arises by virtue of section 62 (general definition of earnings), and
 - (b) liability to income tax by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) arises only in respect of so much of the [^{F17}amount treated as earnings in respect of the benefit by virtue of section 203(1) or 203A(1) (as the case may be)] as exceeds the exempt amount.]

For [^{F18}the meaning of “eligible employee”, see section 318AZA, and for] the meaning of “care” and “child”, see section 318B.

- (2) If those conditions are met only as respects part of the provision, subsection (1) applies in respect of that part.
- (3) Condition A is that the child—
- (a) is a child or stepchild of the employee and is maintained (wholly or partly) at the employee’s expense, or
 - (b) is resident with the employee and is a person in respect of whom the employee has parental responsibility.

For the meaning of “parental responsibility”, see section 318B.

- (4) Condition B is that the care is qualifying child care.

For the meaning of “qualifying child care”, see section 318C.

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- (5) Condition C is that the care is provided under a scheme that is open—
- (a) to the employer's [^{F19}eligible] employees generally, or
 - (b) generally to those at a particular location.
- [Where the scheme under which the care is provided involves—
- ^{F20}(5A) (a) relevant salary sacrifice arrangements, or
- (b) relevant flexible remuneration arrangements,
- Condition C is not prevented from being met by reason only that the scheme is not open to relevant low-paid employees.
- (5B) In subsection (5A)—
- “relevant salary sacrifice arrangements” means arrangements (whenever made) under which the employees for whom the care is provided give up the right to receive an amount of general earnings or specific employment income in return for the provision of the care;
- “relevant flexible remuneration arrangements” means arrangements (whenever made) under which the employees for whom the care is provided agree with the employer that they are to be provided with the care rather than receive some other description of employment income;
- “relevant low-paid employees” means any of the employer's employees who are remunerated by the employer at a rate such that, if the relevant salary sacrifice arrangements or relevant flexible remuneration arrangements applied to them, the rate at which they would then be so remunerated would be likely to be lower than the national minimum wage.]
- [Condition D is that the employer has, at the required time, made an estimate of the
- ^{F21}(5C) employee's relevant earnings amount for the tax year in respect of which the care is provided (see section 318AA).]
- (6) For the purposes of this section the “exempt amount”, in any tax year, is [^{F22}the appropriate amount] for each qualifying week in that year.
- [In subsection (6) “the appropriate amount”, in the case of an employee, means—
- ^{F23}(6A) (a) if the relevant earnings amount in the case of the employee for the tax year, as estimated in accordance with subsection (5C), exceeds the higher rate limit for the tax year, [^{F24}£25] ,
- (b) if the relevant earnings amount in the case of the employee for the tax year, as so estimated, exceeds the basic rate limit for the tax year but does not exceed the higher rate limit for the tax year, £28, and
 - (c) otherwise, £55.]
- (7) A “qualifying week” means a tax week in which care is provided for a child in circumstances in which conditions A to C are met.
- A “tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day after that (so that the last day of a tax year or, in the case of a tax year ending in a leap year, the last two days is treated as a separate week).
- (8) An employee is only entitled to one exempt amount even if care is provided for more than one child.

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But it does not matter that another person may also be entitled to an exempt amount in respect of the same child.

- (9) An employee is not entitled to an exempt amount under this section and under section 270A (limited exemption for childcare vouchers) in respect of the same tax week.]

Textual Amendments

- F7** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F14** Word in s. 318A(1) substituted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 8 para. 4\(2\)](#)
- F15** Word in s. 318A(1) inserted (21.4.2017) by [Childcare Payments Act 2014 \(c. 28\)](#), [ss. 64\(2\)\(a\)](#), 75(2); [S.I. 2017/578](#), [reg. 3\(f\)](#) (with [reg. 8](#))
- F16** Words in s. 318A(1) substituted (with effect in accordance with s. 16(7) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 16\(6\)](#)
- F17** Words in s. 318A(1)(b) substituted (with effect in accordance with Sch. 2 para. 62 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 2 para. 55](#)
- F18** Words in s. 318A(1) inserted (21.4.2017) by [Childcare Payments Act 2014 \(c. 28\)](#), [ss. 64\(2\)\(b\)](#), 75(2); [S.I. 2017/578](#), [reg. 3\(f\)](#) (with [reg. 8](#))
- F19** Word in s. 318A(5)(a) inserted (21.4.2017) by [Childcare Payments Act 2014 \(c. 28\)](#), [ss. 64\(3\)](#), 75(2); [S.I. 2017/578](#), [reg. 3\(f\)](#) (with [reg. 8](#))
- F20** S. 318A(5A)(5B) inserted (with effect in accordance with s. 36(3) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 36\(2\)](#)
- F21** S. 318A(5C) inserted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 8 para. 4\(3\)](#)
- F22** Words in s. 318A(6) substituted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 8 para. 4\(4\)](#)
- F23** S. 318A(6A) inserted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 8 para. 4\(5\)](#)
- F24** Word in s. 318A(6A)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax \(Exempt Amount for Childcare Vouchers and for Employer Contracted Childcare\) Order 2013 \(S.I. 2013/513\)](#), [arts. 1\(2\)](#), [2\(3\)](#)

[^{F25}318A] ~~Meaning of~~ “eligible employee”

- (1) An employee is an eligible employee for the purposes of section 318A if conditions A to C are met in relation to the employee.
- (2) Condition A is that the employee—
- was employed by the employer immediately before the relevant day, and
 - has not ceased to be employed by the employer on or after that day.
- (3) “The relevant day” means the day specified by the Treasury in regulations for the purposes of this section.
- (4) Condition B is that there has not been a period of 52 tax weeks ending on or after the relevant day which has not included at least one qualifying week.
- (5) In subsection (4)—

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“qualifying week” means a tax week in which care for a child has been provided for the employee under the scheme by the employer in circumstances in which conditions A to D in section 318A are met, and

“tax week” has the meaning given by section 318A(7).

