Treatment of income from boarders and sub-tenants

First announced in Budget 2007, new rules have been introduced as part of the government’s simplification agenda in relation to the treatment of income from boarders and sub-tenants in the assessment of benefits.

From 1 October 2007, the new rules will mean that one disregard of £20 and then 50% of the balance should be applied to any income from board and lodging accommodation provided by a claimant in their own home. (This restores the policy intention following a recent commissioner’s decision – CIB/4174/2003 – that held that, because of the way the regulations were drafted, three separate disregards should be applied to such income.)

In addition, from 7 April 2008, the new rules provide for up to £20 per week to be disregarded in the calculation of earnings in respect of payments received from a sub-tenancy arrangement.

NB – the new rules relating to income from boarders apply to the calculation of income for both means-tested and non means-tested benefits, whilst the new rules relating to income from sub-tenants apply only to the assessment of income support, jobseeker’s allowance, housing benefit and council tax benefit.

Revenue to replace tax credit ‘reasonable belief’ test

The government has announced that the ‘reasonable belief’ test that governs Revenue decisions on the recovery of tax credit overpayments is to be replaced.

The test is set out in the Revenue’s Code of Practice 26 (COP 26) that says ‘For us to write off an overpayment you must be able to show that the overpayment happened because we made a mistake, and it was reasonable for you to think your payments were right’.

However the Revenue’s application of the COP 26 guidance has come in for repeated criticism since its introduction in Autumn 2003, from the advice sector, the Adjudicator – the independent body responsible for dealing with complaints against the Revenue – and most recently from the Parliamentary Ombudsman, Anne Abraham.

In her second special report on tax credits, ‘Tax Credits: Getting it wrong?’, published earlier this month, Ms Abraham says that whilst the Revenue has made considerable improvements in its administration of tax credits since her last report in 2005, its application of the ‘reasonable belief’ test is unfair and unreasonable, results in unduly harsh decisions and seems to fly in the face of the aims of tax credit policy.

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The same regulations – the Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2007 (SI No. 2613/2007) and the Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (SI No. 2618/2007) – also provide, from 1 October 2007, for specified final earnings on leaving work – including holiday pay and compensatory pay such as payment in lieu of notice or remuneration – to be disregarded in the calculation of a claimant’s earnings for both means-tested and non means-tested benefits.

Lone parent benefit run-on to be extended to 6 weeks

The government is to introduce a 6-week benefit run-on for all lone parents entering work, the Prime Minister has confirmed.

In a speech to last month’s TUC Congress, Mr Brown said that there are now more than 30 million jobs available and that, if the right decisions are made, there is an opportunity to advance closer to full employment than ever before, with ‘a British job on offer for every British worker’.

Amongst a series of practical changes that can be implemented rapidly and that between them will yield half a million jobs – addressing skills gaps, forging links between employers who need workers and workers who need jobs and exercising pay discipline to prevent inflation – Mr Brown announced ‘a new financial offer guaranteeing to pay 6 weeks of benefits during a work trial for all lone parents’.

In addition, the Prime Minister said that the government will guarantee a job interview for every lone parent who is looking for and is ready for work and, where training is required, provide a training allowance of at least £400.

Mr Brown also confirmed that the lone parent In-Work Credit – currently available only in pilot areas – is to be rolled out across the country next year.
Revenue to replace tax credit ‘reasonable belief’ test
(continued from page 1 column 3)

Financial Secretary to the Treasury Jane Kennedy told Parliament that the test is to be replaced –

‘I can tell the House that HMRC will replace the so-called and very disliked ‘reasonable belief test’ with a clearer test that will set out customers’ responsibilities for checking factual information. HMRC will play that information back to customers but, importantly, it will have a time limit for action on mistakes reported to it. I believe that that will lead to a fairer allocation of responsibilities between the customer and the Department.’

Further details of the new test will be made public, Ms Kennedy said, after the government has finished consulting with the Ombudsman and other organisations.

NB – Ms Kennedy also announced that a further improvement is to be introduced following a pilot exercise earlier this year that will mean that, from November 2007, people who report that their household has broken down will be allowed to terminate their old joint claim and make new, single claims in one telephone call.

Welfare benefit & tax credit highlights in the 2007 pre-Budget report

Earlier this month the Chancellor Alistair Darling delivered the 2007 pre-Budget report, ‘Meeting the aspirations of the British people’.

