



HM Treasury

Tax exemption for employer expenditure on health- related interventions:

summary of responses

December 2013



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1

Introduction

Background

1.1 At Budget 2013 the Government announced the introduction of a tax relief for health-related interventions recommended by a new publicly-funded occupational health advice service. This relief will be implemented as a tax exemption and exempt up to £500 per employee per year paid by employers for recommended medical interventions from income tax and National Insurance contributions (NICs). Budget 2013 also announced a consultation on the implementation of the new tax relief.

1.2 The Department for Work and Pensions (DWP) currently plans to introduce the new publicly-funded occupational health advice service under the name Health and Work Service (HWS).

Consultation

1.3 In June the Government published a consultation document on the *Implementation of a tax exemption for employer expenditure on health-related interventions recommended by the new health and work assessment and advisory service*. The consultation ran for eight weeks and closed on 16 August 2013.

1.4 28 written consultation responses were received from a diverse range of stakeholders including representatives from the insurance industry, healthcare providers as well as private and public sector employers. In addition to reviewing written consultation responses, HM Treasury, HM Revenue & Customs (HMRC) and DWP officials met with representatives of affected sectors to hear their views. A full list of respondents to the consultation can be found at Annex A of this document.

1.5 The Government is grateful to all those who responded to the consultation. The feedback has been valuable in identifying areas of broad consensus, or where there are concerns. Consultation responses were taken into account when decisions about the implementation of the tax exemption were made.

Aim of consultation

1.6 The consultation asked for views from interested parties on the implementation of the new tax exemption. It specifically asked for views and evidence on the following issues:

- the impact of the exemption on employers' administrative burdens;
- whether the exemption would encourage employers to pay for health-related interventions recommended by the HWS for either all employees or selected groups of employees only;
- factors that would affect employers' decisions about groups of employees for which they would be willing to fund interventions;
- the impact of making the exemption conditional on an employer providing a similar level of funding for recommended interventions for all their employees;

- whether employers would seek contributions from employees for funding interventions and what form such contributions would take; and
- the estimated costs of occupational health interventions benefiting from the exemption and the level of the expenditure cap for the tax exemption.

1.7 Autumn Statement 2013 confirmed that the Government will introduce legislation for the tax exemption in Finance Bill 2014. **In response to the consultation, the Government has decided that the exemption will be made available on medical treatments recommended by any employer-arranged occupational health service as well as by the HWS.**

1.8 Chapter 2 provides further detail on consultation responses received and the Government's response to the representations made.

2

Summary of responses

2.1 This chapter summarises the responses to the questions asked in the consultation document, taking each question in turn.

2.2 28 individual consultation responses were received. The responses can be broken down as follows:

- 13 responses from healthcare providers, healthcare professionals or organisations representing the healthcare sector;
- eight responses from employers or employer organisations;
- four responses from insurance companies or bodies representing the insurance industry; and
- three responses from tax consultants, charities or individuals with no affiliation to the stakeholder groups listed above.

2.3 In addition to reviewing written consultation responses, HM Treasury, HMRC and DWP officials met with representatives of the healthcare sector, employers and the insurance industry to hear their views.

Question 1: administrative burden

Will the new exemption have an impact on employers' administrative burdens, either negative or positive? Can you provide any evidence to support your views?

2.4 15 respondents commented on the impact of the new exemption on employers' administrative burdens. Most predicted a slight increase, as it would be necessary for an employer to track spending on medical treatment for individual employees. However, some respondents also pointed out that benefits from reduced sickness absence would be likely to outweigh any increase in administrative costs. Other respondents were of the opinion that any increase in administrative burden would be minimal.

2.5 A small number of respondents stressed the importance of clear guidance as this would help to minimise administrative burdens, especially for small employers. In particular respondents commented that:

- HMRC should publish detailed guidance on how the exemption would work in practice; and
- the HWS should provide clear advice on whether or not a recommended treatment would qualify for the tax exemption.

Government response

2.6 The Government believes that any increase in employers' administrative burdens will be minimal. Employers will not need to claim the exemption and will not need to inform HMRC about funding for treatments covered by the £500 per employee per year limit.

2.7 The Government has also decided that the tax exemption will be given at an employee's marginal rate. Any restriction to basic rate would involve significant complexity and be likely to impose a high administrative burden on employers in terms of applying and recording use of the exemption. This means that the £500 exemption will be available to all employees irrespective of their income.

2.8 Overall the Government believes that the new tax and NICs exemption for employer-funded occupational health interventions will benefit both employers funding interventions and employees receiving the funded treatments. However, the Government is grateful for suggestions from respondents on how to introduce the exemption with a minimum of complexity to reduce potential burdens on employers. HMRC will ensure that effective guidance for employers is available at the appropriate time.

Questions 2, 3 and 4: availability of the exemption

Question 2: Will the new exemption encourage employers to pay for recommended health interventions for all employees, selected employees only or will it have no impact?

