



Finance Act 2011

2011 CHAPTER 11

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Exemptions and reliefs

35 Reduction in childcare relief for higher earners

Schedule 8 contains provision for reducing childcare relief for higher earners.

36 Childcare: salary sacrifice etc and the national minimum wage

(1) In section 270A of ITEPA 2003 (limited exemption for qualifying childcare vouchers), after subsection (5) insert—

“(5A) Where the scheme under which the vouchers are provided involves—

- (a) relevant salary sacrifice arrangements, or
- (b) relevant flexible remuneration arrangements,

Condition C is not prevented from being met by reason only that the scheme is not open to relevant low-paid employees.

(5B) In subsection (5A)—

“relevant salary sacrifice arrangements” means arrangements (whenever made) under which the employees for whom the vouchers are provided give up the right to receive an amount of general earnings or specific employment income in return for the provision of the vouchers;

“relevant flexible remuneration arrangements” means arrangements (whenever made) under which the employees for whom the vouchers are provided agree with the employer that they are to be provided with the vouchers rather than receive some other description of employment income;

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“relevant low-paid employees” means any of the employer's employees who are remunerated by the employer at a rate such that, if the relevant salary sacrifice arrangements or relevant flexible remuneration arrangements applied to them, the rate at which they would then be so remunerated would be likely to be lower than the national minimum wage.”

- (2) In section 318A of that Act (exemption for childcare other than employer-provided care), after subsection (5) insert—

“(5A) Where the scheme under which the care is provided involves—

- (a) relevant salary sacrifice arrangements, or
- (b) relevant flexible remuneration arrangements,

Condition C is not prevented from being met by reason only that the scheme is not open to relevant low-paid employees.

(5B) In subsection (5A)—

“relevant salary sacrifice arrangements” means arrangements (whenever made) under which the employees for whom the care is provided give up the right to receive an amount of general earnings or specific employment income in return for the provision of the care;

“relevant flexible remuneration arrangements” means arrangements (whenever made) under which the employees for whom the care is provided agree with the employer that they are to be provided with the care rather than receive some other description of employment income;

“relevant low-paid employees” means any of the employer's employees who are remunerated by the employer at a rate such that, if the relevant salary sacrifice arrangements or relevant flexible remuneration arrangements applied to them, the rate at which they would then be so remunerated would be likely to be lower than the national minimum wage.”

- (3) The amendments made by this section have effect for the tax year 2005-06 and subsequent tax years.

37 Accommodation expenses of MPs

- (1) In section 292 of ITEPA 2003 (accommodation expenses of MPs), after subsection (4) insert—

“(5) The reference in subsection (1) to a payment made to a member of the House of Commons under section 5(1) of the Parliamentary Standards Act 2009 includes a payment made under that section to another person at the direction of a member (see section 6(7) of that Act).”

- (2) The amendment made by this section has effect in relation to payments made under section 5(1) of the Parliamentary Standards Act 2009 on or after 1 November 2010.

38 Experts seconded to European Union bodies

- (1) In Chapter 8 of Part 4 of ITEPA 2003 (employment income: special kinds of employment), after section 304 insert—

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“304A Experts seconded to other European Union bodies

- (1) No liability to income tax arises in respect of any subsistence allowances paid by a relevant EU body to persons who, because of their expertise in matters relating to the subject matter of the functions of the relevant EU body, have been seconded to the body by their employers.
- (2) Each of the following is a “relevant EU body”—
 - (a) the European Medicines Agency, established as the European Agency for the Evaluation of Medicinal Products by Council Regulation (EEC) No 2309/93 of 22 July 1993,
 - (b) the European Police College, established by Council Decision of 20 September 2005 (2005/681/JHA),
 - (c) the European Banking Authority, established by Regulation (EU) No 1093/2010 of 24 November 2010, and
 - (d) any other body established by an EU instrument which is designated as a relevant EU body for the purposes of this section by an order made by the Treasury.”
- (2) The amendment made by this section has effect in relation to subsistence allowances paid in respect of periods beginning on or after 1 January 2011.

