

CHANGES TO EMPLOYER SUPPORTED CHILDCARE FROM APRIL 2011

GUIDANCE FOR EMPLOYERS

Introduction

From 6th April 2011 there will be changes to Employer Supported Childcare that will affect employers who operate a childcare voucher scheme and/or directly contracted childcare.

Employer-supported childcare schemes are voluntary arrangements. The Government supports these initiatives with the tax relief and NICs disregards (referred to elsewhere in this guidance as tax reliefs) that are available, but it is up to the employer to decide whether or not to offer childcare support to its employees.

There are no changes to workplace nurseries schemes.

The purpose of the change is to even out the amount of tax saving available for all employees regardless of the tax rate that the individual pays.

To identify what rate of tax an individual employee will pay in any one tax year an employer will need to carry out a 'basic earnings assessment' for any employee who joins an employer supported childcare scheme on or after 6th April 2011.

Employees who already participate in an employer scheme on or before 5th April 2011 are not affected by these changes unless they leave the scheme or your employment.

Why are these changes being made?

Under current arrangements, employees on higher earnings receive a greater tax saving than those who pay tax at the basic rate. The change evens out the amount of tax saving available for all employees regardless of the rate that the individual pays tax.

These changes will mean that anyone who joins an employer supported childcare scheme from 6th April 2011 will receive the same level of income tax exemption, which is approximately £11 per week.

Who will be affected by the changes?

The changes will only affect people joining an employer's scheme on or after 6 April 2011.

Any employee who already participates in your scheme will not be affected. They will retain their current level of tax savings until they leave your scheme or are no longer eligible to participate – for example if their child no longer receives qualifying childcare.

How do employers know which employees will be affected?

Employers must carry out a **basic earnings assessment** to check the estimated employment income of any employee who joins a scheme on or after 6th April 2011. The amount of exempt income (in the form of childcare vouchers or directly contracted childcare) that the employee can subsequently receive will be determined by the result of the basic earning assessment.

There is no need to make an assessment for existing employees who were already participating in an employer's scheme on or before 5th April 2011.

Further information on the basic earnings assessment is provided below in the section headed 'The Basic Earnings Assessment'.

Child care vouchers - exempt amounts

Employees who join on or after 6 April 2011

These are the amounts that you can provide to your employee as exempt income in the form of childcare vouchers or directly contracted childcare from 6th April 2011. These amounts apply only to those employees who join on or after that date and have been subject to a basic earnings assessment.

	Basic rate	Higher rate	Additional rate
Weekly	£55	£28	£22
Monthly	£243	£124	£97
Annual	£2915	£1484	£1166

Employees in an existing scheme with you at 6 April 2011

Employees who are existing scheme members on or before 5th April 2011 can receive the following amounts. There is no need to carry out a basic earning assessment for these employees.

Weekly	£55
Monthly	£243
Annual	£2915

How to administer child care vouchers - employees in your scheme before 6th April 2011

How to decide if an employee is in your scheme on or before 5th April 2011

In order to fall within the former arrangements, an employee must have submitted an application to his or her employer on or before 5th April 2011 and be entitled to receive the tax/NICs exemptions on that date. The employee does not have to have received his or her first childcare voucher on or before 5th April 2011 but must be entitled to receive them as at that date.

In the event that the employee is not entitled to the exemptions on that date (e.g. if there is no qualifying child) then the employee will be subject to the new arrangements as and when they do become eligible.

Can an employee join my scheme before his or her child is born?

No – your employee must be a parent or have parental responsibility for a child at the time they join your scheme.

Renewal of employee agreements

Annual renewal of agreements between employers and employees are normal practice. Providing the employee was participating in the employer's scheme and entitled to the exemptions on or before 5th April 2011 then the existing entitlement will continue after that date, including at renewal of the agreement.

Change in voucher value

An employee can alter the amount of the childcare voucher they require without affecting the rate of exemption to which he or she is entitled.