- (6) Condition C is that the employee has not given the employer a childcare account notice.
- (7) A “childcare account notice” is a written notice informing the employer that the employee wishes to leave the scheme in order to be able to open a childcare account under section 17 of the Childcare Payments Act 2014 or enable the employee's partner to do so.
- (8) In subsection (7) “partner” is to be read in accordance with regulations made under section 3(5) of that Act.
- (9) For the meaning of “care” and “child”, see section 318B.]

Textual Amendments

F25 S. 318AZA inserted (21.4.2017) by [Childcare Payments Act 2014 \(c. 28\)](#), **ss. 64(4), 75(2)**; S.I. 2017/578, [reg. 3\(f\)](#) (with [reg. 8](#))

[^{F26}318A Meaning of “relevant earnings amount” and “required time”

- (1) For the purposes of section 318A, “relevant earnings amount”, in the case of an employee provided with care by an employer for any qualifying week in a tax year, means—
 - (a) the aggregate of—
 - (i) the amount of any relevant earnings for the tax year from employment by the employer, and
 - (ii) any amounts treated under Chapters 2 to 12 of Part 3 as earnings from such employment, less
 - (b) the aggregate of any excluded amounts.
- (2) But if the employee becomes employed by the employer during the tax year, what would otherwise be the amount of the aggregate mentioned in subsection (1)(a) is the relevant multiple of that amount; and the relevant multiple is—

365 RD

where RD is the number of days in the period beginning with the day on which the employee becomes employed by the employer and ending with the tax year.

- (3) In subsection (1)—
 - “relevant earnings” has the same meaning as in subsection (1)(a) of section 270B (see subsection (3) of that section), and
 - “excluded amounts” has the same meaning as in subsection (1)(b) of section 270B (see subsection (4) of that section).
- (4) In section 318A “the required time”, in the case of an employee, means—
 - (a) if the employee joins the scheme under which the care is provided at a time during the tax year, that time, and

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- (b) otherwise, the beginning of the tax year.
- (5) For the purposes of subsection (5)(a) the employee is taken to join the scheme as soon as—
 - (a) the employer has agreed that care will be provided under the scheme for the employee, and
 - (b) there is a child falling within section 318A(3)(a) or (b) in relation to the employee.
- (6) The Treasury may by order amend this section.]

Textual Amendments

F26 S. 318AA inserted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 8 para. 5](#)

[^{F7}318B Childcare: meaning of “care”, “child” and “parental responsibility”

- (1) For the purposes of sections [^{F27}318 to 318AZA] (exemptions for employer-provided or employer-contracted childcare) “care” means any form of care or supervised activity that is not provided in the course of the child’s compulsory education.
- (2) For the purposes of those sections a person is a “child” until the last day of the week in which falls the 1st September following the child’s fifteenth birthday (or sixteenth birthday if the child is disabled).
- (3) For the purposes of subsection (2) a child is disabled if—
 - (a) a disability living allowance [^{F28}or personal independence payment] is payable in respect of him, or has ceased to be payable solely because he is a patient,
 - [^{F29}(b) he is certified as severely sight impaired or blind by a consultant ophthalmologist, or]
 - (c) he ceased to be [^{F30}certified as severely sight impaired or blind by a consultant ophthalmologist] within the previous 28 weeks.
- (4) In subsection (3)(a) “patient” means a person (other than a person who is serving a sentence imposed by a court in a prison or youth custody institution or, in Scotland, a young offenders’ institution) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975 or the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975.
- (5) For the purposes of sections 318 and 318A “parental responsibility” means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child’s property.
- (6) In this section and section 318C “local authority” means—
 - (a) in relation to England, the council of a county or district, a metropolitan district, a London Borough, the Common Council of the City of London or the Council of the Isles of Scilly;
 - (b) in relation to Wales, the council of a county or county borough;
 - (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.]

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Textual Amendments

- F7** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F27** Words in s. 318B(1) substituted (21.4.2017) by [Childcare Payments Act 2014 \(c. 28\)](#), [ss. 64\(5\), 75\(2\)](#); [S.I. 2017/578](#), [reg. 3\(f\)](#) (with [reg. 8](#))
- F28** Words in s. 318B(3)(a) inserted (with effect in accordance with s. 12(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 12\(1\)](#)
- F29** S. 318B(3)(b) substituted (1.4.2015) by [The Income Tax \(Qualifying Child Care\) Regulations 2015 \(S.I. 2015/346\)](#), [regs. 1, 2\(2\)\(a\)](#)
- F30** Words in s. 318B(3)(c) substituted (1.4.2015) by [The Income Tax \(Qualifying Child Care\) Regulations 2015 \(S.I. 2015/346\)](#), [regs. 1, 2\(2\)\(b\)](#)

[^{F7}318C Childcare: meaning of “qualifying child care”

- (1) For the purposes of section 318A “qualifying child care” means registered or approved care within any of subsections (2) to (6) below that is not excluded by subsection (7) below.
- (2) Care provided for a child in England is registered or approved care if it is provided—
 - ^{F31}(a)
 - ^{F32}(b)
 [by a person registered under Part 3 of the Childcare Act 2006,]
 - ^{F33}(ba)
 - [^{F34}(c) by or under the direction of the proprietor of a school on the school premises (subject to subsection (2B)),][^{F35}or]
 - ^{F36}(d)
 - ^{F37}(e)
 - ^{F38} ...
 - ^{F39}(ea)
 - ^{F40}(eb)
 - [^{F41}(f) by a carer supplied by a person registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the activity within paragraph 1 of Schedule 1 (regulated activities: personal care) to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.]
 - ^{F42}(g)
- [In subsection (2)(c)—
- ^{F43}(2A) “proprietor”, in relation to a school, means—
 - (a) the governing body incorporated under section 19 of the Education Act 2002, or
 - (b) if there is no such body, the person or body of persons responsible for the management of the school;

“school” means a school that Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (the “Chief Inspector”) is or may be required to inspect;

“school premises” means premises that may be inspected as part of an inspection of the school by the Chief Inspector.

