



Prime Minister  
mes a/3

Treasury Chambers, Parliament Street, SW1P 3AG  
01-233 3000

9 March 1983

Michael Scholar Esq  
10 Downing Street

*New Richard,*

*ms*

HOUSE OF LORDS DECISION - WICKS v FIRTH,  
JOHNSTON v FIRTH  
EMPLOYER SCHOLARSHIPS

In the light of the Prime Minister's comments, the Chancellor has decided to proceed with legislation on the following, altered, basis.

There will be a provision to tax parents on the benefit of scholarships which come to students because of their parents' employment. But parents will not be taxed on any existing award for as long as that award is available at the school or university the student is currently attending. This transitional exemption will apply to all those awards made before Budget Day.

*Yours ever,*

*J O Kerr*

J O KERR

bc AW

JP



10 DOWNING STREET

*From the Private Secretary*

8 March 1983

HOUSE OF LORDS DECISION - WICKS v FIRTH, JOHNSON v FIRTH  
EMPLOYER SCHOLARSHIPS

---

The Prime Minister has seen the Chancellor's minute of 4 March, together with a copy of Sir Keith Joseph's letter to the Chancellor of 3 March about the Wicks v Firth case.

The Prime Minister does not agree to the modified proposal contained in the Chancellor's minute. She believes that, if there has to be a provision (and she herself remains opposed to this) to tax parents on the benefit of scholarships which come to students because of their parents' employment, it should not apply to scholarships which have already been granted. The Prime Minister considers that such a provision, with the period of grace envisaged by the Chancellor, would lead to indefensible cases where children were removed from independent schools mid-way through their education.

M. C. SCHOLAR

Miss Jill Rutter,  
HM Treasury.

FR



Prime Minister

Agree to this

Treasury Chambers, Parliament Street, SW1P 3AG  
01-233 3000

modified

proposal?

PRIME MINISTER

No - it would have Ms 4/3  
to extend to the end  
of the child's

HOUSE OF LORDS DECISION - WICKS v FIRTH,  
JOHNSON v FIRTH  
EMPLOYER SCHOLARSHIPS

education

Observe you will have benefits  
incentives of

I sent you a copy of my letter of 23 February to  
Keith Joseph in which I explained why I thought it  
right to introduce a provision to tax parents on  
the benefit of scholarships which come to students  
because of their parents' employment. You will  
have seen from his reply of 3 March that Keith  
acquiesces.

children  
benefit  
removed

(attached)

from independent  
schools. You

2. Michael Scholar has reported your concern, and  
I do of course accept that action on this point will  
be disappointing to the people directly concerned.  
But I really don't think it can be represented as  
action against middle income groups. We are here  
concerned with a highly selective benefit available  
only to the lucky and relatively few whose employers  
are in a position to arrange their remuneration in a  
particular way to help with education costs. What is  
more, as I explained in my longer minute to you today,  
the Budget as a whole will be criticized as very  
favourable to those on larger incomes. Against this  
background, we would be open to severe criticism if  
we did not act now to deal with this well publicised  
tax advantage - which is, quite frankly, unfair.

proposals  
are a  
harsh and  
thoroughly  
unfair  
provision.

3. As you know,



3. As you know, to avoid causing hardship to those parents currently benefitting from these scholarships, I had it in mind to provide for a period of grace to the end of the present academic year. On reflection, I think that this period might be rather too short, and I am prepared to extend it for existing beneficiaries to the end of the next academic year, 1 August 1984. But I think I must proceed with legislation in the Finance Bill on that, more generous, basis.

*John Kew*

P.P.

G.H.

