



ARTICLE

The Post-Pandemic Expenses Policy

Is your employee expenses policy still fit for purposes?

COVID-19 dramatically and swiftly changed the way that many employees normally work – and where they work from. As working arrangements change and, hopefully, settle into new patterns, are employers’ pre-pandemic expenses policies still suitable for the future?

“...even pre-pandemic [employee travel] was riddled with grey areas and nuances making the issue difficult for employers to deal with in a practical and straight forward manner”

Source: FTI Consulting

Across many sectors employees have spent much of the pandemic working from home, and it appears almost certain that home working arrangements will continue post-pandemic, at least partially, for a significant number. For countless employees the location where they normally work is likely to switch from the office to a mix of home and office (or even elsewhere). Historically, the travel element of expenses policies have focussed on allowable business travel – which can normally be reimbursed free of income tax and national insurance contributions – and excluded commuting travel, which would create income tax and national insurance liabilities if reimbursed. In the future will there be less clarity and, if so, is your expenses policy clear on both what can be reimbursed and what the tax consequences of that reimbursement will be? Importantly, do your employees know what can be claimed and do you have the right processes in place to ensure that there are no tax surprises?

Travel “to the job” versus travel “on the job”?

It is a long-standing principle that tax relief is available for travel that is “on the job” (i.e. travel in the performance of the duties of employment) but not “to the job” (i.e. ordinary commuting). This might sound pretty straightforward and, indeed, the underlying legislation is relatively concise (as tax legislation goes), but even pre-pandemic the distinction was riddled with grey areas and nuances making the issue difficult for employers to deal with in a practical and straightforward manner. For example, the situation is more complex where employees regularly work at more than one location, or have duties defined

by a geographical area. Indeed, HMRC's guidance on the issue, contained within its publication "*Tax and National Insurance contributions for employee travel: 490*", runs to 12 chapters together with additional appendix and glossary. This is definitely not a straightforward matter.

Changes in working practices and the "permanent workplace"

Pre-pandemic, numerous employees with office-based jobs had a clear "permanent workplace" – the office. This meant that home to office travel was ordinary commuting but travel from the office during work (e.g. to visit a client or another location) was normally qualifying business travel. With employees now arguably more likely to work from home, could they relocate further from the office, and might they even expect to claim the cost of travelling into the office for their (potentially infrequent) visits?

HMRC's starting point is that it is normally an employee's choice as to where they live and it is very unlikely that an employee's home, even if it is where they perform the majority of their work, will be a permanent workplace. Travel from home to the office will normally remain taxable. Indeed, this can commonly catch out employers who reimburse travel and accommodation expenses for non-executive directors who live a long way from the office and don't realise that this is normally ordinary commuting, subject to tax and national insurance contributions.

There can, however, be circumstances where an employee's home is a permanent workplace, although this is rare – most commonly where there is a specific job-related reason why they must live in a specific area (for example because they are responsible for a geographic area that is nowhere near an office) and the employer requires them to keep job-related equipment or records at home. This still doesn't mean that expenses for travel from their home to an office (perhaps for a weekly staff meeting) can automatically be claimed tax free – it may still be ordinary commuting from home to another permanent workplace.

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Travel expenses – the need for detail

Many expense policies are very light on detail when it comes to what is business travel, which can be claimed, and what is not, which cannot be, and most attempt to align reimbursements with the tax treatment – ensuring that any reimbursed travel does not create a tax liability. Often the categorisation is left to the employee to make, and for the manager to approve.

With the expected change in working practices, most of these expense policies will not be clear enough for employees and managers in the future – a lot more detail will be needed, and expense approvers will need to be more aware of the tax consequences of their decisions as well.

Employers need to watch out – without a PAYE Settlement Agreement ("PSA") in place for non-qualifying travel, any reimbursement of taxable travel will trigger an employee and employer national insurance liability that needs to be run through payroll on or before the date of payment.

Working from home expenses

There are many non-tax reasons for businesses to have formal homeworking policies – for example, reminding employees to ensure they have the correct home insurance and have informed their mortgage provider, detailing what equipment might be provided, confirming how health and safety risks and workplace assessments will be managed together with various other HR issues – but the tax treatment of any expenses for homeworking is just as important.

Many employers have helped ensure employees can easily work at home by providing (or reimbursing the cost of) the necessary equipment – computer monitors most commonly and potentially office items like a desk and ergonomic chair (also helping to ensure that employers comply with their workplace health and safety obligations).

The Government legislated for relaxations on the normal tax rules for some of these items (for example allowing employers to reimburse costs tax free, rather than the previous position of only allow employers to directly provide equipment). These relaxations are legislated in a time limited manner, up to 5 April 2022 – something that could trip up employers, if the relaxations are not permanently extended.

Some employers have already fallen into the common tax trap of reimbursing some employees for broadband costs – something that is very rarely possible to do tax free due to the mix of private and personal use that is normal.

Many employers want to continue to provide assistance for employees to work at home in the future – so the expenses policy needs to be updated so that it is clear on what will, and will not, be provided (or reimbursed) and to help ensure that these provisions are done in a way that doesn't create unnecessary tax liabilities.

Some employers have also provided an allowance to cover additional expenses that employees incur at home, such as electric and heating costs (currently £6 per week or £26 per month) and for those that do not, employees are allowed to claim tax relief on the same amount. The conditions around this have been significantly relaxed by HMRC, again for the same time-limited period. If an employer would like to provide ongoing support for homeworking post-pandemic, they are likely to need to put extra conditions in place to ensure they don't trigger a tax liability on these payments, which would need to be reported via payroll akin to salary.

Staff entertaining

Many expense policies also cover reimbursement of entertaining expenses – whether for staff entertaining or client entertaining.

The vast majority of staff entertaining in its widest sense, including working lunches, meals for working late, taking a colleague for coffee, and team drinks – things that are not always covered under an “entertainment” section of an expenses policy, create a tax liability. Most commonly employers will ensure that they have a PSA in place to report and tax these items. It wouldn't be much of an incentive for employees otherwise – imagine being told

you have to pay tax on the coffee you had outside the office to chat about your career.

During COVID-19 staff entertaining expenses changed – for some employers they have reduced dramatically, but for other employers the underlying item has simply switched – perhaps to drinks or snacks sent to employees at home, or to paying for virtual events that employees participate in. These items will normally still be taxable in the same way.

Does your current expenses policy cover all of these items, making it clear what can be claimed and ensuring that sufficient detail is provided in any claim to enable the correct tax treatment to be determined?

What next?

In light of the above, many employers will want to take time to revisit their expenses policy and make sure it covers all that it needs to.

It is vital that, when doing this, employers don't just think about what they would like to reimburse – but that the tax treatment is fully understood and the policy is direct to ensuring that the most advantageous tax treatment is obtained – whether that is on new items being included in the policy for the first time, or on existing items.

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