

EMPLOYER-SUPPORTED CHILDCARE

A CONSULTATION DOCUMENT ISSUED BY THE INLAND REVENUE

Views on the proposals set out in this document for reforming the tax and National Insurance treatment of employer-supported childcare are invited and should be sent to:

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please title your e-mail "Childcare proposals"

or by post to:

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to arrive no later than **31 May 2003**.

In accordance with the Inland Revenue's Code of Practice on consultation, once the outcome of the consultation is announced, we will make available, on request, responses to consultations, unless any respondent has asked for his or her comments to be treated as confidential. If you wish for the whole of your comments, or your name and address, to be treated as confidential, please say so when responding.

The Code of Practice on Written Consultation is included in this document at Annex 3. A partial Regulatory Impact Assessment is included at Annex 4.

This document is available on the Internet at
http://inlandrevenue.gov.uk/consult_new/index.htm

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Foreword

The Government's vision is one in which every parent can find suitable, affordable, good quality childcare. We are doing more than ever before to support the growth of good quality childcare, with record levels of funding going into the creation of new childcare places. And working parents in low to middle earning families are, for the first time, getting real financial help with their childcare costs through tax credits.

In addition to the support provided by Government, I believe that employers have a very important role to play in helping people balance work and family life, and particularly in helping parents meet their childcare needs. There are clear business benefits to employers in providing help with childcare: better recruitment and retention, improved morale and increased productivity.

The proposals in this consultation document represent a major step forward in the Government's strategy to increase childcare support. An extended tax exemption on all employer support for formal childcare is just one of the measures which will help employers to play their part in meeting the childcare needs of their employees.

I would urge everyone with an interest in employer support for childcare to respond to this consultation exercise.

Dawn Primarolo

Paymaster General

Executive Summary

This consultation document sets out the Government's thinking on how the existing tax and National Insurance (NICs) exemptions could be reformed to better support the Government's childcare strategy, outlined in the recently published report *Delivering for children and families*¹.

This consultation document focuses on the treatment of employer-supported childcare and how the current tax legislation and NICs regulations could be improved to provide a better targeted incentive for employers to support the provision of childcare for their employees.

The proposals set out in this consultation document would widen the current workplace nurseries tax exemption, simplifying the requirements that employers need to meet to qualify for the exemption and offering a better incentive for employers to support a wider range of good quality childcare provision. The requirement for the employer to have management responsibility of the childcare facility would be removed. There would also be improved clarity on how the tax and NICs exemption would operate to give employers greater certainty when considering the introduction of childcare benefits. To ensure that the tax and NICs exemption benefits the parents who need it most, it is also proposed that where childcare schemes that qualify for an exemption are introduced they should be accessible to all employees.

The paper also proposes that the tax treatment of childcare vouchers should mirror that of other forms of qualifying childcare benefits. This means a new tax exemption to supplement the existing National Insurance exemption. It is proposed that the scope of the exemption for childcare vouchers and the Class 1A NICs exemption on childcare provided by an employer should be limited to registered and approved childcare to reinforce the Government's aim to support good quality childcare.

To ensure that the wider tax and NICs exemptions are affordable and fairly targeted it is proposed that a financial limit to the exemptions is introduced.

The Inland Revenue has today separately published information on salary sacrifice arrangements and the role of the Revenue.

The proposals are fully set out in pages 9 to 14 with a summary of the consultation questions on page 15. Please take time to consider these and respond to ensure that your views can be taken into account.

¹ Strategy Unit (2002). *Delivering for Children and Families*, report of the Inter-Departmental Childcare Review, Department for Education and Skills, Department for Work and Pensions, HM Treasury, Women and Equality Unit, Strategy Unit.

Introduction

The details of the Government's vision and strategy for childcare are set out in *Delivering for children and families*², the report of the inter-departmental Childcare Review, published in November 2002. As the report recognises, employers have an important role to play in achieving this vision, and the Government will continue to promote the business case for offering employees support with childcare and options for flexible working. The document *Balancing work and family life: enhancing choice and support for parents*³, published 14 January 2003, sets out the Government's strategy for supporting parents to balance their work and family lives. The document also outlines possible next steps, one of which is to improve the range of tax and NICs incentives for employer-supported childcare. This consultation document seeks views on a number of options.

