



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Martin Caton and Christopher Chope
Finance Bill Committee
House of Commons
London
SW1A 0AA

25 October 2010

Dear Martin and Christopher

FINANCE (NO.2) BILL 2010: PUBLIC BILL COMMITTEE – FURTHER INFORMATION

During the Public Bill Committee session of 19 October, I agreed to provide further information on a number of areas, as set out below.

Clause 1, Schedule 1 – Shared lives care

Statutory Adoption Pay

The hon. Member for Nottingham East (Chris Leslie) asked about the application of Statutory Adoption Pay (SAP) to those in casual employment and the self-employed.

SAP enables adopters to take a period of leave from work when a new child joins the family. Like all statutory payments there are qualifying conditions, and the SAP criteria mirror those for Statutory Maternity Pay as far as possible. Of the 4,000 or so adoptions a year, only a very small number do not qualify for SAP. Therefore, it has not been considered economical to create a Maternity Allowance equivalent to



fulfil this role. However, Local Authorities can consider making payments equivalent to Maternity Allowance for adopters who are ineligible to receive SAP because of low earnings, length of service or self-employment. Local Authority guidance urges Local Authorities to make such payments to adopters.

Clause 1, Schedule 1 – Shared lives care & Clause 2 – Payments to special guardians and those in receipt of residence orders

Kinship carers

In the course of the debate the position of kinship carers was considered.

Where a child is “looked after” by a local authority, pursuant to section 17(6) of the Children (Scotland) Act 1995, and is placed with a relative or a person known to them (a “kinship carer”), and the local authority makes payment to the kinship carer to provide the child with care, then the qualifying care relief rules (provided for by Schedule 1) will apply (assuming all the other relevant conditions are met).

The statutory instrument defining specified social care schemes will make this clear, and will spell out the other conditions for being a specified social care scheme for kinship care.

In circumstances where kin are given parental responsibility for a child by a court, whether by virtue of an adoption order, a special guardianship order or a residence order, they will fall within the clause 2 provisions.



Statutory instrument

As mentioned above, Schedule 1 gives the Treasury power to make an order setting out what schemes will be “specified social care schemes” for these purposes. The statutory instrument will be published in draft as soon as possible and HMRC will discuss the terms of the instrument with all interested parties.

In response to the point raised by the hon. Member for Nottingham East, I can confirm that this power is not subject to affirmative procedure.

Clause 4 – Seafarers’ earnings

During the debate, I indicated to the Committee that somewhere in the region of 5,000 individuals may benefit from the extension to seafarers’ earnings deduction. In fact, our estimate is that a maximum of 1,500 EU/ EEA seafarers may benefit from the extension, compared to 16,000 ordinarily resident seafarers who claimed the deduction in 2007-08.



Clause 6 – Enterprise management incentives

Permanent establishment

The hon. Member for Nottingham East asked whether foreign employees of a company might benefit from the UK tax relief when exercising their options under the Enterprise Management Incentives (EMI) scheme. In particular, he asked whether the relief would be given to foreign employees of a company that has a permanent establishment in the UK under the terms of the legislation, and is making sales in the UK.

This issue would not normally arise in practice, as UK tax relief on qualifying EMI options is only given against UK tax liability, whereas employees who are resident overseas would not be paying UK tax on their earnings. This means that for any company that has a permanent establishment in the UK under the terms of the legislation, its overseas resident employees would not benefit from UK tax relief when exercising their EMI options.



Benefits of EMI scheme

The hon. Member for Islwyn (Chris Evans) asked about the types of companies that benefit from the Enterprise Management Incentive (EMI) scheme. HMRC does not have an official breakdown of the types of companies benefiting from EMI. However, an evaluation survey of EMI was commissioned by HMRC from Ipsos MORI, which was published in 2008. This includes indicative information about the sectoral breakdown of EMI scheme participants and the impacts of the scheme on companies.

It is important to note that the results in this report are based on a survey sample of companies operating EMI, and statistics for the full population of companies might differ. A copy of this report can be found on the HMRC website at:

<http://www.hmrc.gov.uk/research/report41.htm>.

I am copying this letter to all members of the Committee and the Clerk and a copy will be deposited in the Library of the House.

Yours ever
David

David Gauke MP