Welfare benefit and tax credit highlights included –

- Child maintenance disregard – the disregard in income support, income-based employment and support allowance and income-based JSA will rise from £10 to £20 per week by the end of 2008 and to £40 per week in April 2010, and in housing benefit and council tax benefit from the current £15 per week to a full disregard by the end of 2008;
- 16–17 year olds – Jobseeker’s allowance and income support rates for 16–17 year-olds will increase from April 2008 to align with the rates for 18–24 year-olds;
- Tax credits – in addition to the £150 increase announced in Budget 2007, the child element of child tax credit will increase by £25 per year above indexation from April 2008 and by a further £25 above indexation from April 2010, and all elements of working tax credit, except the childcare element, will be uprated in line with the RPI;
- Tax credits and housing benefit – from April 2008, the disregard of tax credits in housing benefit will increase in line with the RPI;
- Pension credit – the standard minimum guarantee will increase to £124 for single pensioners and £189 for couples in 2008/2009;
- Rights and responsibilities – from January 2008, a new rights and responsibilities seminar will be piloted for those who have not found work after eight weeks on JSA;
- Skills training – the government will explore the most appropriate way to allow long-term jobseekers to participate in skills training while retaining their benefits;
- Call-centres – all publicly funded call-centres will be required to undergo formal published accreditation to ensure faster and better services for citizens and measures will be introduced to reduce avoidable or duplicated contacts with call centres and local offices;
- Directgov website – the plethora of government websites will be rationalised by closing down the majority and moving their citizen and business content to the government’s two single access websites, Directgov and Businesslink, with the DWP taking responsibility for Directgov from April 2008;
- Changes of circumstances – the DWP will lead the development of a pilot ‘Tell Us Once’ service, starting with bereavement, to enable citizens to inform public services just once about changes of circumstances.

The 2007 pre-Budget report and supporting documents are available from the Treasury website @ www.hm-treasury.gov.uk/pbr_csr/pbr_csr07_index.cfm

Carer’s allowance and permitted work earnings limits increase

New regulations have been issued that provide for increases in the earnings limits that govern entitlement to carer’s allowance, and to the amount of money someone can earn under the permitted work rules whilst claiming benefit on the basis of their incapacity.

The new regulations – the Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (SI.No.2618/2007) – provide –

- for an increase in the level of earnings above which a person is treated as ‘gainfully employed’, and therefore not entitled to carer’s allowance, from £87 to £95 a week; and
- for an increase in the permitted work earnings limit, from £86 to £88.50 a week.

The new limits are introduced from 1 October 2007.

Additional paternity leave and pay will not be introduced before 2010, says Revenue

The introduction of additional paternity leave and pay, planned for 2009, will be delayed for at least a year, the Revenue has said.

NB – Additional paternity leave and pay will give employed fathers a right to take up to an additional 26 weeks off work with pay to care for their child in its first year, if the mother has returned to work and has not used her full entitlement to paid maternity leave.

Whilst it remains the government’s goal to introduce the reforms by the end of this Parliament, the Revenue has announced that, to give employers further time to make their preparations for the introduction of the new rules, it will now plan for implementation from April 2010.
New rules to facilitate information sharing between HB departments and the DWP

Designed to support the government’s simplification agenda by enabling greater streamlining of the social security claims administration process and to improve customer service by no longer asking a person to provide the same supporting evidence more than once in respect of different benefits, new regulations have been issued that provide for local authority housing benefit departments and the DWP to use, without further checking, information previously provided to the other in connection with a benefit claim.


- a local authority administering housing benefit and council tax benefit to use, without further checking, social security information received from and already used by the DWP (although not where the information is received by the HB administering authority more than twelve months after it was used by the DWP or where, if it was supplied within this time, the HB administering authority has reasonable grounds for believing the information will have changed in the period between its use and its supply); and
- the DWP, without further checking, information received from and already used by a local authority administering housing benefit or council tax benefit (subject to the exceptions above) and information that has been verified by a HB administering authority, but not used by it in connection with an HB or CTB claim (except where there are reasonable grounds to believe that the information is inaccurate or where the information is received by the DWP more than four weeks after it was verified by the local authority).

In addition, although not a requirement, the new regulations enable a local authority to verify information relating to DWP administered benefits, and the DWP to verify information connected with housing benefit claims, before forwarding the information to the other and, to facilitate benefit take-up work, for local authorities to use housing benefit and council tax benefit claim information to encourage, assist and advise people to claim DWP administered benefits.

‘Back to work’ teams should be responsible for issuing medical certificates

GPs should no longer be responsible for signing patients off work, National Director for Health and Work, Dame Carol Black, has said.

Earlier this year the Secretaries of State for Health and for Work and Pensions commissioned Dame Carol to undertake a review of the health of Britain’s working age population that, amongst other issues, is considering how claimants can best be helped to quickly return to work when they develop health conditions including chronic disease or disabilities.

With Dame Carol due to report to Ministers in January 2008, it is understood that one of her recommendations will be that, rather than GPs, ‘Back to work’ teams composed of nurses, employment advisers and other healthcare professionals should be responsible for issuing medical certificates.

NB – whilst Jobcentre Plus personal advisers are already working in GP surgeries in Pathways Advisory Service pilot areas, as Lesley Strathie Chief Executive of Jobcentre Plus said recently, replying on behalf of Work and Pensions Minister Caroline Flint to a Parliamentary written question, they do not currently ‘become involved with a claimant’s health situation or discussions around sickness certification’.