Access to good quality formal childcare, as the Childcare Review highlighted, is key to achieving a range of Government objectives. It enables parents, particularly lone parents, to move into work or increase their hours if they wish, thereby lifting their families out of poverty. It plays an important role in extending choice for women, and can have a positive impact on children's educational and health outcomes.

For employers, supporting parents to balance work and childcaring responsibilities can improve staff morale, retention, recruitment and returns on training, and can reduce staff turnover and absenteeism. It can also enhance an organisation's financial performance, productivity and ability to adapt to changing market conditions.

The Government has already made significant progress in supporting the growth of good quality, affordable and accessible childcare. Since 1997, the Government's National Childcare Strategy has ensured the creation of places to help over 1 million children and, by 2004, it will have supported the creation of places to help 1.6 million children. As part of the 2002 Spending Review, resources for childcare have been more than doubled as part of a combined budget for Sure Start, childcare and early years that will rise to £1.5 billion by 2005-06. These resources, matched by reform of delivery structures, will ensure further growth in childcare places and will support the creation and operation of Children's Centres, offering childcare alongside early years education, family support and health services.

This investment in childcare is complemented by financial support towards the cost of approved childcare for low and middle income working parents. As part of the Working Families' Tax Credit (WFTC) and Disabled Person's Tax Credit (DPTC), parents can

² Strategy Unit (2002). *Delivering for Children and Families*, report of the Inter-Departmental Childcare Review, Department for Education and Skills, Department for Work and Pensions, HM Treasury, Women and Equality Unit, Strategy Unit.

³ HM Treasury and Department of Trade and Industry (2002). *Balancing Work and Family Life: Enhancing Choice and Support for Parents*, Pre-Budget Report 2002 Supplementary Document.

receive up to 70% of eligible costs, subject to a limit of £200 per week (£135 for one child). This will be continued in an improved, more flexible form, through the childcare element of the Working Tax Credit from April 2003. In addition, from April 2003 eligibility for the childcare element will be extended to those who use approved childcare in their own home, benefiting, among others, parents of disabled children and those who work outside conventional hours.

The Government will keep under review how well support for childcare costs within tax credits is working, in particular the effect that the increased flexibility has on the ability of parents to adjust their childcare requirements to suit their needs.

The Government is committed to working in partnership with business to promote the benefits of supporting parents to balance their work and family lives, and recognises that employers have an important role to play in supporting the achievement of its childcare vision. The Department of Trade and Industry's Work-Life Balance campaign⁴ aims to increase awareness and take up of employment policies and practices, including support with childcare, that benefit business and help employees enjoy a better balance between work and other demands on their lives. Encouraging employers to give their employees support with childcare is also an objective of the Early Years Development and Childcare Partnerships (EYDCPs), the local bodies that develop strategic plans to create new childcare places. Employers are encouraged to offer information about childcare to their employees, and can have the Childcare Link website downloaded free to their intranets⁵.

There are already specific tax and NICs exemptions that give an incentive to employers to support childcare for their workforce. Childcare costs are already tax deductible for employers. Employers are also exempt from Class 1A NICs for most forms of childcare that the employer contracts to pay. A 'workplace nurseries exemption' has been in place since 1990, exempting employees from a tax charge on the benefit of receiving a place in a workplace nursery. And to support the Government's childcare strategy an exemption for NICs on childcare vouchers was retained in 2000 when the Class 1 NICs position on non-cash vouchers was clarified.

The Government believes that it is time to review the tax and NICs exemptions to ensure that these continue to support the Government's childcare aims. Reforms to the exemptions will be considered where there is evidence that improvements will deliver the Government's aims and achieve value for money.

⁴ For more details see www.dti.gov.uk/work-lifebalance; or contact the helpline on 020 7215 6249.

⁵ www.dti.gov.uk/work-lifebalance/childcare.html; The Childcare Link free-phone telephone number is 0800 960296.

