

SCHEDULES

SCHEDULE 8

Section 35

REDUCTION IN CHILDCARE RELIEF FOR HIGHER EARNERS

Introduction

1 ITEPA 2003 is amended as follows.

Childcare vouchers

2 (1) Section 270A (limited exemption for qualifying childcare vouchers) is amended as follows.

(2) In subsection (2), for “C” substitute “D”.

(3) After subsection (5B) (inserted by section 36) insert—

“(5C) Condition D is that the employer has, at the required time, made an estimate of the employee’s relevant earnings amount for the tax year in respect of which the voucher is provided (see section 270B).”

(4) In paragraph (a) of subsection (6), for “£55” substitute “the appropriate amount”.

(5) After that subsection insert—

“(6ZA) In subsection (6)(a) “the appropriate amount”, in the case of an employee, means—

- (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, £22,
- (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.”

(6) In subsection (11)—

- (a) for “exempt amount” (in each place) substitute “amounts”,
- (b) for “(6) above” substitute “(6ZA) above”, and
- (c) for “318A(6)” substitute “318A(6A)”.

3 After section 270A insert—

“270B Meaning of “relevant earnings amount” and “required time”

(1) For the purposes of section 270A, the “relevant earnings amount”, in the case of an employee provided with vouchers by an employer for any qualifying week in a tax year, means—

Status: This is the original version (as it was originally enacted).

- (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—

$$\frac{365}{RD}$$

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)(a) “relevant earnings” means—
 - (a) salary, wages or fees, and
 - (b) any other earnings specified in regulations made by the Treasury under this paragraph.
- (4) In subsection (1)(b) “excluded amounts” means amounts specified in regulations made by the Treasury under this subsection.
- (5) In section 270A “the required time”, in the case of an employee, means—
 - (a) if the employee joins the scheme under which the vouchers are provided at a time during the tax year, that time, and
 - (b) otherwise, the beginning of the tax year.
- (6) For the purposes of subsection (5)(a) the employee is taken to join the scheme as soon as—
 - (a) the employer has agreed that vouchers will be provided under the scheme for the employee, and
 - (b) there is a child falling within section 270A(3)(a) or (b) in relation to the employee.
- (7) The Treasury may by order amend this section.”

Childcare provided otherwise than at employer’s premises etc

- 4 (1) Section 318A (limited exemption for childcare provided otherwise than at employer’s premises etc) is amended as follows.
- (2) In subsection (1), for “C” substitute “D”.
 - (3) After subsection (5B) (inserted by section 36) insert—
 - “(5C) Condition D is that the employer has, at the required time, made an estimate of the employee’s relevant earnings amount for the tax year in respect of which the care is provided (see section 318AA).”

Status: This is the original version (as it was originally enacted).

(4) In subsection (6), for “£55” substitute “the appropriate amount”.

(5) After that subsection insert—

“(6A) In subsection (6) “the appropriate amount”, in the case of an employee, means—

- (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, £22,
- (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.”

5 After section 318A insert—

“318AA 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—

$$\frac{365}{RD}$$

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
- (b) otherwise, the beginning of the tax year.

Status: This is the original version (as it was originally enacted).

(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.”

6 In subsection (1) of section 318D (childcare: power to vary exempt amount)—

- (a) for “318A(6)” substitute “318A(6A)”, and
- (b) for “exempt amount) so as to substitute a different sum of money for that” substitute “amounts which are the exempt amount) so as to substitute different sums of money for those”;

and, accordingly, in the heading of that section, after “vary” insert “**amounts which are the**”.

Commencement and transitional provision

7 The amendments made by this Schedule have effect for the tax year 2011-12 and subsequent tax years.

8 (1) But the amendments made by paragraphs 2(2) to (5) and 3 to 5 do not apply for a tax week in the case of an employee and employer and a scheme if—

- (a) the employee joined the scheme before 6 April 2011,
- (b) the employee has not ceased to be employed by the employer during the period beginning with that date and ending with the tax week, and
- (c) during that period there has not been a continuous period of 52 weeks throughout which vouchers were not, or care was not, being provided for the employee under the scheme.

(2) For the purposes of sub-paragraph (1) the employee is taken to join the scheme as soon as—

- (a) the employer has agreed that vouchers, or care, will be provided under the scheme for the employee, and
- (b) there is a child falling within section 270A(3)(a) or (b), or section 318A(3)(a) or (b), of ITEPA 2003 in relation to the employee.

9 Regulations made under section 270B(3)(b) or (4) of ITEPA 2003 (inserted by paragraph 3) on or before 31 December 2011 may have retrospective effect in relation to the tax year 2011-12.

10 The amendments made by paragraphs 2(6) and 6 do not prevent the making of provision under section 270A(11)(a) or 318D(1) of ITEPA 2003 in relation to sections 270A(6) and 318A(6) of that Act as, by virtue of paragraph 8, they continue to have effect otherwise than as amended by this Schedule.