

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (QUALIFYING CHILD CARE) REGULATIONS 2007

2007 No. 849

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before The House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

- 2.1 These Regulations amend section 318C of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) which provides for an exemption from income tax for employee benefits in respect of certain employer-provided or employer contracted child care
- 2.2 Specifically, the amendments provide for the introduction of the following:
 - The Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 ("the Welsh Child Care Scheme") which came into force on 1st February 2007, subject to a prohibition on the granting of approvals under the scheme before 6th April 2007.
 - The Childcare (Voluntary Registration) Regulations 2007 (S.I 2007/730) which comes into force on 1st April 2007.
 - The Regulations also amend Section 318C(2)(c),(3)(c) and (5)(c) ITEPA to extend the definition of qualifying out of school hours. This will bring the position into line with the corresponding regulations under section 12 of the Tax Credits Act 2002.
- 2.3 The principal effect of the amendments is to widen the scope of section 318A by adding care provided under Welsh Childcare scheme, and care provided by a childcare provider registered under the Childcare (Voluntary) Regulations 2007 to the list of care which is treated as qualifying childcare for the purposes of this section, and to extend the present definition of out of school hours care in section 318C(2)(c), (3)(c) and (5)(c) by removing the age restrictions, within the definition of a child as defined under section 318B(2) ITEPA in England, Wales and Northern Ireland.

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Background

- 4.1 The Government introduced a new tax and National Insurance contributions (NICs) exemption from 6 April 2005 by section 78 and

schedule 13 to 2004 Finance Act. The purpose of the new exemptions is to provide a better incentive, and to make it easier, for employers to offer support to employers with childcare costs.

- 4.2 The new exemptions widen the range of good quality childcare that qualifies for tax and NICs relief in order to best suit the needs of employees and employers. They include an exemption for employer provided childcare vouchers up to a limit per employee of £50 a week. The Chancellor raised the financial exemption limit by 10 per cent to £55 a week with effect from 6 April 2006.
- 4.3 This instrument is made under powers conferred on the Treasury by section 318D(2) to make amendments of the provisions of section 318 – 318C relating to the qualifying conditions for the exemptions by regulations, having regard to the corresponding provisions of regulations under section 12 of the Tax Credits Act 2002 relating to entitlement to the childcare element of working tax credit.

5. Territorial Extent and Application

- The amendments regarding the Welsh Child Care Scheme will take effect in relation to child care in Wales.
- The amendments regarding the Childcare (Voluntary Registration) Regulation will take effect in relation to child care in England
- The amendments regarding section 318C(2)(c) ITEPA (the removal of the age restriction) will take effect in relation to child care in England.
- The amendments regarding section 318C(3)(c) ITEPA (the removal of the age restriction) will take effect in relation to child care in Wales.
- The amendments regarding section 318C(5)(c) ITEPA (the removal of the age restriction) will take effect in relation to child care in Northern Ireland.

6. European Convention on Human Rights

The Paymaster General, Dawn Primarolo has made the following statement: In my view, the provisions of these draft Regulations are compatible with Convention Rights.

7. Policy background

- 7.1 The Government introduced new tax and NICs exemptions for employer supported childcare with effect from 6 April 2005. The purpose of the new exemptions was to provide a better incentive, and to make it easier, for employers to offer a range of child care support to employees with childcare costs. The exemptions widen the range of good quality childcare that qualifies for tax and NICs. The Chancellor announced on Budget Day that from 6 April 2006 the exemption limit for employer provided childcare vouchers and employer-contracted childcare would be raised from £50 to £55 per week.

- 7.2 Broadly, the policy objective of the new exemptions is to:
- a) advance the Government's strategy on childcare to promote affordable, safe, and good quality childcare;
 - b) provide incentives and wider options to encourage more employers to support such childcare provisions for staff; and
 - c) to align the tax and NICs treatment of employer-supported childcare.
- 7.3 The proposed amendments to the Act will increase the list of care treated as qualifying childcare for the purposes of section 318 of the Act. The care added to the list is in line with the wider childcare strategy of promoting safe and good quality childcare.

8. Impact

A full Regulatory Impact Assessment has not been prepared as no impact on the private or voluntary sectors is foreseen.

9. Contact

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