Help to Save: consultation on draft regulations

General Features

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LITRG has responded to a technical consultation on draft secondary legislation relating to Help to Save accounts. The regulations follow on from earlier consultations on key aspects of the scheme.

The Help to Save scheme was announced in 2016 and is due to begin in April 2018. The scheme is intended to encourage eligible claimants of working tax credit (WTC) or universal credit (UC) to save, by offering a 50% government bonus on savings of up to £50 a month over four years.

The draft regulations address some of the unanswered questions that remained after last year's consultation on the scheme (reported in Tax Adviser in September 2016). We now know that joint claimants of WTC or UC are both eligible to access the scheme and receive the top-up. So a couple who puts £50 each into the scheme every month for the full four years can receive the full £1200 government top-up each.

In last year's consultation response, LITRG noted that the law covering entitlement to open a Help to Save account via WTC and UC would need careful consideration. The draft regulations set out that eligibility criteria in more detail, but LITRG's response raises a number of concerns.

The eligibility criteria extend the scheme to tax credit claimants who have an initial (section 14) award of either WTC (other than Nil) or WTC and child tax credit (CTC) (other than Nil). This means that WTC and CTC claimants who have their WTC (including the childcare element) reduced to Nil due to the level of their income but who still receive some CTC, will qualify. This can lead to a situation where someone is subject to the High Income Child Benefit Charge but is also entitled to a top-up under the Help to Save scheme which is described on GOV.UK as supporting 'working people on low incomes build up their savings'. LITRG's response did not comment on whether the scheme should or should not be extended in this way but urged caution in selling the scheme as only targeted at those on the lowest incomes when a far wider group of people can benefit.

The response also raised a number of technical queries around determining eligibility by reference to Section 14 tax credit awards. These are initial awards made by HMRC when a claim is made (or when a claim is renewed). This is likely to lead to complexity, difficulty in communicating the criteria to eligible recipients and in some cases unfairness. LITRG proposed that eligibility should be opened up to those with similar awards made under other provisions of the Tax Credits Act 2002.

LITRG's response also recommended that for those qualifying via UC, the earnings test should match UC assessment periods rather than a previous month as set out in the regulations. Other complex interactions were flagged up such as how the criteria would work for those subject to the minimum income floor and, from April 2018, the surplus earnings rules in UC.

The response noted that the regulations contained some unfortunate drafting that seemed to lead to someone losing their 2 year bonus if they closed their account in years 3 or 4. This was not in line with the original policy design intent.

Finally, given that eligibility criteria for Help to Save are based upon entitlement to tax credits and UC, LITRG's view was that appeals should be heard by the social entitlement chamber of the first-tier Tribunal rather than the tax chamber as currently planned.