

Exemption for expenses related to travel

(Lecture P1137 – 14.02 minutes)

Where an employee provides receipts for subsistence expenditure that he has incurred on a work trip, that cost can be reimbursed on a tax-free basis as long as the employer is confident that it represents a business expense incurred wholly, exclusively and necessarily in the performance of the employee's duties.

FA 2015 made various amendments to ITEPA 2003 with a view to simplifying the way in which benefits and expenses provided to employees are taxed. For 2016/17 onwards, FA 2015 inserted new Ss289A – 289E ITEPA 2003 which exempt certain amounts paid or reimbursed to employees in respect of expenses where an allowable income tax deduction would previously have been available. A specific exemption applies where the relevant amounts have been calculated and paid or reimbursed in an 'approved way'.

SI 2015/1948 specifies an approved way of calculating and paying or reimbursing subsistence costs for the purposes of S289A ITEPA 2003. Employers can pay or reimburse such expenses using what are known as HMRC's 'benchmark rates' without seeking explicit approval from the tax authorities. Such payments are tax-free. These arrangements are particularly useful where employees are unable to provide receipts (or fail to do so). The benchmark scale rates for meals purchased by an employee in the course of qualifying travel are currently:

- £5 where the employee is away from his workplace for a minimum duration of five hours, but there is an additional £10 payable if he is still away at 8pm (i.e. a total of £15 in that case);
- £10 where the employee is away from his workplace for a minimum duration of 10 hours, but there is an additional £10 payable if he is still away at 8pm (i.e. a total of £20 in that case); and
- £25 where the employee is away from his workplace for a minimum duration of 15 hours and is still away at 8pm.

These rates cover food and drink, but do not include just a drink in, say, a pub.

In order to qualify for these benchmark rates, the employee's travel must be carried out in the performance of his duties or when travelling to a temporary workplace on a journey which is not ordinary commuting. The employee must be absent from his normal place of work for a continuous period of at least five hours and he must have incurred the cost of a meal of food and drink after starting his journey.

If employers want to pay rates that are more generous than the standard HMRC amounts, they need to seek specific approval by providing relevant samples in order to demonstrate to HMRC that higher rates are appropriate. If they do not obtain HMRC approval but still pay higher rates, the excess over HMRC's published figures will be liable to tax (and NICs).

A further requirement of S289A ITEPA 2003 is that Conditions A and B must be met. Condition A is that the employer (or a third party) must have a system in place to check that the employees are actually incurring the correct type of expenses and that they would otherwise be allowable - S289A(3). Condition B stops the exemption from applying if the person operating the checking system knows or suspects that the employee is not incurring the expense or that the expense is not tax-deductible – S289A(4).

For 2019/20 onwards, S10 FA 2019 introduces an alternative Condition C that contains a lower checking stipulation. It simply requires employers or others to operate a system for checking that employees were engaged in qualifying travel in relation to the amount paid or reimbursed – see new S289A(4A) ITEPA 2003. In other words, employers will not have to check amounts spent in order to make such payments free from tax.

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