Policy Objectives

The objectives of the review of the tax and NICs treatment of employer-supported childcare benefits are to:

1. Advance the Government's aims to support childcare by:

- giving an incentive to employers to support formal childcare provision to increase the availability of good quality childcare places, contribute to the sustainability of childcare provision and to support the Government's 2010 objective of halving child poverty, through enabling parents to work (and in particular to meet the objective for 70 per cent of lone parents to be in employment by 2010);
- targeting the exemptions on registered and approved childcare to promote safe, good quality childcare;
- supporting a wider range of childcare by extending the tax exemption to all registered and approved care to benefit parents of school-age children, those with disabled children and those who work shifts; and
- ensuring that the additional cost of any new exemption provides value for money.

2. Remove the current disincentives that deter employers from supporting childcare provision by:

- enabling employers to support different types of childcare provision to better meet working parents' needs; and
- easing administration and compliance costs with clearer qualification criteria.

3. Improve the information available to employers and employees by:

- improving guidance on the tax and NICs exemption rules for employer-supported childcare; and
- providing guidance on how the exemption interacts with tax credits.

Background: Current Exemptions

The current tax and NICs treatment of employer-supported childcare is as follows:

- The cost of childcare met by the employer is tax deductible for the employer as this is part of the cost of employing staff. No changes are proposed to this treatment.
- The cost of childcare met by the employer is exempt from Class 1A NICs. This is applicable to all forms of provision (except school fees) and to any amount. Employers are only liable for Class 1 NICs in respect of childcare where they pay cash allowances to employees in relation to childcare, or where they reimburse or settle an employee's childcare bill where the employee has contracted directly with the childcare provider.
- **The workplace nurseries exemption** exempts an employee from tax on the benefit of a place in a nursery provided by the employer. If the nursery is not on the employer's own premises the employer is required to be wholly or partly responsible for both the financing and management of the nursery. The legislation for the workplace nurseries exemption is reproduced at Annex 1.
- Employer-provided **childcare vouchers** are free from employers' and employees' Class 1 NICs. They can be used for any form of childcare and to any amount. The NICs regulations for the Class 1 and Class 1A exemptions are reproduced at Annex 2.

This paper concentrates on how the workplace nurseries tax exemption, Class 1A NICs exemption and Class 1 NICs exemption on childcare vouchers can be improved. The proposals for such improvements follow.

Workplace Nurseries Exemption

A tax and NICs exemption covering all forms of employer-supported formal childcare would enable employers to support good quality childcare that best meets the needs of their employees. The proposals would help more employees and are simpler for employers.

The Government is committed to supporting good quality childcare. Therefore the proposals on which we are consulting do not extend to providing tax and NICs incentives for informal childcare. The Government is, however, introducing a home childcarers approval scheme from April 2003, and it is considering how to widen entry to this scheme to those who are not currently registered childminders, so this should enable parents requiring childcare in their own homes to find suitable formal childcare.

Proposals

(a) Widen the scope of the workplace nurseries exemption to include all registered and approved childcare

The tax exemption would cover all employer-supported formal childcare, extending the choice of childcare to cover, for example, registered nurseries, childminders, after-school clubs and approved home-childcare. The extension would help more employees such as those who commute or work shifts, and parents of school-age children or disabled children.

(b) Align the Class 1A NICs exemption

The Class 1A NICs exemption would be limited to employer-supported formal childcare to mirror the scope of the tax exemption.

(c) Remove the requirement of the employer to ‘wholly or partly manage the provision of the care’

Removing the requirement for employers to have management responsibility of childcare should make it simpler, less resource intensive and easier for employers to develop the business case to provide childcare benefits to employees.

(d) Clarify the extent of the requirement of the employer to ‘wholly or partly fund the provision of the care’

A condition for the exemption would continue to be that the childcare support has been funded by the employer. We want to give greater certainty to employers that proposals for an employee childcare scheme will satisfy the tax rules by making the qualifying criteria clearer.

(e) Ensure the tax exemption is accessible

To achieve its aims it is important that childcare provision enjoying the exemption is not just limited to select employees but accessible to all employees. Accordingly, the Government believes that a basic requirement for the exemption should be that where a

scheme is offered it is generally available to all employees. This does not mean that employers would not be able to vary the level of support, or type of support they offer, but it would ensure that some sort of support is offered across the workforce where a scheme is operated.

