

**EXPLANATORY MEMORANDUM TO  
THE QUALIFYING CARE RELIEF (SPECIFIED SOCIAL CARE SCHEMES)  
(AMENDMENT) ORDER 2012**

**2012 No. 794**

1. This explanatory memorandum has been prepared by Her Majesty's Revenue & Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This Order amends the Qualifying Care Relief (Specified Social Care Schemes) Order 2011 (the Specification Order) which specifies the types of social care schemes that will qualify as a "specified social care scheme" under section 806A(2)(c) of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA) (c. 5).

- 2.2 The Order makes various amendments that will:

- a. change the definition of a "looked after child" as it applies to Scotland to ensure that all appropriate situations are included;
- b. ensure carers of previously looked after children who stay with their carers will continue to qualify for the relief for a period of time whether or not the person cared for is in education; and
- c. ensure that arrangements made for both a parent and their child to live with a carer are not excluded.

- 2.3 In order to be able to access "qualifying care relief", a relief from income tax, an individual must provide foster care, shared lives care or both. Where all the conditions in section 806A are met, including the conditions relating to the types of schemes specified in the Specification Order, a person provides "shared lives care".

3. **Matters of special interest to the Select Committee on Statutory Instruments**

- 3.1 Section 806A(5) of ITTOIA provides that an order made under section 806A(4) "may make provision having effect in relation to the tax year current on the day on which the order is made". The Order will be made during the tax year 2011-12 and will have effect for the tax year 2011-12 and to this extent has retrospective effect. It also has effect for subsequent tax years.

#### **4. Legislative Context**

4.1 Sections 803 to 828 of ITTOIA provide for relief from income tax on income from the provision of qualifying care. Shared lives care is qualifying care for the purposes of this relief, and the meaning of providing shared lives care is set out in section 806A of ITTOIA. Shared lives care is provided by an individual if s/he provides accommodation and care for an adult or child who has been placed with her/him (section 806A(1)). There are five further conditions to be met, as set out in section 806A(2). One of these is that an adult or child has been placed with a carer under a “specified social care scheme” (section 806A(2)(c) ITTOIA).

4.2 The Specification Order describes the types of social care schemes that will satisfy the requirement in section 806A(2)(c), and the conditions that have to be met in relation to each scheme.

#### **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

#### **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

- *What is being done and why*

7.1 Finance (No. 3) Act 2010 (c. 33) introduced the new "qualifying care relief". Qualifying care relief aligns the tax treatment of shared lives carers with the tax treatment of foster carers.

7.2 The relief is aimed at carers who share their home and family life with the individuals placed with them. Since the Specification Order came into force on 4th April 2011, it has come to light that not all care arrangements intended to come within the relief were described by that Order. This Order is amending the Specification Order to ensure that all appropriate care arrangements are covered.

- *Consolidation*

7.3 Not applicable.

#### **8. Consultation outcome**

8.1 A draft of the Order was published for comment on an informal basis in December 2011. Several responses were received and considered in the drafting of the Order.

## **9. Guidance**

9.1 Draft guidance will be prepared and shared with stakeholders for their comments.

## **10. Impact**

10.1 A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy. The impact on business, charities, voluntary bodies or the public sector is negligible.

## **11. Regulating small business**

11.1 The legislation was the subject of an informal consultation to ensure that it achieves the outcomes aimed for. The views of stakeholders, including those representing the small businesses concerned have been considered. The legislation impacts on small business but its effect is negligible.

## **12. Monitoring & review**

12.1 HMRC will keep this under review to ensure that the Order achieves its aims.

## **13. Contact**

Hugh Dorey at Her Majesty's Revenue & Customs Tel: 020 7147 3850 or email: [hugh.dorey@hmrc.gsi.gov.uk](mailto:hugh.dorey@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.