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- (2B) Care provided for a child in England is not registered or approved care under subsection (2)(c) if—
- (a) it is provided during school hours for a child who has reached compulsory school age, or
 - (b) it is provided in breach of a requirement to register under Part 3 of the Childcare Act 2006.]
- (3) Care provided for a child in Wales is registered or approved care if it is provided—
- (a) by a person registered under [^{F44}Part 2 of the Children and Families (Wales) Measure 2010],
 - [^{F45}(b) by a person in circumstances where, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010, the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010,]
 - (c) in the case of care provided for a child out of school hours ^{F46}..., by a school on school premises or by a local authority, ^{F47}...
 - (d) by a child care provider approved by an organisation accredited under the Tax Credit (New Category of Child Care Provider) Regulations 1999 ^{F47}[^{F48}...
 - [^{F49}(e) by a person who is employed or engaged under a contract for services to provide care and support by the provider of a domiciliary support service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016]]^{F50}...
 - [^{F51}(f) by a child care provider approved under the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007.]
 - [^{F52}(g) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where, but for the fact that the child is too old, the care would be—
 - (i) child minding, or day care, for the purposes of Part 2 of the Children and Families (Wales) Measure 2010, or
 - (ii) qualifying child care for the purposes of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007.]
- (4) Care provided for a child in Scotland is registered or approved care if it is provided—
- (a) by a person in circumstances where the care service provided by him—
 - (i) consists of child minding or of day care of children [^{F53}as defined by paragraphs 12 and 13 respectively of schedule 12 to the Public Services Reform (Scotland) Act 2010] , and
 - (ii) is registered under [^{F54}Chapter 3 of Part 5] of that Act ^{F55}... [^{F56}or]
 - (b) by a local authority in circumstances where the care service provided by the local authority—
 - (i) consists of child minding or of day care of children [^{F57}as defined by paragraphs 12 and 13 respectively of schedule 12 to the Public Services Reform (Scotland) Act 2010] , and
 - (ii) is registered under [^{F58}Chapter 4 of Part 5] of that Act, ^{F59}...
 - ^{F59}(c)
- (5) Care provided for a child in Northern Ireland is registered or approved care if it is provided—
- (a) by a person registered under Part XI of the Children (Northern Ireland) Order 1995, or

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- (b) by an institution or establishment that does not need to be registered under that Part to provide the care because of an exemption under Article 121 of that Order,^{F60} ...
- (c) in the case of care provided for a child out of school hours^{F61} ..., by a school on school premises or by an education and library board or an HSS trust.
- ^{F62}(d)
- [by a home child care provider approved in accordance with the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006]^{F64}, or
- ^{F63}(e) (f) by a foster parent in relation to a child (other than one whom the foster parent is fostering) in circumstances where, but for the fact that the child is too old, the care would be—
- (i) child minding, or day care, for the purposes of Part XI of the Children (Northern Ireland) Order 1995, or
- (ii) qualifying child care for the purposes of the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006.]
- (6) Care provided for a child outside the United Kingdom is registered or approved child care if it is provided by a child care provider [^{F65}within regulation 14(2)(d)(i) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002.]
- (7) Child care is excluded from section 318A—
- (a) if it is provided by the partner of the employee in question,^{F66} ...
- (b) if it is provided by a relative of the child wholly or mainly in the child’s home or (if different) the home of a person having parental responsibility for the child^{F67},^{F68} ...
- (c) in the case of care falling within subsection^{F69} ... [^{F70}(3)(f)], if—
- (i) it is provided wholly or mainly in the home of a relative of the child, and
- (ii) the provider usually provides care there solely in respect of one or more children to whom the provider is a relative^{F71}, or
- (d) if it is provided by a foster parent^{F72},^{F73} ... in respect of a child whom that person is fostering^{F73} ...]].
- (8) In subsection (7)—
- “partner” means one of a [^{F74}couple (within the meaning given by section 137(1) of SSCBA 1992 or section 133(1) of SSCB(NI)A 1992)]; and
- “relative” means parent, grandparent, aunt, uncle, brother or sister, whether by blood, half blood or marriage [^{F75}or civil partnership].
- [In subsection (7)(c), “relative in relation to a child, also includes—
- ^{F76}(9) (a) a local authority foster parent in relation to the child,
- (b) a foster parent with whom the child has been placed by a voluntary organisation,
- (c) a person who fosters the child privately (within the meaning of section 66 of the Children Act 1989, or
- (d) a step-parent of the child.]
- [In this section “foster parent” in relation to a child—
- ^{F77}(10) (a) in relation to England, means a person with whom the child is placed under the Fostering Services Regulations 2002;

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- (b) in relation to Wales, means a person with whom the child is placed under the Fostering Services (Wales) Regulations 2003; and
- (c) in relation to Northern Ireland, means a person with whom the child is placed under the Foster Placement (Children) Regulations (Northern Ireland) 1996.