(f) Set a financial limit for the tax and NICs exemption on employer-supported childcare

The Government believes that a financial limit should be placed on the exempt childcare benefit in order to:

- limit the incentive for employees to engage in salary sacrifice (sometimes referred to as salary conversion or fee-direct) arrangements to fund childcare. This is to protect the employees' contributory benefits and future pension entitlement which may be adversely affected by a salary sacrifice arrangement where there is a reduction in the level of pay that is normally liable for Class 1 NICs.
- ensure that the exemption benefits more parents, while remaining affordable. The Government proposes that the financial limit to the exemption could be appropriately set at **£50 per week** per employee. In many cases this will cover the level of support provided by the employer. Where it doesn't only the excess above the £50 exemption would be subject to tax and NICs.
- The Government recognises that a financial limit across the board would reintroduce the need to value the benefit to individual employees of employer-run workplace nursery places. Where the nursery is run (managed and financed) by the employer on the employer's own or shared premises the full value of the benefit of a place in such a nursery will remain exempt.

Consultation Questions

- (a) *Do you consider that extending the current workplace nurseries tax exemption to cover all forms of registered and approved childcare will encourage greater support of childcare by employers?*
- (b) *Do you agree that the tax and NICs treatment of employer-supported childcare should be consistent? If not, why not?*
- (c) *Do you agree that employers should not be required to be involved in the management of the childcare? If not, why not?*
- (d) *Should the criteria specify the level of funding for which the employer should be responsible? We would like your views on how the requirement for employer funding can be made clearer.*
- (e) *Do you agree with the requirement for employers to make childcare support generally accessible to all employees where a childcare support scheme is operated? If not, why not?*
- (f) *The option proposes a £50 per week financial limit for the tax and NICs exemption.*

Is this the right amount? If not, why not, and what amount would be more appropriate?

Childcare Voucher Exemption

The Government is consulting on the rules concerning childcare vouchers to bring these more into line with the proposal outlined for extending the workplace nurseries exemption. We believe that a consistent treatment of employer-supported childcare would help parents to choose the best form of good quality childcare that meets their needs without being influenced by differing tax treatment.

It is important that the exemption continues to support the Government's childcare strategy by supporting good quality, safe childcare. The Government believes that the exemption is better targeted on formal care, where affordability of childcare provision can be a real barrier to work. The exemption would end for some parents who currently benefit from the Class 1 NICs exemption on childcare vouchers used for informal care (including care provided by family members). The proposals set out below aim to ensure that childcare vouchers continue to grow as a valuable benefit, offering a flexible option for meeting childcare costs.

Proposals:

(g) To limit the NICs exemption to formal care

The Class 1 NICs exemption, which currently applies to childcare vouchers, would be limited to registered and approved childcare only, to specifically encourage employers to support formal childcare. The limit in scope on the childcare voucher exemption would bring the treatment of childcare vouchers into line with the NICs treatment of other employer-supported childcare (as proposed in this document).

(h) To introduce a new tax exemption on childcare vouchers

To simplify the tax treatment of employer-supported childcare we want to ensure that all types of formal childcare provision options have similar tax advantages. This would allow employees to use the form of formal childcare which best suits their needs, rather than which attracts a tax incentive. We want to make childcare vouchers an equally valuable option to other employer-supported childcare that will qualify for tax exemption under the extended workplace nurseries exemption. Childcare vouchers would therefore also be tax exempt for the employee up to a set financial limit.

(i) Setting a financial limit for the exemption

The financial limit on the tax and NICs exemption for employer-supported formal childcare (£50 per week per employee) would apply equally to childcare vouchers. Again, the limit would cover the typical level of support offered by employers through childcare vouchers. As with employer-support for formal childcare, levels of support over the exempt limit would be subject to tax and NICs.

Consultation Questions

(g) We would like your views on the extent to which take up of childcare vouchers would grow under the proposals?

(h) Do you agree that childcare vouchers should receive equal treatment for tax and NICs as other employer-supported formal childcare provision?

(i) Please comment on whether £50 per week per employee is an appropriate limit for the exemption on childcare vouchers.