4 March, 1983

*written by the Chancellor,  
signed in his absence.*



DEPARTMENT OF EDUCATION AND SCIENCE  
ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH  
TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

Rt Hon Sir Geoffrey Howe QC MP  
Chancellor of the Exchequer  
Treasury Chambers  
Parliament Street  
London SW1P 3AG

3 March 1983

*Dear Geoffrey,*

I did not earlier answer your letter of February 23rd because I had the day before it reached me in fact spoken to you of the Wicks v Firth case and asked you to let the outcome of the House of Lords decision stand - to help private schools and those who use them. You had explained to me the factors set out in your letter and I had - so far as education is concerned - accepted that the decision is one that can best be made in the light of all the other interacting decisions involved in the Budget. I have now seen the Prime Minister's reaction.

Naturally I regret the disappointment that reversal of the Lords' decision will mean to those people concerned and to private schools. But I accept that they can fairly be asked to judge the effect of the total package upon them.

I am sending a copy of this letter to the Prime Minister.

*Kevin*  
*Keen*

£ million indexed costs

	1983-84		1984-85	
	PSBR	REVENUE	PSBR	REVENUE
<u>Individuals</u>				
Personal Allowances	1010	1170	1060	1490
Social Security	75	125	190	320
<u>Industry</u>				
Corporation Tax	35	40	60	70
Oil	105	120	85	100
National Insurance Surcharge	200	220	300	400
Small firms	30	35	130	155
Technology	25	40	50	80
Construction	75	110	65	110
Unemployment	25	55	40	75
<u>Specific Duties</u>				
Various changes, net	(10)	(10)	(10)	(10)
<u>Other</u>				
Miscellaneous measures	5	5	(30)	(40)
	1575	1910	1940	2750

Note 1: The measures include both tax and public expenditure elements. For tax the costs shown are the excess over indexation; for public expenditure the excess over what is already provided in the Public Expenditure White Paper.

2: The figures shown are rounded and may still vary marginally. The specific PSBR costs shown for each group of measures is necessarily approximate.

*Econ Pol*

BUDGET CONFIDENTIAL

*SW*



10 DOWNING STREET

*From the Private Secretary*

24 February, 1983

*Dear John,*

HOUSE OF LORDS DECISION - WICKS V FIRTH  
JOHNSON V FIRTH : EMPLOYER SCHOLARSHIPS

The Chancellor sent the Prime Minister a copy of his letter to the Secretary of State for Education and Science, dated 23 February.

The Prime Minister has minuted that she is opposed to the decision; and that it will be seen as act against the middle income groups.

I am sending a copy of this letter to Imogen Wilde (Department of Education and Science).

*Yours sincerely,*

*Michael Scholar*

John Kerr, Esq.,  
H.M. Treasury

*SW*

BUDGET CONFIDENTIAL



Prime Minister  
The Chancellor

Treasury Chambers, Parliament Street, SW1P 3AG  
01-233 3000

Proposes to legislate  
to make company

23 February 1983

The Rt. Hon. Sir Keith Joseph Bt MP  
Secretary of State for Education and Science

*Keith*

*This will be seen as a mean cut of a fringe benefit. I think the middle income groups. See 23/2*

HOUSE OF LORDS DECISION - WICKS V FIRTH, JOHNSON V FIRTH  
EMPLOYER SCHOLARSHIPS

You are already aware of this House of Lords decision, given on 16 December last.

The case concerns scholarships provided through an educational trust set up and financed by ICI for the children of its employees. The House of Lords was asked to decide whether the value of the scholarships received by the students were taxable as fringe benefits of the parents. For the Revenue it was argued that, while Section 375 of the 1970 Taxes Act applied to exempt the scholarships from tax in the hands of the scholars, the exemption did not apply to such benefits when they came effectively to the parents because of their employment by ICI. This argument was accepted by a majority in the Court of Appeal. The House of Lords, however - also by a majority - decided that while the scholarships were undoubtedly fringe benefits of the parents, Section 375 extended to exempt them in the parents' hands.