Question 3: Are there any factors that would affect employers' decisions about the categories of employees for which they would fund the recommended treatment?

Question 4: What would the impact be if the new exemption were conditional on employers providing a similar level of funding for recommended interventions for all employees?

2.9 16 respondents commented on these questions. The majority made the point that the impact of the exemption on an employer's decision to fund recommended treatment will depend on the employer's perceived benefits in each individual sickness absence case. One respondent cited survey evidence indicating that tax incentives were the favoured solution for employers to encourage new health and wellbeing initiatives in the workplace.

2.10 A small minority of respondents expressed concerns that the introduction of the tax exemption as proposed might not be enough to change employers' behaviour and that the measure could have limited impact on the provision of occupational health treatments by employers.

2.11 13 respondents commented on the likely impact of making the exemption conditional on an employer providing a similar level of funding for all their employees. While some felt that such a restriction would drive positive behaviour, a small majority argued that it would restrict employer flexibility. Overall respondents expected the restriction to lead to higher employer costs and therefore lower employer take-up of the exemption. Similar views were expressed in a meeting with consultation respondents.

Government response

2.12 The Government remains confident that the targeted tax exemption for employer funded occupational healthcare treatments will, together with the introduction of the HWS, increase the availability of occupational health treatments. In turn this increased provision of occupational health treatments will help employees on sickness absence with their return to work.

2.13 The HWS will in particular improve access to occupational health advice services for small employers and their employees. The tax exemption is expected to cover fully the costs of HWS recommendations in most cases. This will make funding recommended treatments as simple as possible for employers.

2.14 In light of the majority of views expressed in consultation responses the Government has decided not to impose any rules restricting the availability of the exemption to employers providing a similar level of funding for recommended treatments to all their employees. It

believes that employers are best placed to make the decision on whether or not an intervention can be funded in each particular case of sickness absence.

Questions 5 and 6: funding interventions

Question 5: Where employers intend to fund recommended health interventions, would they completely fund the intervention themselves without seeking any contribution from employees?

Question 6: If employers were considering seeking any contributions from employees, what form would this take?

2.15 17 respondents commented on these questions. All responses to question 5 stated that it would be unlikely that employers would seek a contribution from employees to fund interventions. Many respondents felt that employees would be unwilling or unable to contribute to costs.

2.16 A small number of respondents suggested that if employers were asking for employee contributions, a risk sharing model would be the most likely solution, with employers and employees paying pre-defined shares of the overall costs of treatments.

Government response

2.17 The Government is grateful for the responses on the funding of recommended occupational health treatments. Respondents agreed that treatment costs would be wholly funded by employers in the majority of cases. The Government therefore remains convinced that a tax exemption for employer funding is the right method for increasing the availability of work-focused occupational health interventions.

Questions 7 and 8: cost of interventions

Question 7: DWP have estimated the average cost of interventions as £150-250 per individual, so the £500 cap will cover most recommended interventions. Do you think the estimated cost is valid and that the level of the cap is set correctly?

Question 8: If you think the cap should be set at a different level, can you provide any evidence to support your views?

2.18 21 respondents commented on these questions. The majority of these respondents considered the DWP estimate for average costs of interventions to be lower than they would have expected. However, healthcare providers already running occupational healthcare schemes and a large employer providing occupational healthcare services to all its employees agreed with the DWP estimate. They commented that the average cost estimate was sufficient to support the policy's aims of encouraging employers to fund work-focused occupational healthcare treatments.

2.19 The expenditure cap also limits the cash value of the tax exemption to employers and employees. In the written responses some respondents expressed concerns that the monetary incentive of a tax and NICs exemption capped at £500 alone would be insufficient to change employers' behaviour. Of these respondents one argued that the reduction in employers' administrative burdens would be more important than the monetary value of the exemption. Concerns regarding the monetary value of the tax exemption were also raised in a meeting with consultation respondents.

2.20 Some respondents expressed the view that the expenditure cap should be increased to cover treatment costs for more severe musculoskeletal and mental health conditions. Others argued that the exemption should cover treatment costs for the main causes of sickness absence.

Government response

2.21 Although the Government has noted concerns raised by consultation respondents that the level of the cap could be too low, it believes that the estimate for average treatment costs provided by DWP is valid. Consultation responses indicate that the estimate is in line with the average costs for typical treatments likely to be recommended by the HWS or similar employer-arranged occupational health services.

2.22 The Government is aware that a tax exemption capped at £500 does not cover costs for the treatment of severe conditions. However, the aim of the tax exemption and the HWS is to complement the existing healthcare system and not to replace it. The cap is set in line with costs for recommendations for work-focused occupational health interventions, such as physiotherapy. This is the kind of interventions the HWS will typically recommend to help sick employees to return to work.