^{F78}(11)]]

Textual Amendments

- F7** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 13 para. 1](#)
- F31** S. 318C(2)(a) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(a\)](#)
- F32** S. 318C(2)(b) omitted (1.9.2008) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(a\)](#)
- F33** S. 318C(2)(ba) inserted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(b\)](#)
- F34** S. 318C(2)(c) substituted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(c\)](#)
- F35** Word in s. 318C(2)(c) inserted (18.7.2009) by [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(b\)](#)
- F36** S. 318C(2)(d) omitted (1.10.2007) by virtue of [The Income Tax \(Qualifying Child Care\) \(No. 2\) Regulations 2007 \(S.I. 2007/2478\)](#), regs. 1, [2](#)
- F37** S. 318C(2)(e) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [3\(a\)](#)
- F38** Word in s. 318C(2)(e) omitted (6.4.2007) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2007 \(S.I. 2007/849\)](#), regs. 1, [2\(2\)\(c\)](#)
- F39** S. 318C(2)(ea) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(a\)](#)
- F40** S. 318C(2)(eb) and preceding word omitted (1.9.2008) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(2\)\(d\)](#)
- F41** S. 318C(2)(f) substituted (1.6.2019) by [The Income Tax \(Qualifying Child Care\) Regulations 2019 \(S.I. 2019/902\)](#), regs. 1, [2\(2\)](#)
- F42** S. 318C(2)(g) omitted (18.7.2009) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2009 \(S.I. 2009/1544\)](#), regs. 1(2), [3\(2\)\(a\)](#)
- F43** S. 318C(2A)(2B) inserted (1.9.2008) by [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(3\)](#)
- F44** Words in s. 318C(3)(a) substituted (6.4.2011) by [The Income Tax \(Qualifying Child Care\) Regulations 2011 \(S.I. 2011/775\)](#), regs. 1, [3\(2\)\(a\)](#)
- F45** S. 318C(3)(b) substituted (6.4.2011) by [The Income Tax \(Qualifying Child Care\) Regulations 2011 \(S.I. 2011/775\)](#), regs. 1, [3\(2\)\(b\)](#)
- F46** Words in s. 318C(3)(c) omitted (6.4.2007) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2007 \(S.I. 2007/849\)](#), regs. 1, [2\(3\)\(a\)](#)
- F47** Word in s. 318C(3)(c)(d) omitted (6.4.2007) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2007 \(S.I. 2007/849\)](#), regs. 1, [2\(3\)\(b\)](#)
- F48** S. 318C(3)(e) and preceding word added (6.4.2005) by [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2005 \(S.I. 2005/770\)](#), regs. 1(1), [4](#)
- F49** S. 318C(3)(e) substituted (3.4.2018) by [The Section 318C Income Tax \(Earnings and Pensions\) Act 2003 \(Amendment\) Regulations 2018 \(S.I. 2018/308\)](#), reg. 3
- F50** Word in s. 318C(3) omitted (1.9.2008) by virtue of [The Income Tax \(Qualifying Child Care\) Regulations 2008 \(S.I. 2008/2170\)](#), regs. 1, [3\(4\)\(a\)](#)

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- F51** S. 318C(3)(f) and preceding word inserted (6.4.2007) by The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(3)(c)**
- F52** S. 318C(3)(g) substituted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(2)(c)**
- F53** Words in s. 318C(4)(a)(i) substituted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), art. 1(2)(b), **Sch. 2 para. 6(b)(i)**
- F54** Words in s. 318C(4)(a)(ii) substituted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), art. 1(2)(b), **Sch. 2 para. 6(b)(ii)**
- F55** Word in s. 318C(4)(a) omitted (21.11.2009) by virtue of The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(3)**
- F56** Word in s. 318C(4)(a) inserted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(3)(a)**
- F57** Words in s. 318C(4)(b)(i) substituted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), art. 1(2)(b), **Sch. 2 para. 6(b)(iii)**
- F58** Words in s. 318C(4)(b)(ii) substituted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), art. 1(2)(b), **Sch. 2 para. 6(b)(iv)**
- F59** S. 318C(4)(c) and preceding word omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(3)(b)**
- F60** Word in s. 318C(5)(b) omitted (21.11.2009) by virtue of The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(4)**
- F61** Words in s. 318C(5)(c) omitted (6.4.2007) by virtue of The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(4)**
- F62** S. 318C(5)(d) and following word omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(4)(a)**
- F63** S. 318C(5)(d)(e) inserted (21.11.2009) by The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(4)**
- F64** S. 318C(5)(f) and preceding word inserted (6.4.2011) by The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(4)(b)**
- F65** Words in s. 318C(6) substituted (1.6.2019) by The Income Tax (Qualifying Child Care) Regulations 2019 (S.I. 2019/902), regs. 1, **2(3)**
- F66** Word in s. 318C(7)(a) omitted (6.4.2007) by virtue of The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(5)(a)**
- F67** S. 318C(7)(c) and preceding word added (6.4.2005) by The Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005 (S.I. 2005/770), regs. 1(1), **5**
- F68** Word in s. 318C(7)(b) omitted (18.7.2009) by virtue of The Income Tax (Qualifying Child Care) Regulations 2009 (S.I. 2009/1544), regs. 1(2), **3(4)(a)**
- F69** Words in s. 318C(7)(c) omitted (18.7.2009) by virtue of The Income Tax (Qualifying Child Care) Regulations 2009 (S.I. 2009/1544), regs. 1(2), **3(4)(b)**
- F70** Words in s. 318C(7)(c) inserted (6.4.2007) by The Income Tax (Qualifying Child Care) Regulations 2007 (S.I. 2007/849), regs. 1, **2(5)(b)**
- F71** S. 318C(7)(d) and preceding word added (18.7.2009) by The Income Tax (Qualifying Child Care) Regulations 2009 (S.I. 2009/1544), regs. 1(2), **3(4)(c)**
- F72** Words in s. 318C(7)(d) substituted (21.11.2009) by The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(5)**
- F73** Words in s. 318C(7)(d) omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(5)**
- F74** Words in s. 318C(8) substituted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **144(a)**