Guidance and Information

Employers who consider offering childcare benefits are clearly influenced by the tax and NICs treatment of the benefit. The demand for employer provision of childcare options is a key factor in the sustainability of employer-run schemes such as workplace nurseries. The demand for employer-supported childcare will only exist where working parents see clear advantages to the provision offered, such as quality, location, type of provision and cost.

Lack of understanding of the value of a benefit and the longer-term effects on contributory benefits and retirement pension may also lessen employee demand for employer-supported childcare benefits. Employers may be influenced adversely by uncertainty over the qualification criteria for an exemption.

Employer support for formal childcare provision may affect a person's entitlement to the childcare element of the Working Families' Tax Credit and Disabled Person's Tax Credit (Working Tax Credit from 6 April 2003). For example where an employer contracts with a childcare provider the cost met by the employer will not be taken into account in calculating an individual's childcare tax credit. We believe that employees need better information to understand how their entitlement to tax credits interacts with the tax and NICs treatment of employer support.

We think that more information will be needed to support the reforms to the tax and NICs treatment of employer-supported childcare benefits. We propose to:

(j) develop guidance for employers

to help employers understand the exemption qualification requirements; and

(k) develop guidance for employees

to help inform employees' decisions on ways of funding childcare, including highlighting the possible detrimental effects of salary sacrifice on retirement pension and contributory benefits entitlement and the effects on entitlement to tax credits.

Question for Consultation

(j) Do you think that better guidance along the lines above would help to encourage employers to increase support for childcare provision?

(k) Do you have any other ideas about what the guidance should contain?

Summary of Questions

The final proposals that will be presented to Ministers will reflect the views and suggestions received in this consultation process. The questions set out in the paper, repeated below, are to stimulate views on the key changes proposed to the existing arrangements. If you have views or ideas on any other aspect of the reforms not covered here, these will be welcomed. **The address for responses is on page 1 of this paper.**

- (a) Do you consider that extending the current workplace nurseries tax exemption to cover all forms of registered and approved childcare will encourage greater support of childcare by employers?*
- (b) Do you agree that the tax and NICs treatment of employer-supported childcare should be consistent? If not, why not?*
- (c) Do you agree that employers should not be required to be involved in the management of the childcare? If not, why not?*
- (d) Should the criteria specify the level of funding for which the employer should be responsible? We would like your views on how the requirement for employer funding can be made clearer.*
- (e) Do you agree with the requirement for employers to make childcare support generally accessible to all employees where a childcare support scheme is operated? If not, why not?*
- (f) The option proposes a £50 per week financial limit for the tax and NICs exemption. Is this the right amount? If not, why not, and what amount would be more appropriate?*
- (g) We would like your views on the extent to which take up of childcare vouchers would grow under the proposals?*
- (h) Do you agree that childcare vouchers should receive equal treatment for tax and NICs as other employer-supported formal childcare provision?*
- (i) Please comment on whether £50 per week per employee is an appropriate limit for the exemption on childcare vouchers.*
- (j) Do you think that better guidance along the lines above would help to encourage employers to increase support for childcare provision?*
- (k) Do you have any other ideas about what the guidance should contain?*

Workplace Nurseries Exemption

The legislation relating to the provision for an employee of care for a child under Section 155A Income and Corporation Taxes Acts 1988 is replaced from April 2003 by the Income Tax (Earnings and Pensions) Bill, Part 4, Chapter 11.

Clause 318 – Care for children.

- (1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision for an employee of care for a child if conditions A to C are met.
- (2) If those conditions are met only as respects part of the provision, no such liability arises in respect of that part.
- (3) Condition A is that the child is under 18 and –
 - (a) is a child of the employee maintained at the employee's expense,
 - (b) is resident with the employee, or
 - (c) is a child in respect of whom the employee has all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property.
 In paragraph (a) a "child" includes "stepchild".
- (4) Condition B is that –
 - (a) the premises on which the care is provided are not used wholly or mainly as a private dwelling, and
 - (b) any applicable registration requirement is met with respect to the premises.
- (5) In subsection (4), "registration requirement" means a requirement that a person providing the care is registered under –
 - (a) section 71 or Part 10A of the Children Act 1989 (c.41), or
 - (b) Article 118 of the Children (northern Ireland) Order 1995 (S.I.1995/755(N.I.2)), with respect to premises
- (6) Condition C is that –
 - (a) the premises on which the care is provided are made available by the employer alone, or
 - (b) the care requirements are met.
- (7) The care requirements are that –
 - (a) the care is provided under arrangements made by persons who include the

- employer,
- (b) the premises on which it is provided are made available by one or more of those persons, and
- (c) under the arrangements the employer is wholly or partly responsible for financing and managing the provision of the care.