2.23 The HWS will not take responsibility for ongoing clinical care, which should continue to be provided by the NHS or through arrangements with private healthcare providers. However, where employers wish to fund treatments for employees costing more than £500 they and their employees could still benefit from the tax exemption. If all relevant conditions are met, £500 of funding for recommended treatments per employee will be able to benefit from the exemption in any tax year.

Question 9: general comments

Question 9: Are there any other issues that you think need to be taken into consideration in implementing this new exemption?

2.24 The majority of respondents welcomed the Government's decision to introduce new measures aimed at tackling sickness absence. Many respondents also explicitly welcomed the tax exemption.

2.25 10 respondents voiced concerns about the interaction of the tax exemption with existing employer-arranged occupational healthcare services. Some representatives of the insurance industry suggested that premiums for targeted insurance products should be covered by the tax exemption. Respondents from the insurance industry also pointed out that products protecting employers from the costs of sickness absence already exist.

2.26 Four respondents argued that the exemption should not only apply to treatments recommended after four weeks of sickness absence, or that earlier interventions should also qualify. One respondent suggested that the tax exemption should not only cover funding for recommended medical treatments costing up to £500, but that it should cover the first £500 of employer funding for any qualifying treatment (irrespective of its total costs).

2.27 Five respondents argued that the definition for qualifying interventions would be too narrow or that they would prefer greater clarity about the definition of qualifying treatments. Many other comments focused on the design of the HWS and not the tax exemption for HWS recommended treatments that HM Treasury consulted on.

Government response

2.28 The Government has noted the consultation responses highlighting the possible impacts of introducing a tax exemption for treatments recommended by the HWS on existing employer-arranged occupational health advice services. **To avoid any negative impacts on such provision, the Government has decided that the exemption will be made available on treatments recommended by any employer-arranged occupational healthcare service as well as by the HWS.**

2.29 The availability of the tax exemption will not depend on the funding sources an employer decides to use to pay for an intervention. Where an employer uses funds from an insurance policy in their name to either pay for recommended treatment or to reimburse an employee, the tax exemption may apply, subject to all relevant conditions being met.

2.30 Where an insurance policy is in the name of an employee then the existing tax treatment will be unchanged and payment of the insurance premium will remain a taxable benefit. The Government does not intend to extend the tax exemption to cover premiums paid on insurance policies in an employee's name. It believes that this would move away from the policy intention to provide a tax exemption for treatment recommended by an occupational health service.

2.31 The Government remains convinced that a qualifying period for eligibility for the tax exemption is necessary to effectively target public spending. The aim is to increase the availability of treatment for those individuals that are in the greatest danger of turning into long term sickness absence cases. The qualifying period will be defined in terms of an employee being certified as unfit for work for a specified minimum period (currently four weeks).

2.32 This means that employer funding of recommended treatments for employees can qualify for the tax exemption before they have been absent from work for the length of the qualifying period. The criterion to be met is that an employee's absence is expected to exceed the specified period.

2.33 The views expressed in written consultation responses and in a meeting with respondents regarding the definition of qualifying treatments suggested in the consultation document have been noted. The Government believes that the definition of medical treatments currently set out in legislation is sufficiently wide for the purpose of the policy. The definition covers both the treatment and diagnosis of physical and mental health issues.

3

Next steps

3.1 The Government will introduce legislation for the tax exemption in Finance Bill 2014. Draft legislation was published on 10 December 2013 for a period of technical consultation which closes on 4 February 2014. The draft legislation can be found on the GOV.UK website and includes Explanatory Notes and Tax Impact and Information Notes (TIINs).

3.2 Comments on the draft legislation should be sent to employmentincome.policy@hmrc.gsi.gov.uk.

3.3 Following Royal Assent to Finance Bill 2014, arrangements will be made to ensure that any payment of earnings exempted from a charge to income tax under the new legislation will also be disregarded for NICs purposes.

3.4 The effective date of the tax exemption will be set out in regulations and will coincide with the launch of the HWS. This is likely to be in autumn 2014.

A

List of respondents

A.1 In addition to the list below, we received five representations from individuals.

- 1 Confederation of British Industry
- 2 EEF Manufacturers' Organisation
- 3 Network Rail
- 4 Macmillan Cancer Support
- 5 Aviva Insurance
- 6 Association of British Insurers
- 7 Bupa Healthcare
- 8 Group Risk Development
- 9 British Association for Counselling and Psychotherapy
- 10 Federation of Small Businesses
- 11 Institution of Occupational Safety and Health
- 12 Faculty of Occupational Medicine and Society of Occupational Medicine
- 13 Unum Insurance
- 14 Rehab Works Ltd
- 15 Local Government Association
- 16 Chartered Institute of Payroll Professionals
- 17 British Medical Association
- 18 Association of Reflexologists
- 19 John Lewis Partnership
- 20 Atos Healthcare
- 21 Deloitte
- 22 Cigna Health and Wellbeing
- 23 Peritus Health Management

HM Treasury contacts

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