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- F75** Words in s. 318C(8) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **144(b)**
- F76** S. 318C(9) inserted (6.4.2005) by The Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005 (S.I. 2005/770), regs. 1(1), **6**
- F77** S. 318C(10)(11) added (21.11.2009) by The Income Tax (Qualifying Child Care) (No. 2) Regulations 2009 (S.I. 2009/2888), regs. 1(2), **2(6)**
- F78** S. 318C(11) omitted (6.4.2011) by virtue of The Income Tax (Qualifying Child Care) Regulations 2011 (S.I. 2011/775), regs. 1, **3(6)**

[^{F77}318D Childcare: power to vary [^{F79}amounts which are the] exempt amount and qualifying conditions

- (1) The Treasury may by order amend section [^{F80}318A(6A)] (employer-contracted care: the [^{F81}amounts which are the exempt amount] so as to substitute different sums of money for those] for the time being specified.
- (2) The Treasury may by regulations make such amendments of the provisions of sections 318 to 318C relating to the qualifying conditions for the exemptions conferred by sections 318 and 318A as appear to them appropriate having regard to the corresponding provisions of regulations under section 12 of the Tax Credits Act 2002 relating to entitlement to the child care element of working tax credit [^{F82}or section 12 of the Welfare Reform Act 2012 [^{F83}or Article 17 of the Welfare Reform (Northern Ireland) Order 2015] relating to amounts in respect of childcare costs that may be included in the calculation of an award of universal credit] .]

Textual Amendments

- F7** Ss. 318-318D substituted for s. 318 (with effect in accordance with s. 78(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 13 para. 1**
- F79** Words in s. 318D heading inserted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 8 para. 6**
- F80** Word in s. 318D(1) substituted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 8 para. 6(a)**
- F81** Words in s. 318D(1) substituted (with effect in accordance with Sch. 8 paras. 7-10 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 8 para. 6(b)**
- F82** Words in s. 318D(2) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **16(2)**
- F83** Words in s. 318D(2) inserted (coming into force in accordance with reg. 1(1) of the amending Rule) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **12(2)**

Telephones and computer equipment

[^{F84}319 Mobile telephones

- (1) No liability to income tax arises by virtue of section 62 (general definition of earnings) or Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of one mobile telephone for an employee without any transfer of property in it.
- (2) In this section “mobile telephone” means telephone apparatus which—

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- (a) is not physically connected to a land-line, and
 - (b) is not used only as a wireless extension to a telephone which is physically connected to a land-line,
- or any thing which may be used in such apparatus for the purpose of gaining access to, or using, a public electronic communications service.
- (3) In this section the reference to the provision of a mobile telephone includes a reference to the provision, together with the mobile telephone provided, of access to, or the use of, a public electronic communications service by means of one mobile telephone number.
- (4) For the purposes of subsection (2) “telephone apparatus” means wireless telegraphy apparatus designed or adapted for the primary purpose of transmitting and receiving spoken messages and used in connection with a public electronic communications service.]

Textual Amendments

F84 S. 319 substituted (with effect for the year 2006-07 and subsequent years of assessment in accordance with s. 60(4) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 60\(3\)](#) (with s. 60(5))

^{F85} 320 Limited exemption for computer equipment

Textual Amendments

F85 S. 320 repealed (with effect for the year 2006-07 and subsequent years of assessment in accordance with s. 61(2) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 61\(1\), Sch. 26 Pt. 3\(7\)](#) (with s. 61(3))

^{F86} *Eye tests and special corrective appliances*

Textual Amendments

F86 S. 320A and cross-heading inserted (with effect for the year 2006-07 and subsequent years of assessment in accordance with s. 62(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 62\(2\)](#)

320A Eye tests and special corrective appliances

- (1) No liability to income tax arises in respect of the provision for an employee of—
 - (a) an eye and eyesight test, or
 - (b) special corrective appliances that an eye and eyesight test shows are necessary, if conditions A and B are met.
- (2) Condition A is that the provision of the test or appliances is required by regulations made under the Health and Safety at Work etc. Act 1974.

Status: Point in time view as at 01/06/2019.

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- (3) Condition B is that tests and appliances of the kind mentioned in subsection (1) are made available generally to those employees of the employer in question for whom they are required to be provided by the regulations.]

[^{F87}Health-screening and medical check-ups

Textual Amendments

F87 S. 320B and cross-heading inserted (with effect in accordance with s. 55(5) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 55\(4\)](#)

320B Health-screening and medical check-ups

- (1) No liability to income tax arises in respect of the provision for an employee, on behalf of an employer, of a health-screening assessment or a medical check-up.
- (2) Subsection (1) does not apply—
- (a) to more than one health-screening assessment provided in a tax year by any one employer or by any of a number of persons who are employers of the employee at the same time, or
 - (b) to more than one medical check-up so provided.
- (3) In this section—
- “health-screening assessment” means an assessment to identify employees who might be at particular risk of ill-health, and
 - “medical check-up” means a physical examination of the employee by a health professional for (and only for) determining the employee's state of health.]

[^{F88}Recommended medical treatment

Textual Amendments

F88 S. 320C and cross-heading inserted (1.1.2015) by [Finance Act 2014 \(c. 26\), s. 12\(2\)\(4\); S.I. 2014/3226, art. 2](#)

320C Recommended medical treatment

- (1) No liability to income tax arises in respect of—
- (a) the provision to an employee of recommended medical treatment, or
 - (b) the payment or reimbursement, to or in respect of an employee, of the cost of such treatment,
- if that provision, payment or reimbursement is not pursuant to relevant salary sacrifice arrangements or relevant flexible remuneration arrangements.
- (2) But subsection (1) does not apply in a tax year if, and to the extent that, the value of the exemption in that year exceeds £500.

Status: Point in time view as at 01/06/2019.

