
STATUTORY INSTRUMENTS

2009 No. 2886

INCOME TAX

The Employer-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) (Amendment) Regulations 2009

<i>Made</i>	- - - -	<i>28th October 2009</i>
<i>Laid before the House of Commons</i>	- - - -	<i>28th October 2009</i>
<i>Coming into force</i>	- -	<i>1st December 2009</i>

The Commissioners for Her Majesty's Revenue and Customs make these regulations in exercise of the powers conferred by section 393B(3)(d) and (4A) of the Income Tax (Earnings and Pensions) Act 2003(1).

Citation and commencement

1.—(1) These Regulations may be cited as the Employer-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) (Amendment) Regulations 2009 and shall come into force on 1st December 2009.

(2) These Regulations have effect for the tax year 2006-07 and subsequent tax years.

Amendment of the Employer-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) Regulations 2007

2. The Employer-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) Regulations 2007(2) are amended as follows.

Excluded benefits

3. For regulation 3(2)(a) of those Regulations (“qualifying person”) substitute—

“(a) in the case of the benefits described in the following paragraphs of the Schedule, the employee: paragraph 2 (accommodation provided for performance of duties – employees), paragraph 16 (equipment for disabled employees) and paragraph 17 (health-screening and medical check-ups).”

(1) [2003 c. 1](#). Section 393B was inserted, together with section 393A, by way of substitution for section 393 as originally enacted, by section 249(3) of the Finance Act [2004 \(c. 12\)](#). Subsection (4A) of section 393B was inserted by paragraph 21 of Schedule 20 to the Finance Act [2007 \(c. 11\)](#).

(2) [S.I. 2007/3537](#).

Exclusion of health-screening and medical check-ups

4. At the end of Part 3 of the Schedule to those Regulations (other benefits) add—

“Health-screening and medical check-ups

17.—(1) The provision of a health-screening assessment or medical check-up if—

- (a) no liability to income tax would have arisen by virtue of section 320B of ITEPA 2003⁽³⁾ if it had been provided in the course of the employee’s employment; and
- (b) at least one health-screening assessment or medical check-up (as defined in that section) had been provided to the employee in the course of the employee’s employment.

(2) A health-screening assessment or medical check-up that was provided during the tax year 2006-07, 2007-08 or 2008-09 shall be taken to satisfy the condition in subparagraph (1)(a) if it would have satisfied that condition if section 320B of ITEPA 2003 had had effect for the tax year concerned.”

*Mike Eland
Steve Lamey*

Two Commissioners for Her Majesty’s Revenue
and Customs

28th October 2009

(3) 2003 c. 1. Section 320B was inserted by section 55 of the Finance Act 2009 (c. 10).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Employer-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) Regulations 2007, which exempt specified non-cash benefits provided to retired and present employees under an employer-financed retirement benefits scheme from the charge to tax on employer-financed benefits under section 394 of the Income Tax (Earnings and Pensions) Act.

These regulations add to the 2007 Regulations an exemption for the provision of health screening and medical-check-ups. The exemption applies if the screening or check-up would satisfy the requirements for exemption from liability to income tax under section 320B of the Income Tax (Earnings and Pensions) Act 2003 and a similar benefit had been provided before retirement. Section 320B was inserted by the Finance Act 2009 and has effect from tax year 2009-10 onwards, but only applies to current employees. The exemption created by these Regulations extends to tax years before section 320B had effect, namely 2006-07 onwards.

A full and final Impact Assessment has not been produced for this instrument as no impact on the private and voluntary sectors is foreseen.