39 Employment income: exemption for fees relating to monitoring schemes

- (1) In Chapter 11 of Part 4 of ITEPA 2003 (employment income: miscellaneous exemptions), after section 326 insert—

“Monitoring schemes

326A Fees relating to monitoring schemes relating to vulnerable persons

- (1) No liability to income tax arises by virtue of the payment or reimbursement of a fee in respect of an application to join the scheme administered under section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (scheme to collate and disclose information about individuals working with vulnerable persons).
- (2) The Treasury may by order amend subsection (1) so as—
 - (a) to add to the fees covered by that subsection a fee of a specified kind payable in connection with a scheme for England and Wales or Northern Ireland which corresponds to the scheme administered under section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007, or
 - (b) to amend or remove a reference to a fee added under paragraph (a).”
- (2) The amendment made by this section has effect for the tax year 2010-11 and subsequent tax years.

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40 Individual investment plans for children

- (1) Chapter 3 of Part 6 of ITTOIA 2005 (income from individual investment plans) is amended in accordance with subsections (2) to (5).
- (2) In section 694 (income from individual investment plans), after subsection (1) insert—
 - “(1A) In subsection (1) “income of an individual from investments under a plan” includes income from investments which is treated as the individual's income by virtue of section 629 (income paid to relevant children of settlor).”
- (3) After section 695 insert—

“695A Investment plans for children

- (1) This section applies where investment plan regulations provide that income of a child from investments under a plan (a “child plan”) is exempt from income tax (either wholly or to such extent as is specified in the regulations).
- (2) In addition to any provision which may be made by virtue of any other provision of this Chapter, investment plan regulations may—
 - (a) specify descriptions of persons by whom investments may be made for a child,
 - (b) provide that withdrawals may be made only in the circumstances specified in the regulations, and
 - (c) provide that, in the case of a child who is under 16, the plan managers may act only on the direction of a person of a description specified in the regulations.
- (3) They may also provide—
 - (a) that any assignment of, or agreement to assign, investments under a child plan, and any charge on or agreement to charge any such investments, is void,
 - (b) that, on the bankruptcy of a child with investments under a child plan, the entitlement to those investments does not pass to any trustee or other person acting on behalf of the child's creditors, and
 - (c) that, where a contract is entered into by or on behalf of a child who is 16 or over in connection with a child plan under which investments are held—
 - (i) by the child, or
 - (ii) by another child in relation to whom the child has parental responsibility,
 the contract has effect as if the child had been 18 or over when it was entered into.
- (4) Where, by virtue of provision made in investment plan regulations under subsection (2)(a), investments are made for a child under a child plan, for the purposes of this Chapter the child is treated as having made those investments.
- (5) In this section—
 - “assignment” includes assignation, and “assign” is to be construed accordingly;

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“bankruptcy”, in relation to a child, includes the sequestration of the child's estate;

“charge on or agreement to charge” includes a right in security over or an agreement to create a right in security over;

“child” means an individual under 18;

“parental responsibility” means—

(a) parental responsibility within the meaning of the Children Act 1989 or the Children (Northern Ireland) Order 1995, or

(b) parental responsibilities within the meaning of the Children (Scotland) Act 1995;

and any reference to investments being held by a child includes a reference to investments being held by plan managers on behalf of the child by virtue of section 696(1).”

(4) In section 699 (non-entitlement to exemption), at the end insert—

“(9) In this section references to an investor include an individual entitled to an exemption given by investment plan regulations by virtue of section 694(1A).”

(5) In section 701 (general and supplementary powers), at the end insert—

“(6) In this section references to an investor include an individual entitled to an exemption given by investment plan regulations by virtue of section 694(1A).”

