

2019 No. 902

INCOME TAX

The Income Tax (Qualifying Child Care) Regulations 2019

<i>Made</i> - - - -	<i>29th April 2019</i>
<i>Laid before the House of Commons</i>	<i>1st May 2019</i>
<i>Coming into force</i> - -	<i>1st June 2019</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 318D(2) of the Income Tax (Earnings and Pensions) Act 2003(a).

The Treasury consider that it is appropriate to make these Regulations, having regard to the corresponding provisions of regulations under section 12 of the Tax Credits Act 2002(b) relating to entitlement to the child care element of working tax credit.

Citation and commencement

1. These Regulations may be cited as the Income Tax (Qualifying Child Care) Regulations 2019 and come into force on 1st June 2019.

Amendments of section 318C of the Income Tax (Earnings and Pensions) Act 2003

2.—(1) Section 318C (childcare: meaning of “qualifying child care”) of the Income Tax (Earnings and Pensions) Act 2003(c) is amended as follows.

(2) In subsection (2), for paragraph (f) substitute—

“(f) by a carer supplied by a person registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008(d) 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(e).”.

(3) In subsection (6), for the words from “approved by” to the end substitute “within regulation 14(2)(d)(i) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(f).”.

Mike Freer
Craig Whittaker

29th April 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2003 c. 1. Sections 318 to 318D were substituted for section 318 by paragraph 1 of Schedule 13 to the Finance Act 2004 (c. 12).
(b) 2002 c. 21. Regulation 14(2) of S.I. 2002/2005 contains the corresponding provisions this instrument is seeking to reflect.
(c) Section 318C was relevantly amended by S.I. 2005/770, 2007/849, 2007/2478, 2008/2170 and 2009/1544.
(d) 2008 c. 14.
(e) S.I. 2014/2936.
(f) S.I. 2002/2005; relevant amending instruments are S.I. 2003/701 and S.I. 2019/364.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend section 318C of the Income Tax (Earnings and Pensions) Act 2003 (c. 1), which deals with the meaning of “qualifying child care” for the purposes of exemptions from income tax for employee benefits in respect of certain employer-provided or employer-contracted child care.

Regulation 2(2) amends subsection (2)(f) which referred to care provided for a child in England by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 (S.I. 2002/3214). Those Regulations were revoked by paragraph 1 of Schedule 2 to the Health and Social Care Act 2008 (Commencement No. 16, Transitory and Transitional Provisions) Order 2010 (S.I. 2010/807).

The regulatory system for domiciliary care in England is now established through the Health and Social Care Act 2008 (c. 14) and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936) (the “2014 Regulations”). Regulation 2(2) amends subsection (2) so that the definition of “qualifying child care” in England includes care provided for a child by a carer supplied by a person registered as a service provider under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in relation to the regulated activity of personal care within paragraph 1 of Schedule 1 to the 2014 Regulations.

Regulation 2(3) amends subsection (6) to provide the conditions for registered or approved overseas childcare. This amendment brings the income tax provisions for “qualifying child care” provided for a child outside the United Kingdom into line with the corresponding provisions for the child care element of working tax credit contained in regulation 14(2)(d)(i) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005).

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

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