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- (3) Medical treatment is “recommended” if it is provided to the employee in accordance with a recommendation which—
- (a) is made to the employee as part of occupational health services provided to the employee by a service provided—
 - (i) under section 2 of the Employment and Training Act 1973 (arrangements for the purpose of assisting persons to retain employment etc), or
 - (ii) by, or in accordance with arrangements made by, the employer,
 - (b) is made for the purpose of assisting the employee to return to work after a period of absence due to injury or ill health, and
 - (c) meets any other requirements specified in regulations made by the Treasury.
- (4) Regulations under subsection (3)(c) may, in particular, specify that the recommendation must be one given after the employee has been assessed as unfit for work—
- (a) for at least the specified number of consecutive days, and
 - (b) in the specified manner by a person of a specified description.
- (5) The Treasury may by order amend subsection (3)(a) so as to add, amend or remove a reference to any enactment.
- (6) “The value of the exemption”, in a tax year, is an amount equal to the sum of—
- (a) all earnings within section 62 (earnings), and
 - (b) all earnings which are treated as such under the benefits code,
- in respect of which subsection (1) would prevent liability to income tax from arising in the tax year disregarding subsection (2).
- (7) In this section—
- “medical treatment” means all procedures for diagnosing or treating any physical or mental illness, infirmity or defect;
- “relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of recommended medical treatment or the payment or reimbursement of the cost of such treatment;
- “relevant flexible remuneration arrangements” means arrangements (whenever made, whether before or after the employment began) under which the employee and employer agree that the employee is to be provided with recommended medical treatment or the cost of such treatment is to be paid or reimbursed, rather than the employee receiving some other description of employment income;
- “specified” means specified in regulations under subsection (3)(c).]

Awards and gifts

321 Suggestion awards

- (1) This section applies where an employer establishes a scheme for the making of suggestions that is open on the same terms—

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- (a) to employees of the employer generally, or
 - (b) to a particular description of them.
- (2) No liability to income tax arises in respect of an encouragement award or financial benefit award made under the scheme for a suggestion which meets conditions A to C if, or to the extent that, it does not exceed the permitted maximum for the award under section 322.
- (3) Condition A is that the suggestion relates to the activities carried on by the employer.
- (4) Condition B is that the suggestion is made by an employee who could not reasonably be expected to make it in the course of the duties of the employment, having regard to the employee's experience.
- (5) Condition C is that the suggestion is not made at a meeting held for the purpose of proposing suggestions.
- (6) In this section and section 322—
- “encouragement award” means an award, other than a financial benefit award, made for a suggestion with intrinsic merit or showing special effort, and
 - “financial benefit award” means an award for a suggestion relating to an improvement in efficiency or effectiveness which the employer has decided to adopt and reasonably expects will result in a financial benefit.

322 Suggestion awards: “the permitted maximum”

- (1) The permitted maximum for an encouragement award for the purposes of section 321 (suggestion awards) is £25.
- (2) The permitted maximum for a financial benefit award where no such award for the suggestion has been made before is—
- (a) if only one such award is made for the suggestion, the suggestion maximum, and
 - (b) if two or more such awards are made on the same occasion to different persons for the suggestion, the appropriate proportion of the suggestion maximum.
- (3) If on a later occasion or occasions one or more further such awards are made for the same suggestion, the permitted maximum for each is—
- (a) if only one such award is made for the suggestion on that occasion, the residue of the suggestion maximum, and
 - (b) if two or more such awards are made on the same occasion to different persons for the suggestion, the appropriate proportion of that residue.
- (4) The suggestion maximum for a financial benefit award is the financial benefit share or £5000 if that is less.
- (5) In subsection (4) “the financial benefit share” means the greater of—
- (a) half the financial benefit reasonably expected to result from the adoption of the suggestion for the first year after its adoption, and
 - (b) one-tenth of the financial benefit reasonably expected to result from its adoption for the first 5 years after its adoption.
- (6) In this section—

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“the appropriate proportion” means such proportion as the award bears to the total of the financial benefit awards made on the same occasion for the suggestion,

“the residue of the suggestion maximum” means the suggestion maximum less the total previous exemption, and

“the total previous exemption” means the total of the amounts exempted from income tax under section 321 in respect of financial benefit awards for the suggestion made on previous occasions.

323 Long service awards

(1) No liability to income tax arises in respect of a long service award which meets the condition in subsection (3) if or to the extent that the chargeable amount does not exceed the permitted maximum.

(2) In subsection (1)—

“chargeable amount” means the amount of employment income which would be charged to tax in respect of the award apart from subsection (1),

“long service award” means an award made to an employee to mark not less than 20 years' service with the same employer, and

“permitted maximum” means [^{F89}£50] for each year of service in respect of which the award is made.

(3) The condition is that the award must take the form of—

- (a) tangible moveable property,
- (b) shares in a company which is, or belongs to the same group as, the employer, or
- (c) the provision of any other benefit except—
 - (i) a payment,
 - (ii) a cash voucher,
 - (iii) a credit-token,
 - (iv) securities,
 - (v) shares not within paragraph (b), or
 - (vi) an interest in or rights over securities or shares.

(4) Subsection (1) does not apply to an award (“the later award”) if another award to mark a particular period of service with the same employer has been made to the employee in the period of 10 years ending with the date on which the later award is made.

(5) For the purposes of this section, service is treated as being with the same employer if it is with two or more employers—

- (a) each of whom is a successor or predecessor of the others, or
- (b) one of whom is a company which belongs or has belonged to the same group as the others or a predecessor or successor of the others.

(6) In this section “group” means a body corporate and its 51% subsidiaries.