Temporary cessation of childcare vouchers

An employee can ask to stop receiving childcare vouchers temporarily whilst remaining within the employer's scheme – for example, if an employee only works during school term time and does not need childcare vouchers during school holidays. The employer does not have to treat the employee as a new joiner when he or she resumes receiving childcare vouchers. Providing the

cessation does not exceed a period of twelve months the employee can remain as an existing member of the employer's scheme.

This also applies to employees who are on maternity leave, long term sick leave, and those who wish to take a career break providing the total length of absence does not exceed a period of twelve months.

How to administer child care vouchers - employees who join after 6th April 2011

For all employees who join your child care voucher scheme after 6th April 2011 you will need to decide what level of exemption they will be entitled to. To decide this you must carry out a basic earning assessment and keep a record of your conclusions.

The Basic Earnings Assessment

When does the employer have to carry out the basic earnings assessment?

From 6th April 2011 the basic earnings assessment should be carried out when an employee first joins an employer's scheme and then annually at the start of the tax year. The assessment then remains **valid** for the **whole of the tax year**.

The calculation can not be deferred until later in the year when final information on taxable benefits provided to the employee is reported on form P11D. It is an assessment made on the information available at the start of the tax year.

Basic earnings assessment record keeping requirements

Employers must keep a record of the basic earnings assessment calculation. These records do not need to be sent to HMRC but must be available for inspection if required in the course of any compliance activity by HMRC.

HMRC does not stipulate the format of these records, but they must contain sufficient information to show how the individual's basic earnings assessment has been calculated. Checking the information will form part of HMRC's normal employer compliance work.

Can an employee self assess their own tax position at the start of the year rather than the employer?

No – childcare vouchers are an employer provided benefit and the employer is responsible for carrying out the basic earnings assessment for those employees who join a childcare voucher scheme from April 2011.

Can the basic earnings assessment be discarded and replaced by declaration of the benefit received on form P11D?

No – the purpose of the basic earnings assessment is to ensure wherever possible that the appropriate level of exemption is received in the course of the current tax year.

Can the earnings figure from the previous year's P60 be used for the basic earnings assessment?

No – the basic earnings assessment should reflect the expected earnings for the current year rather than the previous year. They should be based only on employment with you, and should not include details of any other employments.

Personal Allowance to be included in the basic earning assessment

The personal allowance for the purpose of establishing the appropriate amount of exempt income an employee may receive in the form of childcare vouchers (or directly contracted childcare) will be the personal allowance as shown on the employee's tax code. Some employees will have no or a restricted entitlement to personal allowances.

For example, if your employee is in receipt of the standard personal allowances for the year, the level of income that can be earned before a restriction to tax relief on childcare vouchers applies will be the full level of personal allowances plus the basic rate taxable band for the year. And if your employee is not entitled to personal allowances, the level of income that can be earned before a restriction to tax relief on childcare vouchers applies will be just the basic rate taxable band for the year.

More information will be available by 6 April on how you decide what personal allowance figure you use. It is acceptable to use the tax code as at 6th April of the relevant tax year.

Earnings and benefits to be included in the basic earnings assessment

The basic earnings assessment should include the following information:

- Basic pay as stated in the employee's contract of employment.
- Contractual or guaranteed bonuses.
- London weighting or other regional allowances.
- Taxable benefits.
- Shift allowances.

Earnings and benefits to be excluded from the basic earnings assessment

- Performance related or discretionary bonuses.
- Overtime payments.
- Earnings and benefits that are exempt from tax such as pension contributions, employee share schemes and payroll charitable donations.

Changes in pay after the basic earnings assessment has been done

You should assess the employee's pay at the beginning of the tax year or when the employee first applies to join the scheme. This will fix what level of exempt income the employee is entitled to receive for that tax year. The basic earnings assessment applies for a full tax year based on the level of employment earnings applicable at the time the assessment was carried out.

If your employee's pay changes during the course of the year this may mean that the amount of exempt income your employee will be entitled to receive in relation to employer-supported childcare will change from the start of the following tax year. You will need to carry out a basic earnings assessment at the beginning of every tax year.