(8) In this section “care” means –

- (a) any form of care, and
- (b) any form of supervised activity which is not provided primarily for education purposes.

Childcare Voucher Class 1 NICs Exemption and Class 1A NICs Exemption

Social Security (Contributions) Regulations 2001

Regulation 25 introduces Schedule 3 – which specifies the payments which are to be disregarded in the calculation of an employees' earnings.

Part V of Schedule 3 sets out the types of non-cash vouchers which are to be disregarded as payments in kind. Paragraph 7 of the Part provides for the disregard of childcare vouchers as follows:

7. (1) A non-cash voucher provided in connection with all or part of the costs of and expenses of child care (but not school fees) incurred by an employed earner in connection with a child not exceeding the age of 16 for whom he has parental responsibility.

For the purposes of this paragraph, child care includes-

- (a) care provided in accordance with the provisions of part X of the Children Act 1989 (child minding and day care for young children);
- (b) in the case of a child aged 8 or over, care provided by a childminder;
- (c) in the case of a child under the age of 8, care provided by a child minder where that care does not exceed, in total, two hours a day;
- (d) care provided by a nanny or a relative (within the meaning respectively of section 71(13) and 105(1) of the Children Act 1989);
- (e) care provided during out-of-school hours or during school holidays; and
- (f) full-time and part-time care.

(2) In the application of sub-paragraph (1) to Northern Ireland -

- (a) paragraph (b) shall have effect with the substitution for "aged 8 or over" of "aged 12 or over"; and
- (b) paragraph (c) shall have effect with the substitution for "under the age of 8" of "under the age of 12".)

Class 1A NICs

Regulation 40 of the 2001 Regulations sets the emoluments in respect of which Class 1A contributions are not payable, as follows:

40. (1) Class 1A contributions shall not be payable in respect of the emoluments prescribed by paragraphs (2) to (7)

(5) The emoluments prescribed by this paragraph are emoluments which consist in the provision, or are provided in connection with all or part of the costs and expenses, of childcare (but not school fees) incurred by an employed earner in respect of a child not exceeding the age of 16 years for whom he has parental responsibility.

(8) In this regulation –

“childcare” includes -

- (a) care provided in accordance with the provisions of Part X of the Children Act 1989 (child minding and day care for young children);
- (b) in the case of a child aged 8 or over, care provided by a childminder;
- (c) in the case of a child under the age of 8, care provided by a child minder where that care does not exceed, in total, two hours in any day;
- (d) care provided by a relative or a nanny;
- (e) care provided during out-of-school hours and during school holidays;
- (f) full-time and part-time care.

“emolument” means an amount which for the purposes of the Income Taxes Acts is, or falls to be treated as, an emolument received by an earner from any employment;

“nanny” and “relative” have the meanings respectively given to them in sections 71(13) and 105(1) of the Children Act 1989.)

(9) In its application to Northern Ireland, paragraph (8) has effect with the substitution –

- (a) in sub-paragraph (b) of “aged 12 or over” for “aged 8 or over”; and
- (b) in sub-paragraph (c) of “the age of 12” for “the age of 8”.

**Code of Practice on Written Consultation:
Consultation criteria**

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain,
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

We confirm that, where possible, these consultation criteria have and will continue to be followed.

If you have any complaint about any element of the consultation process leading from the issue of this document, please contact Paul Heggs, Inland Revenue, New Wing, Somerset House, Strand, London, WC2R 1LB. Or you can contact him by telephone (202 7438 6302), fax (020 7438 6472) or by e-mail at paul.heggs@ir.gsi.gov.uk.

