

## **TAX AND CHILDCARE**

Raising a family has many tax implications – this guide covers some of the tax and NI implications. The guidance is tailored towards the typical client of Garbetts, may not cover all eventualities.

**Tax credits** – one of the simplest support mechanisms for childcare is the tax credit regime. We have separate guidance available on the detail of tax credits at [www.garbetts.com/download/taxcredit.htm](http://www.garbetts.com/download/taxcredit.htm).

Child Tax Credit is paid for one or more children. The claimant(s) do not have to be working. The claim covers children up to 1 September following their 16<sup>th</sup> Birthday, or children aged below 19 who are still in full time education.

The 2008/09 rates are:

- Family element                      £545 pa where all eligible children over 1 year old
- Family element                      £1,090 pa where one or more children under 1 year old

There is only one family element paid regardless of number of children

- Child element                        £2,085 per child (increased if the child is disabled)
- Childcare element                2 or more children 80% of a maximum £300 per week  
1 child 80% of a maximum £175 per week

Current rates can be found at: <http://www.hmrc.gov.uk/rates/taxcredits.htm>

There are other elements to tax credits, and the amounts are means tested.

The childcare element of tax credits can be used for buying childcare places in a nursery (registered with local authority / Ofsted) , or for paying a child minder / nanny (so long as they are approved – see nannies below). There are restrictions on engaging a relative to provide childcare (a relative cannot provide childcare in your own home, and can only provide childcare in their home if unrelated children are cared for as well).

Tax credits are not taxed in any way and do not count as taxable income.

### **Employer funded childcare** –

Note - From 6 April 2011 HMRC are placing restrictions on the relief available to higher rate employees. This is intended to remove the relief gap between basic and higher rate tax payers. Employees who already participate in a scheme at the date of the change are not affected. For all employees joining an employer funded childcare scheme from 6 April 2011, the employer must carry out a basic earnings assessment when the employment starts, and then at the start of every tax year, to determine if the employee's total earnings from employment will be subject to the restricted childcare benefit. NB only income and benefits from employment are included, not dividends. It is

likely therefore that the majority of company directors will be unaffected by this change. If you believe you will be affected, please speak to Garbetts.

## **TAX AND CHILDCARE – continued**

**Childcare vouchers** – from April 2006 employers can pay £55 per week (£238 per month) tax and NI free in childcare vouchers, redeemable by nurseries or approved child minders / nannies (for approval conditions see below) (before April 2006, and after April 2005 when the scheme came in, the weekly amount was £50).

It is possible for a salary sacrifice scheme to be effected whereby an employee's existing pay is cut to allow tax/NI free child care vouchers to be provided. Certain legalities need to be observed for the salary sacrifice to be effective.

Where childcare is funded via vouchers it doesn't count as childcare expenditure for the child care element of Child Tax Credit – some individuals will therefore be worse off having childcare vouchers compared to a cash pay rise – see <http://www.litrg.org.uk/news/latest.cfm?id=205> or <http://www.hmrc.gov.uk/childcare/taxcredits-guidance.htm>.

Vouchers in excess of £55 p/w are taxed and NICd on the excess.

Vouchers must be vouchers; a cash allowance, eg extra pay, will not achieve tax / NI savings.

Vouchers can be bought in from external companies, who will make an administration charge, or issued by the employer themselves. Obviously if the employer issues them themselves, then you need to check that the childcare provider is happy to accept the voucher.

There are no specific restrictions on both husband and wife having vouchers if they work for the same employer, eg a family company.

For further guidance on vouchers see

[www.hmrc.gov.uk/childcare/](http://www.hmrc.gov.uk/childcare/)

[www.hmrc.gov.uk/childcare/employers-guidance.htm](http://www.hmrc.gov.uk/childcare/employers-guidance.htm)

[www.hmrc.gov.uk/childcare/smechildcareguide.pdf](http://www.hmrc.gov.uk/childcare/smechildcareguide.pdf)

**Contracting for Childcare** – as well as providing vouchers, an employer can also contract directly for childcare, using the £55 p/w exemption – any excess is taxable/NICable. NB the contract must be between employer and care provider, not employee and care provider. See [www.hmrc.gov.uk/childcare/smechildcareguide.pdf](http://www.hmrc.gov.uk/childcare/smechildcareguide.pdf).

**Work place nurseries** – are completely free of tax and NI for employees. But the employer must be responsible, in whole or part, for financing and managing the nursery and providing premises – places bought from an unconnected commercial nursery would not count, and would be subject to tax and NI as a benefit in kind.

**School fees** – there is no tax or NI relief on paying school fees. Where paid by an employer they count as a benefit in kind for tax and NI.

**Child benefit** – for children up to 16, or 19 and in full time education. Tax and NI free, paid direct by the Child Benefit office to your bank account, at a rate of £18.80 per week for the first child, and £12.55 per week for each additional child (2006-07 rates). If you are in receipt of child benefit then it can make up gaps in NI records for state pension rights.

## **TAX AND CHILDCARE – continued**

**Nannies** – there is little in the way of state help for nannies, unless you qualify for the childcare element of tax credits or your employer issues childcare vouchers. If you do fit into these circumstances then your nanny must be approved (see <http://www.childcareapprovalscheme.co.uk/>).

Remember you need to deduct tax and NI from your nanny's salary.

You cannot employ your nanny through your business or company (or at least there is no benefit in doing so as her salary counts as a benefit in kind). Some people have employed a nanny and passed them off as a secretary or shop assistant, etc – as a practice we obviously cannot condone, or have any part in, making a false return of this nature.

**Maternity Pay and Maternity Allowance** – Statutory maternity pay (known as SMP) is available to expectant mothers earning over £90 per week. It is paid for up to 39 weeks, the first 6 weeks being at 90% normal pay, and the remaining period at the lower of £117.18 or 90% of weekly pay. You have to have worked for the employer for 9 months prior to the expected birth date.

Most small employers can claim the SMP payments back from the state.

In addition to the paid 39 weeks off, there is an entitlement to another 26 weeks unpaid leave.

SMP is available to company directors as they are regarded as employees of their company.

SMP is subject to tax and NI in the mother's hands, deducted by the employer under PAYE.

If a mother cannot claim SMP (eg earnings below threshold or self employed), then Maternity Allowance can be claimed (formerly known as Statutory Maternity Benefit). To qualify for MA you must have worked for 26 within the 66 weeks prior to the baby's birth, and have average earnings over £30. MA is paid at the lower of £117.18 per week or 90% average earnings, for 39 weeks.

MA is not taxable.

**Paternity Pay and Adoption Pay** – Fathers are entitled to Statutory Paternity Pay (SPP) for two weeks at the lower of £117.18 per week or 90% average earnings. SPP also applies to a non child bearing female in a same sex relationship. As with SMP there is a 9 month employment qualification.

Statutory Adoption Pay (SAP) is an allowance for adoptive parents and is broadly the same as SMP. Either partner in a relationship can be nominated to receive SAP, and the other partner – male or female – can obtain Paternity Pay.