Qualifying care relief: LITRG comments on draft regulations which would change the rules

General Features

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HMRC have published draft amendment regulations on qualifying care relief and LITRG has submitted comments on these

Draft regulations issued

Following our recent update in the February issue, HMRC have now published draft amending regulations designed to allow authorised shared lives carers to claim qualifying care relief (QCR) where part of their payment for the qualifying care comes direct from the adult they support. This is to reflect changes in the way that social care is funded. QCR operates to minimise record-keeping and reporting for qualifying carers, often meaning that their taxable profit is nil.

Position prior to the changes

The existing regulations, introduced in 2011, required that payments be made to the carer from the local authority or health service body. Since then, many changes have taken place – most importantly local authorities no longer regulate the shared lives carers: instead they regulate shared lives schemes.

The significance of this change was that the accommodation used for this type of care, the carer's own home, was no longer regulated by the local authority. The consequence was that payments of housing benefit (for the adult they support) could no longer be paid direct to the carer (as part of the payment they receive for the shared lives care), but instead had to be paid to the supported adult. Accordingly, mechanisms had to be found to redirect those payments to the carer. Different schemes chose different methods but some schemes arranged for the supported adult to make a direct payment to the carer.

Similar issues arise in connection with other social security benefits paid to the supported adult, which are used to pay for food, utilities, etc. and need to be redirected to the carer. More recently, the introduction of Personal Independence Payments, for example, has meant that some of the payments for care also require to be rerouted from the supported adult.

Looking at the carer's situation, the overall amount they are paid is determined by the scheme provider, based on the needs of the adult they support. The scheme monitors all payments. Many carers may not appreciate that QCR may not strictly apply to all the payments they are receiving. This could lead to them filing incorrect tax returns and, potentially, finding themselves with unexpected responsibilities to keep track of all their household expenses as well as potential tax bills. Similar issues may arise for foster carers who look after young people who 'stay put' after the age of 18.

Draft regulations

These are designed to enable payments made to carers to qualify for QCR. Unfortunately they are drafted very tightly so that payments, certainly for the care element, have to be paid by a local authority, health board or shared lives scheme provider. We have indicated that this is not what happens in many schemes and recommended that any payments that are authorised by the scheme should also qualify for QCR.

Further, we have suggested that any payments made to date that are in accordance with the scheme should similarly qualify for QCR. As a minimum, a breathing space needs to be built in to allow changes in the way payments are made. Our full submission may be found on the LITRG website.