

EXPLANATORY MEMORANDUM TO

THE QUALIFYING CARE RELIEF (SPECIFIED SOCIAL CARE SCHEMES) (AMENDMENT) ORDER 2018

[2018] No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.
- 1.2 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 Care Schemes) Order 2011 (S.I. 2011/712) ("the 2011 Order").
- 2.2 The Order amends the 2011 Order so that payments made by Shared Lives Schemes or persons carrying on such schemes, to carers are eligible for the qualifying care relief from income tax.
- 2.3 The Order also amends the 2011 Order to update the reference to replacement Regulations in England.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 This Order has effect for the tax year 2017-2018 and subsequent years, authority for this retrospective effect is provided by section 806A(5) of the Income (Trading and Other Income) Act 2005 ("ITTOIA 2005").
- 3.2 The retrospection is beneficial to taxpayers as the relief is extended to some schemes that were previously ineligible.

Other matters of interest to the House of Commons

- 3.3 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 804A(1) of ITTOIA 2005 provides that where a person has receipts for providing shared lives care in a tax year, that person will be entitled to qualifying care relief. The meaning of "providing shared lives care" for these purposes is set out in section 806A of ITTOIA 2005. Shared lives care is provided by an individual if he or she 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 2005).

4.2 This Order amends the conditions that have to be met, in relation to an adult placement scheme to qualify as a specified social care scheme.

5. Extent and Territorial Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 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 Qualifying care relief is an optional tax simplification scheme available to those providing qualifying care (including care under shared lives schemes) which provides a standard relief instead of deductions for their actual expenses, allowing carers to keep simpler records.

7.2 Shared Lives care can be paid for by local authorities or by the person receiving Shared Lives care using their own finances to meet their support costs. The relief is currently only available if payments for care are made by a local authority.

7.3 This instrument will extend qualifying care relief to payments for care made by shared lives schemes that are not funded by local authorities provided the payments are not made in a fiduciary or representative capacity and the scheme does not permit the carer to receive other payments for providing the care.

Consolidation

7.4 Not applicable

8. Consultation outcome

8.1 A draft of the Order was published for comment on 5 February 2018. The consultation closes on 5 March 2018.

9. Guidance

9.1 The Business Income Manual guidance will be updated to reflect these changes and shared with stakeholders for their comments.

10. Impact

10.1 A Tax Information and Impact Note covering this instrument was published on 22 November 2017 and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

10.2 The impact on business, charities, voluntary bodies or the public sector is negligible.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses. It will make the optional qualifying care relief available to some schemes that were previously ineligible. Schemes that are already eligible will continue to be.

- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 The legislation has been consulted on to ensure that it achieves the outcomes aimed for and the views of stakeholders including those representing the small businesses concerned will be considered.

12. Monitoring & review

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

13. Contact

- 13.1 Antonio Zagara at Her Majesty's Revenue and Customs: Telephone: 03000 585265 or email: antonio.zagara@hmrc.gsi.gov.uk can answer any queries regarding the instrument.