This paper is available free of charge from the following address:

Inland Revenue Visitors Information Centre
Ground Floor, South West Wing, Bush House, Strand, London, WC2B 4RD
This paper can be accessed on the Internet at:
http://www.inlandrevenue.gov.uk/consult_new/index.htm

Partial Regulatory Impact Assessment

Introduction

The proposals in this paper set out the basis for reforming the tax and NICs exemptions on employer-supported childcare. We believe that currently around 30,000 employees benefit from a place in an employer-provided workplace nursery and about 25,000, on current figures, benefit from the provision of childcare vouchers - although this figure is rising. Employer support for childcare where there is no current benefit-in-kind tax exemption is much less - in the 2000/01 tax year less than a thousand P11D forms (returns of benefits and expenses) reported nursery places provided for the children of directors and employees which were not exempt from tax.

Benefits and Risks

The options aim to encourage more employers to support childcare provision for their employees by minimising the administrative burden and providing clearer criteria and guidance on the exemptions. Employers that support employees in balancing their work and childcaring responsibilities can improve staff morale, retention, recruitment and returns on training, and can reduce staff turnover and absenteeism. It can also enhance an organisation's financial performance, productivity and ability to adapt to changing market conditions.

The intention is to provide a better incentive for more employers to offer support to employees with childcare and childcare costs by improving the tax and NICs exemptions on employer-supported childcare. Specifically, the options aim to:

- Advance the Government's strategy on childcare to promote safe, good quality childcare;
- Remove current disincentives that deter employers from supporting childcare provision; and
- Improve the information available on the tax and NICs exemption rules on employer-supported childcare.

There are no identifiable risks attached to the options proposed.

Competition Impact

Extending the exemptions would increase the relative competitiveness of businesses which would benefit from the options proposed. We would not however expect this to significantly affect the structure of competition in most industries.

The measure will increase demand for childcare and hence we would expect the number of childcare providers to increase in many areas to help meet the extra demand.

Although the number of providers should increase, the extent to which competition between them intensifies or slackens will depend on the extent to which the increase in supply of childcare services compares to the increase in demand for them. The greater the extent to which the supply increases relative to demand, the greater the extent to which competition will intensify.

Impact on Employers' Compliance Costs

The options should not add a significant additional regulatory burden on employers, for those employers who currently provide workplace nursery places the option of withdrawing the management requirement and any extension to the scope of the existing exemption would be deregulatory. Many employers who provide childcare vouchers would, under the proposals, not have to report the benefit-in-kind for tax purposes as they do under the current rules. These measures would therefore lead to compliance cost savings associated with not having to provide information about the childcare vouchers given to employees on P11D returns of expenses and benefits. Employers would, however, have to ensure that childcare vouchers were only used to buy formal childcare provision. The Inland Revenue would monitor the operation of schemes through its existing employer compliance activities.

A financial limit to the exemptions could require employers to value the benefit to an employee of a place in a workplace nursery where the financial support is likely to exceed the exemption. It is not expected that this should be onerous in most cases as the average employer-funding of workplace nurseries is currently less than the proposed exemption limit of £50 per week.

It is estimated that overall the proposals would lead to negligible reductions in employers' annual compliance costs based on current compliance costs. This is due to the relatively small numbers of employers already offering support with childcare for employees outside of the existing exemptions which need to be declared to the Inland Revenue under the existing rules.

Impact on Individuals

Women are still more likely to be responsible for the care of children, even when both parents are working. The options should encourage employers to offer greater support and to support a wider range of childcare. This should help all parents, and particularly mothers, to find childcare that suits their individual needs. This would therefore help more parents, and in particular women with children, to return to work or to work longer hours where they choose to do so. It would also help parents who benefit to have a greater range of job opportunities open to them, which would help them to make better use of their skills and experience and improve their career prospects.

Based on the assumptions in this partial regulatory impact assessment, we do not believe that it will be necessary to publish a full regulatory impact assessment

when the new arrangements are agreed and brought into legislation. We will reconsider whether a full assessment is necessary following the consultation process. If you wish to comment on regulatory impact please do so in your response to the options outlined in this paper.