



Income tax relief for Shared Lives Carers

Draft Statutory Instrument - The Qualifying
Care Relief (Specified Social Care Schemes)

Publication date: 20 December 2010

Closing date for comments: 31 January 2011

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1. Summary

Request for comments on the draft Statutory Instrument

The Government announced in the budget in June 2010 that it would introduce legislation to extend the current foster care relief to include shared lives carers from 6 April 2010. The Government's aim is to bring into line the tax treatment of carers who, like foster carers, share their homes and daily family life with an adult or child placed with them by a local authority.

Finance (No. 2) Bill 2010-11 introduces the new "qualifying care relief" which replaces the simplified arrangements for adult placement carers currently operated by HMRC.

For a carer to be eligible for the new relief an adult or child must be placed with a carer "under a specified social care scheme", Finance (No. 2) Bill 2010-11 permits the Treasury to set out what constitutes a "specified social care scheme".

The draft statutory instrument defining specified social care schemes in England, Wales, Scotland and Northern Ireland is published today for comment and consideration.

Any comments should be sent by 31 January 2011 by:-

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post to: Hugh Dorey, HMRC CT & VAT, Room 3C/17 3rd Floor, 100 Parliament Street, London SW1A 2BQ

Telephone enquiries 020 7147 3850

2. Draft legislation

Citation, commencement and effect

1.—(1) This Order may be cited as the Qualifying Care Relief (Specified Social Care Schemes) Order 2011.

(2) This Order shall come into force on [date] 2011.

(3) This Order shall have effect for the tax year 2010-2011 and subsequent tax years.

Interpretation

2.—(1) In this Order—

“L” is a local authority,

“looked after child” means a child—

(a) in England and Wales, to whom section 23(2) (provision of accommodation and maintenance by local authority for children whom they are looking after) of the Children Act 1989 applies,

(b) in Scotland, who is accommodated by virtue of section 25(1)(c) (provision of accommodation for children, etc) of Children (Scotland) Act 1995, and

(c) in Northern Ireland, to whom article 27(2) (accommodation and maintenance for children) of the Children (Northern Ireland) Order 1995 applies.

“section 806A” means section 806A (meaning of providing shared lives care) of the Income Tax (Trading and Other Income) Act 2005,

“X” is a person who, by reason of age, illness, disability or other vulnerability, is in need of care, and

“Y” is the individual in section 806A(1).

Specified social care schemes: overview

3.—(1) For the purposes of paragraph (c) of subsection (2) of section 806A, a specified social care scheme means a scheme, service or arrangement that provides—

(a) adult placement care (article 4),

(b) kinship care (article 5), or

(c) staying put care (article 6).

Specified social care schemes for adult placement care

4.—(1) A specified social care scheme in relation to adult placement care shall meet Conditions A to D.

(2) Condition A is that X is an adult.

(3) Condition B is that L has placed X with Y.

(4) Condition C is that Y receives payment from L for providing care to X under the placement.

(5) Condition D is that the placement is made—

(a) in England, pursuant to a carer agreement within the meaning of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010,

(b) in Wales, in respect of a relevant adult with an adult placement carer within the meaning of the Adult Placement Schemes (Wales) Regulations 2004,

(c) in Scotland, by an adult placement service within the meaning of section 2(16) of the Regulation of Care (Scotland) Act 2001, or

- (d) in Northern Ireland, in respect of a service user with an adult placement carer within the meaning of the Adult Placement Agencies Regulations (Northern Ireland) 2007.

Specified social care schemes for kinship care

5.—(1) A specified social care scheme in relation to kinship care shall meet Conditions A to F.

- (2) Condition A is that X has not yet attained 18 years of age.
- (3) Condition B is that X is a “looked after child”.
- (4) Condition C is that Y receives payment from L for providing care to X under the placement.
- (5) Condition D is that Y is a person who is—
 - (a) related to X either by blood, marriage or civil partnership, but is not a parent or step-parent of X, or
 - (b) known to X and with whom X has a pre-existing relationship.
- (6) Condition E is that Y—
 - (a) is regarded by L as a suitable person to care for X, or
 - (b) has been approved by a kinship panel as a suitable person to care for X.
- (7) Condition F is that, in relation to X, Y is not a person in respect of whom a court has made—
 - (a) a residence order, or
 - (b) a special guardianship order.

Specified social care schemes for staying put care

6.—(1) A specified social care scheme in relation to staying put care shall meet Conditions A to E.

- (2) Condition A is that X is aged—
 - (a) 18 to 21, or
 - (b) 18 to 25 if X is in full-time higher or further education or pursuing vocational training.
- (3) Condition B is that L has placed X with Y.
- (4) Condition C is that Y receives payment from L for providing care to X under the placement.
- (5) Condition D is that the placement of X with Y includes a continuing care or pathway plan.
- (6) Condition E is that immediately prior to reaching 18 years of age X had been—
 - (a) subject to a care order obtained by L,
 - (b) subject to a supervision order obtained by L, or
 - (c) a “looked after child”.