‘Exporting’ DLA, AA and carer’s allowance within Europe

In a new judgment the European Court of Justice has considered whether claimants moving within the European Economic Area are able to ‘export’ entitlement to DLA, attendance allowance and carer’s allowance.

NB – Whilst prior to 1 June 1992 it was possible to export the three benefits because they were considered to be ‘invalidity benefits’ under EC Regulation 1408/71, from this date the regulation was amended to include a new category of ‘special non contributory benefits’ that would not be exportable. On member states being required to list the benefits they considered to fall within this category, in Annex Ila to Regulation 1408/71, the UK listed DLA, attendance allowance and carer’s allowance.

However, in its new judgment – Commission of the European Communities v the European Parliament and the Council of the European Union (C-299/05, 18 October 2007) – the European Court of Justice annuls the inclusion of the three benefits in the list of ‘special non contributory benefits’ in Annex Ila, with the result that all three are exportable.

NB – with regard to the mobility component of DLA however the Court says that –

‘… the straightforward annulment of the inclusion of DLA in the list in Annex Ila as amended would lead to the United Kingdom being forced to grant the ‘mobility’ element of that benefit to an unspecified number of recipients throughout the European Union, although … it could lawfully be included in that list as a non-exportable benefit.’

As a result, the Court exercises its power to provisionally maintain the inclusion of the mobility component on the list so that ‘appropriate measures’ can be taken which, the Court suggests, might lead the UK to decide ‘to create an allowance which concerned that component alone’.

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Government reaffirms its commitment to reduced welfare to work role for Jobcentre Plus

Secretary of State for Work and Pensions Peter Hain has reaffirmed the government’s commitment to reducing the role of Jobcentre Plus and making greater use of private and voluntary sector providers in supporting claimants into work.

Responding to recent reports that he had ‘gone cool’ on the use of private sector contractors, in a speech last month to the Institute for Public Policy Research Mr Hain said that the government does not have all the answers to meet every challenge and that ‘the old sterile battle for territory between the public and private sectors is redundant’.

Jobcentre Plus will stay at the core of the system, Mr Hain said, particularly early in a benefit claim where staff will be given greater freedom and discretion to provide jobseekers with the help and support they need to get and sustain a job.

However, better use needs to be made of specialist support for those who need it most, the Secretary of State added. What that will mean in practice, he said, is that after a specific period of time – normally 12 months – the jobseeker will get the specialist help of private and/or voluntary sector providers, some of whom already have ‘great records in delivering very specialised, innovative and targeted help that is essential to overcome deep seated problems’.

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Young person’s Bridging Allowance scheme abolished, government announces

The young person’s Bridging Allowance scheme – introduced in 1988 to support 16 and 17 year-olds in transition between jobs or training places – has been abolished.

The Department for Children Schools and Families (DCSF) based its decision on its view that the Allowance – delivered through Jobcentre Plus and paid at £15 per week for up to 8 weeks – no longer represented value for money in supporting 16 and 17 year-olds to participate or achieve in learning, and therefore closed the scheme down from 28 September 2007.

NB – responding to concerns that withdrawing the scheme might adversely impact on some young people in severe hardship, since Bridging Allowance payments could be made very quickly whereas there can be administrative delays in claiming JSA on grounds of severe hardship, the DCSF advises –

‘We hope that revised guidance for Jobcentre Advisers is addressing this concern … The guidance suggests that the Under 18 Advisers in jobcentres, who should deal with benefit claims for 16 and 17 year-olds, are able to make hardship payments in advance of receipt of JSA in cases where they have sufficient information to process the claim, but payments are delayed for administrative reasons.’

Guidance issued to Connexions staff on the closure of the scheme is available @ www.rightsnet.org.uk/pdfs/Bridging_Allowance_Sept_2007.doc

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Benefit on entering and leaving a residential care home

New regulations have been issued in relation to care home residents’ entitlement to attendance allowance or the care component of disability living allowance.

NB – currently, payment of these benefits to care home residents is withdrawn after 28 days where the ‘cost of the accommodation’ is met, in full or part, out of public or local funds.

However, whilst it has been the government’s longstanding policy that the days on which a person arrives at and departs from a care home should not be treated as days in the care home, the legislation has had the opposite effect.

In consequence, the new regulations – the Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 2007 (SI.No.2875/2007) – provide that –

‘… a period during which a person is a resident in a care home … shall … be deemed to begin on the day after the day on which he enters a care home, and to end on the day before the day on which he leaves a care home.’

ie – that both the day of arrival and departure should be treated as a day out of the home.


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* – the new regulations also address the lack of clarity in the current legislation as to what constitutes the ‘cost of accommodation’, by replacing the phrase with ‘any of the costs of any qualifying services’, and defining ‘qualifying services’ as accommodation, board, and personal care.