
STATUTORY INSTRUMENTS

2011 No. 1798

INCOME TAX

The Employer Supported Childcare (Relevant Earnings and Excluded Amounts) Regulations 2011

<i>Made</i>	- - - -	<i>20th July 2011</i>
<i>Laid before the House of Commons</i>	- - - -	<i>21st July 2011</i>
<i>Coming into force</i>	- -	<i>11th August 2011</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 270B(3) (b) and (4) of the Income Tax (Earnings and Pensions) Act 2003⁽¹⁾ and paragraph 9 of Schedule 8 to the Finance Act 2011⁽²⁾.

Citation, commencement and effect

1. These Regulations may be cited as the Employer Supported Childcare (Relevant Earnings and Excluded Amounts) Regulations 2011 and come into force on 11th August 2011 with effect from 6th April 2011.

Interpretation

2. In these Regulations—

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003;

“PAYE Regulations” means the Income Tax (Pay As You Earn) Regulations 2003⁽³⁾.

Relevant earnings

3. For the purposes of section 270B(1)(a) of ITEPA “relevant earnings” (in addition to salary, wages or fees as in section 270B(3)(a)) means—

- (a) guaranteed contractual bonuses;
- (b) contractual commission;
- (c) guaranteed overtime payments;

(1) 2003 c. 1. Section 270B was inserted by paragraph 3 of Schedule 8 to the Finance Act 2011 (c. 11).

(2) 2011 c. 11.

(3) S.I. 2003/2682, amended by S.I. 2006/745; there are other amending instruments but none is relevant.

- (d) location or cost of living allowances;
- (e) shift allowances;
- (f) skills allowances;
- (g) retention and recruitment allowances; and
- (h) market rate supplements.

Excluded amounts

4.—(1) For the purposes of section 270B(1)(b) of ITEPA “excluded amounts” means—

- (a) contributions under a pension scheme if the employee has authorised the employer to make the deductions from relevant payments (as defined by regulation 4 of the PAYE Regulations) for which relief at source is given under section 192(1) of the Finance Act 2004(4);
- (b) contributions under a pension scheme allowed under section 193(2) of the Finance Act 2004 (relief under net pay arrangements) to be deducted by the employer from the employee’s employment income for the tax year in accordance with the PAYE Regulations;
- (c) donations for which a deduction is made under section 713 of ITEPA (payroll giving) in calculating the employee’s net taxable earnings from employment by the employer for the tax year in accordance with the PAYE Regulations;
- (d) expenses within Chapter 3 of Part 3 of ITEPA (expenses payments) which the employer is authorised to exclude from the employee’s taxable earnings for the tax year in accordance with the PAYE Regulations;
- (e) payments in respect of removal expenses to which section 271 of ITEPA(5) applies (as defined in section 272 of ITEPA) and which are taxable earnings of the employee from employment by the employer for the tax year;
- (f) amounts equivalent to the amount of the personal allowance under section 35(1) of the Income Tax Act 2007(6), and in addition if applicable, the amount of the blind person’s allowance under section 38 of the Income Tax Act 2007.

(2) Paragraph (1)(f) does not apply if after taking into account any relevant earnings and excluded amounts in paragraph (1)(a) to (e) the relevant earnings amount is £150,000 or more.

*Angela Watkinson
Jeremy Wright*

Two of the Lords Commissioners of Her
Majesty’s Treasury

20th July 2011

(4) 2004 c. 12.

(5) 2003 c. 1. Section 271 was amended by Part 1 of Schedule 7 to the Finance Act 2008 (c. 9).

(6) 2007 c. 3. Section 35 was amended by sections 3 and 4 of the Finance Act 2009 (c. 10) and the figures in paragraphs 1 of sections 35 and 38 were last amended by S.I. 2010/2879.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 8 of the Finance Act 2011 amended sections 270A and 318A of, and inserted new sections 270B and 318AA into, the Income Tax (Earnings and Pensions) Act 2003 (“ITEPA”). These sections provide for limited tax relief where employers provide qualifying childcare vouchers or contract directly with childcare providers. As a result of these changes the amount of tax relief is determined on the basis of an estimate of an employee’s relevant earnings amount for the tax year. Under sections 270B and 318AA of ITEPA the “relevant earnings amount” is the sum of any “relevant earnings” and “amounts treated as earnings under Chapters 2 to 12 of Part 3 of ITEPA” less any “excluded amounts”.

These Regulations set out the meaning of “relevant earnings” and “excluded amounts” (regulations 3 and 4). The Regulations have retrospective effect from 6 April 2011 pursuant to the power in paragraph 9 of Schedule 8 to the Finance Act 2011.

Two Tax Information and Impact Notes covering this instrument were published in December 2010 alongside draft Finance Bill 2011 provisions with a further update in March 2011 and are available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tins.htm>. They remain an accurate summary of the impacts that apply to this instrument.