

Highlighted in this briefing are the main areas to consider in deciding whether tax relief is available on travel and subsistence.

## Travel and subsistence for employees Maximise your tax relief and minimise your problems

The complex rules for claiming tax relief on travel and subsistence expenditure are explained by HMRC in booklet, 490 Employee Travel. Travel and subsistence expenditure incurred by or on behalf of employees can give rise to many difficulties. If HMRC find a problem, it is often several years after the event and they will generally look to collect any additional tax due from the employer, rather than the employee. So, a good understanding of the rules and watertight procedures are vital in avoiding expensive problems with HMRC.

### Background

It is important to understand two key points when considering the tax position of travel and subsistence costs of employees, namely:

- employers may pay for whatever costs they decide that they want to meet, and
- broadly, employees are taxable on all the income they receive from their employment, including any expenses payments relating to business travel.

The same general rules apply whether an employee pays for the travel personally and the costs are reimbursed, or where the cost of the travel is met by the employer directly on the employee's behalf.

Having established that most payments are taxable, it is then important to consider whether any tax relief may be available to offset some, or all, of the tax bill. Tax relief is available in two ways:

- by exemption - certain payments or benefits in kind that an employee receives are exempt from tax: for example, up to £5 per night to cover the incidental costs of staying away from home overnight on business in the UK, such as newspapers or telephone calls, or
- by deduction - certain amounts can be deducted from an employee's taxable income before arriving at the amount on which he or she will be taxed.

The term 'relief' is generally used to cover both forms of tax relief.

### Work-related travel and subsistence

Employees are entitled to relief on the costs that they are obliged to incur when travelling in the performance of their duties, or travelling to or from a place they have to attend in the performance of their duties. However, no tax relief is available if the journey represents ordinary commuting or private travel.

### Employees with a permanent workplace

Many employees have a place of work which they regularly attend and make occasional trips out of the normal workplace to a temporary workplace.

Journeys between an employee's home and a permanent workplace which he or she regularly attends are not classed as business journeys. The term 'permanent workplace' is defined as a place which the employee regularly attends. It is used in order to fix one end of the journey for ordinary commuting purposes. Home refers to the other end of the journey for normal commuting purposes. These journeys are classed as 'ordinary commuting' and the costs of these have to be borne by the employee.

Often an employee will travel directly from home to a temporary workplace and vice versa. In this case, an employee can claim full tax relief on business journeys made. A business journey is one which involves travel which is either:

- from one place of work to another, or
- from home to a temporary workplace, or
- to home from a temporary workplace.

## Example 1

An employee usually commutes by car between home in York and a normal place of work in Leeds. This is a daily round trip of 48 miles. On a particular day, the employee instead drives from home in York to a temporary place of work in Nottingham, a round trip of 174 miles.

The cost here is the cost of the travel undertaken (174 miles). A deduction would be available for that amount.

## Example 2

An employee who normally drives 40 miles in a northerly direction to work is required to make a 100 mile round trip south to a client's premises. His employer reimburses him for the cost of the 100 mile trip. A deduction would be available for that amount.

## Subsistence payments

Subsistence includes the costs of accommodation and food and drink, while an employee is away from the permanent workplace. Subsistence expenditure is specifically treated as a product of business travel and is therefore treated as part of the cost of that travel. So, if the travel costs qualify for tax relief, so will the subsistence costs. HMRC are usually happy to give relief for the costs of breakfast and evening meals if the employee stays away from home overnight, but often do not look as favourably on other costs, such as lunch, particularly if the employee has not stayed away overnight.

## Anti-avoidance rules

Some travel between a temporary workplace and home may not qualify for relief if the trip made is substantially similar to the trip made to or from the permanent workplace.

'Substantially similar' is interpreted by HMRC as a trip using the same roads or the same train or bus for most of the journey.

## Temporary postings

Where an employee is sent away from their permanent workplace for several months, the new workplace will still be regarded as a temporary workplace if the posting is either:

- expected to be for less than 24 months, or
- expected to be for more than 24 months, and the employee is expected to spend less than 40% of his working time at the new workplace.

The employee may still retain his permanent workplace.

## Example 3

Edward works in New Brighton. His employer sends him to Wrexham for 1.5 days a week, for a period of 28 months.

Edward will be entitled to relief. Any posting over 24 months will still qualify provided that the 40% rule is not breached.

## Site-based employees

Some employees do not have a normal place of work, but instead work at a succession of different sites for several days, weeks or months at a time. Examples of site-based employees include construction workers, safety inspectors, computer consultants and relief workers. A site-based employee's travel and subsistence can be reimbursed tax free if the period spent at the site is expected to be, and actually is, less than 24 months.

There are anti-avoidance provisions to ensure that the employment is genuinely site-based, if relief is to be given. For example, temporary appointments may be excluded from relief where duties are performed at that workplace for all or almost all of that period of employment. This is aimed particularly at preventing manipulation of the 24 month limit through recurring temporary appointments.

## Home based employees

Some employees work at home occasionally or even regularly. This does not necessarily mean that their home can be regarded as a place of work. For this to be the case, there must be an objective requirement for the work to be performed at home rather than elsewhere.

This may mean that another place becomes the permanent workplace: for example, an office to which the employee 'regularly reports'. Therefore the cost of commuting between home and the office would not be an allowable expense. However, trips between home and temporary workplaces would be allowed.

If there is no permanent workplace then the employee is treated as a site-based employee. Thus all costs would be allowed, including the occasional trip to the employer's office.

The home may still be treated as a workplace under the objective test above. If so, trips between home and any other workplace in respect of the same employment will be allowable.

## Other issues

### Taxing any benefit

As already outlined, most travel and subsistence payments made by employers are taxable on the employee. This means that the employer should account for tax, and often national insurance, through the PAYE system and/or on a P11D. The method can vary depending on the type of tax charge arising.

If a deduction is allowed, this has to be claimed personally by the employee, either by writing to HMRC or entering the amount in the relevant section of his self assessment tax return.

If HMRC are approached about payments being made, and are happy that the payments are doing no more than reimbursing the actual travel and subsistence costs, they will grant a dispensation. This means that the employer does not have to tax the payment and the employee cannot claim tax relief on that amount. If the employer does not reimburse all of the actual costs incurred, the employee may be entitled to tax relief on the balance.

Obviously, a dispensation can save a lot of administrative time, but accurate records of costs and payments will still need to be kept.

## Business mileage in cars

HMRC publish the rates of mileage allowances that can be paid to those employees who have driven on business.

### Rates for reimbursing business miles for an employee who drives their own car

	Current rates per mile
Up to 10,000 miles	40p
Over 10,000 miles	25p

These rates represent the maximum tax free mileage allowances for employees using their own cars for business. Any excess is taxable. If the employee receives less than the statutory rate, tax relief can be claimed on the difference.

### Rates for reimbursing business miles for an employee who drives an employer provided car

	Current rates per mile		
	Petrol	Diesel	LPG
1400cc or less	10p	10p	6p
1401cc - 2000cc	13p	10p	8p
Over 2000cc	18p	13p	10p

No dispensation is required if employers pay within these rates.

## How we can help

Full tax relief can be obtained for travel and subsistence costs, but there are some borderline situations. Every business has different systems and policies. We can help you to decide whether an employee can be paid expense payments which are covered by tax relief and do not result in a taxable benefit.

Please note that if you do make payments for which tax relief is not available, there may be PAYE compliance problems if the payments are made free of tax. Please contact us if you require advice on whether payments can be made to employees tax free or if you have any other questions about benefits in kind.