I have considered whether we could simply live with the Lords' decision on the grounds that schemes of this kind are a means of indirectly attracting, albeit upon a selective basis that was essentially dependent upon the parents' employment, additional financial resources to education. However, I have concluded that this would be wrong, and in the last resort indefensible. Employers' scholarships of this kind are indistinguishable from any other "fringe benefit". Like many other such benefits, they came into existence (as I know from, my own experience with one company) as a means of mitigating the high marginal tax rates which we got rid of in 1979. To leave them with a special tax advantage would be widely seen as unfair - and inconsistent with what we ourselves have often said about the "perks" society.

Moreover, while the tax loss would currently probably be no more than £m10 a year, that figure could be expected to grow rapidly if no action were taken. After all, schemes do not only provide scholarships for undergraduates but some cover everything from preparatory school to doctorates. And already Press articles are suggesting that companies should take advantage of the situation created by the House of Lords' decision in Wicks v Firth on the basis that there is little to lose if the Government did legislate.





I felt it right to tell you that I propose to introduce in this year's Finance Bill a provision designed to bring into charge on the parents the benefit of scholarships which come to students because of their parents' employment. The charge will apply to payments made for the academic year 1983/84 and later years - payments for earlier periods will be exempt in accordance with the House of Lords' decision. Employers will naturally still get a tax deduction for the money they spend on these schemes. This is right and fair because the costs are part of the remuneration package they offer to their employees along with salary, pension rights and company car.

There is of course no question of taxing genuinely charitable scholarships won in open competition; these will remain tax free for scholars and parents alike. The intention of Section 375 would thus continue to be fulfilled. This was originally enacted in 1920 in order to exempt scholarship income from tax in the hands of the person being taught, and that purpose is as desirable today as it was (rightly) thought to be in 1920.

As you will imagine, I did not arrive at this decision lightly. In particular I have been conscious of the need to avoid causing possible hardship to those parents who are currently enjoying the value of scholarships which will now give rise to taxable benefits. But I think it is true to say that all those affected will have recognised and accepted at least the possibility of taxation when the scholarship first became payable. In any event I hope that the period of grace to the end of this academic year will give them time to appraise the changed situation and make any dispositions that are necessary.

For the record, I should point out that we are not concerned with school fees etc paid by employers when the parents are abroad on business. These are and will continue to be covered by quite separate categories of relief which in different forms provide special treatment for service overseas of employees in both the public and the private sectors.

Likewise, the same tax rules apply to Crown servants and others who continue to draw boarding school allowance while serving in the United Kingdom. In such cases boarding school allowances paid are fully taxable as an addition to remuneration. In short, we are not vulnerable to criticism that by bringing scholarship schemes like ICI's into tax we are taxing the private sector while tolerating an anomaly in the public sector - on the contrary we are acting to maintain consistency of tax treatment.

I realise the difficulties of this course of action, with an election not far away; and some of our supporters will be disappointed by what I propose. But to leave this unintended tax advantage in place would be to allow a relatively small number of people, whose remuneration was arranged in a particular way, to achieve help with their school fees by the "back door". Many people who are not offered similar facilities by their private sector employers, and all in the public sector, would not be able to benefit from this. If we want to provide tax relief for private education, we should decide to do it for all as a matter of deliberate policy. I am sure it would be wrong to do so simply by turning a blind eye to the consequences of a decision in the House of Lords.

*Handwritten signature and date:*  
 16/5/83



One final and not unimportant point. I am considering for my Budget on 15 March a number of measures which will include significant benefit to those with larger incomes and capital. I am firmly convinced that measures of this kind (even when they are placed alongside the other similar reliefs that we have already introduced) are fully justified. But we must be prepared to rebut the inevitable criticism from our opponents. And to do this convincingly, we must be able to show that we are equally firm when arrangements of the kind which we are now discussing confer an unfair advantage.

I am copying this letter to the Prime Minister.

GEOFFREY HOWE

A handwritten signature in black ink, appearing to read "Geoffrey Howe", with a horizontal line underneath.