Textual Amendments

F89 Word in s. 323(2) substituted (13.6.2003) by [The Income Tax \(Exemption of Minor Benefits\) \(Increase in Sums of Money\) Order 2003 \(S.I. 2003/1361\)](#), arts. 1(1), 3

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[^{F90}323A Trivial benefits provided by employers

- (1) No liability to income tax arises in respect of a benefit provided by, or on behalf of, an employer to an employee or a member of the employee's family or household if—
 - (a) conditions A to D are met, or
 - (b) in a case where subsection (2) applies, conditions A to E are met.
- (2) This subsection applies where—
 - (a) the employer is a close company, and
 - (b) the employee is—
 - (i) a person who is a director or other office-holder of the employer, or
 - (ii) a member of the family or household of such a person.
- (3) Condition A is that the benefit is not cash or a cash voucher within the meaning of section 75.
- (4) Condition B is that the benefit cost of the benefit does not exceed £50.
- (5) In this section “benefit cost”, in relation to a benefit, means—
 - (a) the cost of providing the benefit, or
 - (b) if the benefit is provided to more than one person and the nature of the benefit or the scale of its provision means it is impracticable to calculate the cost of providing it to each person to whom it is provided, the average cost per person of providing the benefit.
- (6) For the purposes of subsection (5)(b), the average cost per person of providing a benefit is found by dividing the total cost of providing the benefit by the number of persons to whom the benefit is provided.
- (7) Condition C is that the benefit is not provided pursuant to relevant salary sacrifice arrangements or any other contractual obligation.
- (8) “Relevant salary sacrifice arrangements”, in relation to the provision of a benefit to an employee or to a member of an employee's family or household, means arrangements (whenever made, whether before or after the employment began) under which the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit.
- (9) Condition D is that the benefit is not provided in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.
- (10) Condition E is that—
 - (a) the benefit cost of the benefit provided to the employee, or
 - (b) in a case where the benefit is provided to a member of the employee's family or household who is not an employee of the employer, the amount of the benefit cost allocated to the employee in accordance with section 323B(4),does not exceed the employee's available exempt amount (see section 323B).

Textual Amendments

F90 Ss. 323A-323C inserted (with effect in accordance with s. 13(5) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), s. 13(2)

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Modifications etc. (not altering text)

- C1** S. 323A(2) applied by S.I. 2007/3537, Sch. para. 22(2)(a) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Employer-Financed Retirement Benefits \(Excluded Benefits for Tax Purposes\) \(Amendment\) Regulations 2016](#) (S.I. 2016/1036), regs. 1(1), 4)

323B Section 323A: calculation of available exempt amount

- (1) The “available exempt amount”, in relation to an employee of an employer, is the amount found by deducting from the annual exempt amount the aggregate of—
- (a) the benefit cost of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to the employee, and
 - (b) any amounts allocated to the employee in accordance with subsection (4) in respect of eligible benefits provided earlier in the tax year by, or on behalf of, the employer to a member of the employee's family or household who was not at that time an employee of the employer.
- (2) The annual exempt amount is £300.
- (3) For the purposes of subsection (1) “eligible benefits” means benefits in respect of which conditions A to D in section 323A are met.
- (4) The amount allocated to an employee of an employer in respect of a benefit provided to a person (“P”) who—
- (a) is a member of the employee's family or household, and
 - (b) is not an employee of the employer,
- is the benefit cost of that benefit divided by the number of persons who meet the condition in subsection (5) and are members of P's family or household.
- (5) This condition is met if the person is—
- (a) a director or other office-holder of the employer,
 - (b) an employee of the employer who is a member of the family or household of a person within paragraph (a), or
 - (c) a former employee of the employer who—
 - (i) was a director or other office-holder at any time when the employer was a close company, or
 - (ii) is a member of the family or household of such a person.
- (6) In this section “benefit cost” has the same meaning as in section 323A.

Textual Amendments

- F90** Ss. 323A-323C inserted (with effect in accordance with s. 13(5) of the amending Act) by [Finance Act 2016](#) (c. 24), s. 13(2)

Modifications etc. (not altering text)

- C2** S. 323B(4) modified by S.I. 2007/3537, Sch. para. 22(2)(b) (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Employer-Financed Retirement Benefits \(Excluded Benefits for Tax Purposes\) \(Amendment\) Regulations 2016](#) (S.I. 2016/1036), regs. 1(1), 4)

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323C Power to amend sections 323A and 323B

- (1) The Treasury may by regulations amend section 323A so as to alter the conditions which must be met for the exemption conferred by section 323A(1) to apply.
- (2) Regulations under subsection (1) may include any amendment of section 323B that is appropriate in consequence of an amendment made under subsection (1).
- (3) The Treasury must not make regulations under subsection (1) unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons.]

Textual Amendments

F90 Ss. 323A-323C inserted (with effect in accordance with s. 13(5) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), s. 13(2)

324 Small gifts from third parties

- (1) No liability to income tax arises in respect of a gift provided for an employee or a member of the employee's family or household if conditions A to E are met.
- (2) Condition A is that the gift is not provided by the employer or a person connected with the employer.
- (3) Condition B is that neither the employer nor a person connected with the employer has directly or indirectly procured the gift.
- (4) Condition C is that the gift is not made in recognition of particular services performed by the employee in the course of the employment or in anticipation of such services.
- (5) Condition D is that the gift is not cash or securities or the use of a service.
- (6) Condition E is that the total cost to the donor of all the eligible gifts in respect of the employee in question during the tax year does not exceed [^{F91}£250].
- (7) For the purposes of condition E, the total cost to the donor includes any value added tax payable on the supply of the gifts to the donor, whether or not the donor is entitled to a credit or repayment in respect of that tax.
- (8) In this section "eligible gifts" means all gifts which—
 - (a) meet conditions A to D, or
 - (b) are non-cash vouchers or credit-tokens and meet—
 - (i) conditions A to C, and
 - (ii) conditions A and B in section 270 (exemption for small gifts of vouchers and tokens from third parties).
- (9) Subsection (1) does not apply to non-cash vouchers and credit-tokens (but see section 270 which makes provision for a corresponding exemption for them).