(6) In section 151 of TCGA 1992 (personal equity plans), in subsection (2)—

^{F1}(a)

(b) for the words from “but with” to the end substitute “but with the following modifications—

(a) any reference to income tax is to be read as a reference to capital gains tax,

(b) the reference in section 695A(1) to the case where regulations provide that income of a child from investments under a plan is exempt from income tax is to be read as a reference to the case where regulations provide that a child who invests under a plan is entitled to relief from capital gains tax in respect of the investments,

(c) the reference in section 695A(4) to that Chapter is to be read as a reference to this section, and

(d) that Chapter has effect as if sections 699(9) and 701(6) were omitted.”

Textual Amendments

F1 S. 40(6)(a) omitted (15.9.2016) by virtue of Finance Act 2016 (c. 24), s. 27(4)

41 Gift aid: increase of limits on total value of benefits associated with gifts

(1) In section 418 of ITA 2007 (gifts to charities by individuals: restrictions on associated benefits), in subsection (3), for “£500” substitute “ £2,500 ”.

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- (2) In section 197 of CTA 2010 (gifts to charities by companies: restrictions on associated benefits), in subsection (3), for “£500” substitute “ £2,500 ”.
- (3) Accordingly, omit section 60(1)(b) of FA 2007.
- (4) The amendments made by subsections (1) and (3) have effect in relation to gifts made on or after 6 April 2011.
- (5) The amendment made by subsection (2) has effect in relation to gifts made in an accounting period ending on or after 1 April 2011.

42 Enterprise investment scheme: amount of relief

- (1) Part 5 of ITA 2007 (enterprise investment scheme) is amended in accordance with subsections (2) to (4).
- (2) In section 158 (form and amount of EIS relief), in subsection (2A) for “20%” substitute “ 30% ”.
- (3) In the following provisions for “EIS rate” substitute “ EIS original rate ”
 - (a) section 209(3);
 - (b) section 210(1)(b);
 - (c) section 213(2);
 - (d) section 220(1)(b);
 - (e) section 224(2);
 - (f) section 229(1)(b).
- (4) After section 256 insert—

“256A Meaning of “the EIS original rate”

In this Part “the EIS original rate”, in relation to EIS relief, means the EIS rate for the tax year for which the EIS relief was obtained.”

- (5) In Schedule 4 to that Act (index of defined expressions), at the appropriate place insert—

“EIS original rate (in Part 5)

section 256A”

- (6) This section comes into force on such day as the Treasury may by order appoint.
- (7) The amendments made by this section have effect in relation to the tax year 2011-12 and subsequent tax years.
- (8) But where the EIS relief attributable to shares was obtained for the tax year 2007-08 or an earlier tax year, the references to the EIS original rate in the provisions mentioned in paragraph (a) to (f) of subsection (3) are to be read as references to 20%.

Subordinate Legislation Made

P1 S. 42(6) power fully exercised: 13.10.2011 appointed by {S.I. 2011/2459}, art. 2

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43 Relief for expenditure on R&D by SMEs

- (1) Part 13 of CTA 2009 (additional relief for expenditure on research and development) is amended as follows.
- (2) Chapter 2 (relief for small or medium-sized enterprises (“SMEs”)) is amended in accordance with subsections (3) to (6).
- (3) In section 1044 (additional deduction in calculating profits of trade), in subsection (8), for “75%” substitute “100%”.
- (4) In section 1045 (alternative treatment for pre-trading expenditure: deemed trading loss), in subsection (7), for “175%” substitute “200%”.
- (5) In section 1055 (tax credit: meaning of “Chapter 2 surrenderable loss”), in subsection (2)(b), for “175%” substitute “200%”.
- (6) In section 1058 (amount of tax credit), in subsection (1)(a), for “14%” substitute “12.5%”.

^{F2}(7)

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(12) This section comes into force on such day as the Treasury may by order appoint.

(13) The amendments made by this section have effect in relation to expenditure incurred on or after 1 April 2011.

Subordinate Legislation Made

P2 S. 43(12) power fully exercised: 15.9.2011 appointed by {[S.I. 2011/2280](#)}, art. 2

Textual Amendments

F2 [S. 43\(7\)-\(11\)](#) omitted (with effect in accordance with Sch. 3 para. 38 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 3 para. 32\(c\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)