EXPLANATORY MEMORANDUM TO

THE INCOME TAX (CARE LEAVER'S APPRENTICESHIP BURSARY PAYMENT) (AMENDMENT) REGULATIONS 2023

2023 No. 482

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 These regulations amend the Income Tax (Care Leaver's Apprenticeship Bursary Payment) Regulations 2020 (SI 2020/922), (the 2020 Regulations), which provide for an income tax exemption for the Care Leaver's Apprenticeship Bursary Payment.

2.2 The 2020 Regulations prescribe various conditions and definitions relating to the Care Leaver's Apprenticeship Bursary Payment for the purposes of section 254A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA).

2.3 The instrument will ensure that the Income Tax exemption applies to the new payment rate made by the Department of Education (DfE) to care leavers starting an English statutory apprenticeship ("the care leaver's apprenticeship bursary payment") on or after 1 August 2023. There is a corresponding exemption for National Insurance contributions (NICs) in the Social Security (Contributions) Regulations 2001 (SI 2001/1004). No further changes are required to those regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Section 254A of ITEPA provides for an income tax exemption for the care leaver's apprenticeship bursary payment. A care leaver's apprenticeship bursary payment is defined in section 254A (2) of ITEPA.

6.2 Section 254A(2)(d) of ITEPA allows for regulations made by the Treasury to specify conditions that must be met for the payment to qualify for the tax exemption. Those conditions are set out in the 2020 Regulations.

6.3 This instrument amends the 2020 Regulations to reflect the increased amount of the care leaver's apprenticeship bursary payment from £1,000 to £3,000 for the purposes of the income tax exemption at section 254A of ITEPA. These amendments will take effect from 1 August 2023 and will apply to a care leaver who is an apprentice undertaking an English statutory apprenticeship which begins on or after 1 August 2023. Where the care leaver's apprenticeship bursary payment is made in instalments, the aggregate of those instalments must not exceed £3,000.

6.4 There is a corresponding disregard for NICs under regulation 25 of, and paragraph 13 of Part 7 of Schedule 3 to, the Social Security (Contributions) Regulations 2001. No further changes are required to those regulations.

7. Policy background

What is being done and why?

7.1 In August 2018, DfE introduced a one-off £1,000 bursary payment to individuals, aged between 16 and 24, who are in or who have left the care of a local authority, and which is payable upon their starting an English statutory apprenticeship.

7.2 The intention is for the payment to provide extra financial support for care leavers as they transition to their apprenticeship training, particularly as these young people are less likely to have recourse to private resources or family support. From 29 September 2020, regulations came into effect to exempt the payment form Income Tax and NICs.

7.3 From 1 August 2023, DfE will increase the bursary payment from £1,000 to £3,000 for new starters. This is to keep up with the rising costs of living and to increase the number of apprenticeship starts and achievements for young care leavers who are currently eligible for the bursary. DfE has updated the guidance (available at the following link: https://www.gov.uk/government/publications/apprenticeships-bursary-for-care-leavers) on 8 February 2023 to reflect the increase.

7.4 DfE currently makes one payment of £1,000 within 30 days of the beginning of the academic year (1 August). From 1 August 2023, it will pay the increased amount of £3,000 in instalments across the first year of the apprenticeship, the final instalment would reach the apprentice towards the end of the first year. The number of instalments and their respective amounts, frequency and timings will be reflected in the guidance document.

7.5 Individuals are generally liable to pay Income Tax, and individuals and employers are both liable to pay Class 1 NICs, on payments that derive from an employment. This includes individuals who are employed as apprentices, the exemption provided for in this instrument ensures those receiving this bursary receive the full benefit of the bursary. The DfE policy guidance has been updated.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans to consolidate the legislation at present.

10. Consultation outcome

10.1 No formal consultation exercise has been held as this is a minor change which is wholly relieving to the taxpayer.

11. Guidance

11.1 Guidance is available on the gov.uk website (and will be updated) when the regulations come into effect. https://www.gov.uk/government/publications/apprenticeships-bursary-for-care-leavers

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses who operate eligible apprenticeship schemes.

13.2 No specific mitigating action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required, as it is a wholly relieving measure.

14. Monitoring & review

14.1 This measure will be monitored through information collected by DfE and kept under review through regular communication with affected taxpayer groups.

14.2 These regulations do not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise, and Employment Act 2015.

15. Contact

15.1 Karen McCrea, at the Income Tax Policy Team, Telephone: 03000 522185 or email: karen.mccrea@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Philip Batchelor, Deputy Director for Income Tax Policy, at the Individuals Policy Directorate can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Atkins MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.