Do I need to take account of my employee's previous earnings?

You should carry out a basic earnings assessment for any new employee who applies to join your scheme on or after 6th April 2011. You do not need to take into consideration any previous earnings from other employment that your employee has received during that tax year. Calculate the estimated earnings from the point at which the employee joins your company and pro-rata them up to establish the notional annual figure.

For example, if your employee joins your scheme on 6th October and will earn £26,000 between then and 5th April in the following year, divide by six to get the monthly earnings and multiply by twelve to establish the notional annual figure – in this case, the level of notional earnings will be £52,000 for the tax

year and the employee will be treated as a higher rate taxpayer and restrictions to the value of tax exempt childcare vouchers will apply.

What if my employee is just returning after absence on maternity or paternity leave part-way through the year and their previous earnings would have been statutory amounts or zero?

Where an employee who originally became a member of your scheme on or after 6th April 2011 rejoins your scheme from maternity or paternity leave, the basic earnings calculation is based from the point at which the employee rejoins active employment. Pro-rata this upwards to estimate the notional annual earnings as above.

What happens if the employer gets the basic earnings assessment wrong?

If the employer has based the assessment on the best available information at the time the assessment is carried out, then it will be valid for a full twelve month period until the next assessment is carried out. Any exempt figure used as a result of this assessment will be treated by HMRC as correct for P11D purposes.

If the employer gets the initial assessment incorrect due to a failure to use relevant available information and the employee has received a level of relief they were not entitled to, HMRC can assess for any additional tax that is payable. An employer can also report the additional benefit paid by submitting a form P11D.

Will HMRC provide any online or CD ROM calculators for employers to use when carrying out the basic earnings assessment?

There are no plans to do so at present.

Change of employment

Where an individual joins a childcare voucher scheme of a new employer on or after 6th April 2011 he or she will be treated as a new joiner and the employer will be required to carry out a basic earnings assessment. There are no exclusions for people working in particular types of employment or sectors where change of employer takes place on a frequent basis.

Employer change of circumstances

Change of employer due to merger or business reorganisation

Where a change of employer is triggered by a business merger or reorganisation, the employees affected will not be regarded as new joiners in the employer's childcare support scheme.

Where participation in the employer's scheme predates any merger or reorganisation the employee will retain his or her existing level of tax relief. This also applies where a transfer of staff under a TUPE arrangement has taken place.

Change of voucher provider

If the employer uses a third party childcare voucher provider, the employer can change voucher provider without affecting the employees' status as an existing scheme member.

Closure of an existing scheme to new members

Where an employer closes a scheme to new members after 6th April 2011 the scheme would no longer be considered to be "generally open" to all employees. The scheme would not therefore meet the requirements for the tax and NICs exemptions to apply.

Employer and Employee NICS

These are the amounts that employers and employees can receive free of NICs in the form of childcare vouchers or directly contracted childcare from 6th April 2011. These amounts apply only to those employees who join on or after that date and have been subject to a basic earnings assessment.

If the employee has already joined the employer's scheme on or before 5th April 2011, the NICs free amount remains at £55 per week for childcare vouchers and directly contracted childcare. There is no limit for workplace nurseries.

	Basic rate	Higher rate	Additional rate
Weekly	£55	£28	£22

The earnings assessment that employers are required to undertake at the start of the employment or tax year for income tax purposes will apply equally for NICs purposes.

If the value of the childcare vouchers that an employee is provided with is more than the NICs free amount, the excess will need to be added to any other earnings the employee is to receive in that pay period and NICs calculated on the total earnings figure. If more than the NICs free amount of directly contracted childcare is provided the excess will need to be reported on the P11D for both tax and Class 1A NICs purposes.

Reporting arrangements

You should report any taxable benefits on form P11D. If you provide more than the exempt amount for any employee, you will have to notify HMRC of the taxable benefit represented by the additional vouchers.