Textual Amendments

F91 Word in s. 324(6) substituted (13.6.2003) by [The Income Tax \(Exemption of Minor Benefits\) \(Increase in Sums of Money\) Order 2003 \(S.I. 2003/1361\)](#), arts. 1(1), 4

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Overseas medical treatment

325 Overseas medical treatment

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of—
 - (a) providing an employee with medical treatment outside the United Kingdom where the need for it arises while the employee is outside the United Kingdom for the purpose of performing the duties of the employment, or
 - (b) providing an employee with insurance against the cost of providing such treatment.
- (2) For the purposes of this section—
 - (a) “medical treatment” includes all procedures for diagnosing or treating any physical or mental illness, infirmity or defect, and
 - (b) providing a person with medical treatment includes providing for the person to be an in-patient so that such treatment can be given.

[^{F92}325A Health and employment insurance payments

- (1) No liability to income tax in respect of employment income arises on any payment if or to the extent that—
 - (a) were the payment an annual payment falling within Chapter 7 of Part 5 of ITTOIA 2005, it would be exempt from income tax under section 735 of that Act (health and employment insurance payments), and
 - (b) it meets conditions A and B.
- (2) Condition A is that the payments are made—
 - (a) to a person (“the employee”) who made payments or contributions in respect of premiums under an insurance policy which another person took out wholly or partly for the employee's benefit, or
 - (b) to the employee's [^{F93}spouse or civil partner] .
- (3) Condition B is that the payments are attributable on a just and reasonable basis to the payments or contributions in respect of premiums.]

Textual Amendments

- F92** S. 325A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 592](#) (with [Sch. 2](#))
- F93** Words in s. 325A(2)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 145](#)

Expenses incidental to sale etc. of asset

326 Expenses incidental to transfer of a kind not normally met by transferor

- (1) No liability to income tax arises by virtue of the payment or reimbursement of expenses which—

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- (a) are incidental to, and incurred wholly and exclusively as a result of, an employment-related asset transfer, and
 - (b) are of a kind not normally met by the transferor.
- (2) There is an “employment-related asset transfer” if—
- (a) an asset or the beneficial interest in an asset is transferred to an employee’s employer or a person nominated by the employer, and
 - (b) the right or opportunity to make the transfer arose by reason of the employment.
- (3) In this section references to a transfer are to a sale or any other kind of disposal.

[^{F94}Monitoring schemes

Textual Amendments

F94 S. 326A and cross-heading inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2011 (c. 11), s. 39(1)

326A Fees relating to monitoring schemes relating to vulnerable persons

- (1) No liability to income tax arises by virtue of the payment or reimbursement of a fee in respect of [^{F95}—]
- ^{F96}(a) [an application to join the scheme administered under section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (scheme to collate and disclose information about individuals working with vulnerable persons).
 - ^{F97}(b) [a fee paid by virtue of section 116A(4)(b) or (5)(b) of the Police Act 1997 (“the Police Act”) (fee for up-dating certificates);
 - (c) a fee paid under—
 - (i) section 113A(1)(b) of the Police Act (fee for criminal record certificates);
 - (ii) section 113B(1)(b) of the Police Act (fee for enhanced criminal record certificates);
 - (iii) iii)section 114(1)(b) of the Police Act (fee for criminal record certificates: Crown employment); or
 - (iv) iv)section 116(1)(b) of the Police Act (fee for enhanced criminal record certificates: judicial appointments and Crown employment);where the application is made at the same time as an application under section 116A(4) or (5) of the Police Act for the certificate to be subject to update arrangements.
- (2) The Treasury may by order amend subsection (1) so as—
- (a) to add to the fees covered by that subsection a fee of a specified kind payable in connection with a scheme for England and Wales or Northern Ireland which corresponds to the scheme administered under section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007, or
 - (b) to amend or remove a reference to a fee added under paragraph (a).]

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Textual Amendments

- F95** Word in s. 326A(1) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax \(Monitoring Schemes Relating to Vulnerable Persons\) Order 2013 \(S.I. 2013/1133\)](#), arts. 1(2), **2(a)**
- F96** Words in s. 326A(1) renumbered as s. 326A(1)(a) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax \(Monitoring Schemes Relating to Vulnerable Persons\) Order 2013 \(S.I. 2013/1133\)](#), arts. 1(2), **2(b)**
- F97** S. 326A(1)(b)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax \(Monitoring Schemes Relating to Vulnerable Persons\) Order 2013 \(S.I. 2013/1133\)](#), arts. 1(2), **2(c)**

[^{F98}Employee shareholder agreements

Textual Amendments

- F98** S. 326B and cross-heading inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 23 paras. 37, 38**; [S.I. 2013/1755](#), art. 2

326B Advice relating to proposed employee shareholder agreements

- (1) No liability to income tax arises by virtue of—
- (a) the provision of relevant advice by a relevant independent adviser, or
 - (b) the payment or reimbursement, in accordance with section 205A(7) of the Employment Rights Act 1996, of any reasonable costs incurred in obtaining relevant advice.
- (2) “Relevant advice” means—
- (a) advice, other than tax advice, which is provided for the purposes of section 205A(6)(a) of that Act (advice as to terms and effect of employee shareholder agreement), and
 - (b) tax advice which is so provided and consists only of an explanation of the tax effects of employee shareholder agreements generally.
- (3) In this section—
- “employee shareholder agreement” means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of that Act);
- “relevant independent adviser” has the meaning that it has for the purposes of section 203(3)(c) of that Act.]

Status:

Point in time view as at 01/06/2019.

Changes to legislation:

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