

**EXPLANATORY MEMORANDUM TO THE
INCOME TAX (EXEMPTION OF MINOR BENEFITS) (AMENDMENT)
REGULATIONS 2004**

2004 No. 3087

1. This explanatory memorandum which includes information for the Select Committee on Statutory Instruments has been prepared by the Inland Revenue and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The purpose of this instrument is to allow tax relief where an employer provides their employees with pensions information and advice up to financial limit of £150 per annum.
 - 2.2 It also extends the exemptions from the tax charge under sections 261 (recreational benefits) and 317 (subsidised meals) of ITEPA to persons other than employees who work on the premises of an employer who provide such benefits for their employees.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 210 ITEPA allows the Treasury to make provision by regulation powers to exempt minor benefits from tax so long as the benefit is available to an employer's employees generally on similar terms.
5. **Extent**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**

These regulations are not affected by the human Rights Act.
7. **Policy background**
 - 7.1 The DWP introduced the Pensions Bill on 11 February 2004. Most pensions information and advice provided by employers to employees about their pension scheme is unlikely to give rise to an employee benefits tax charge; but there can be circumstances, notably for example, where an employer pays outside consultancy fees for seminars or for one-to-one sessions on financial advice for employees, where a tax charge is likely to arise on that cost. The Treasury wants to encourage employers to get involved in boosting pensions awareness and take up among their workforce. By introducing these regulations a possible barrier is removed that will allow employers

to provide this advice without a tax charge arising so long as the value is below £150 PA.

7.2 Representations were received from organisations seeking clarification of the tax position where an employee enjoys the benefit of a free or subsidised meal in a canteen, or elsewhere on an employer's premises, where the facility is not provided by their own employer. The meal would be exempt under S317 ITEPA if provided by their own employer, as long as certain conditions were satisfied. But the exemption does not apply when the employees provided with a meal are employed by a third party and not by the employer that provides the facility.

The same point could arise if employees are able to make use of recreational benefits provided by an employer other than their own. If the benefit was provided by their employer, it would be exempt under Section 261 ITEPA. But if it is provided to them by another employer it is charged to tax and Class 1A NICs.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as no impact on business, charities or voluntary bodies is foreseen.

8.2 No impact on the public sector is foreseen.

9. Contact

Paul Harris at the Inland Revenue Tel: 020 7438 7843 or e-mail: Paul.Harris@ir.gsi.gov.uk can answer any queries regarding the instrument.