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Business travel: what it is and how it's treated for tax

The rules on travel expenses for directors and other employees involve concepts that sound deceptively simple.

In fact, they're anything but simple to put into practice.

Why this matters

The rules on travel expenses allow employers to make payments to employees without consequences for Income Tax or National Insurance, and without the need to report to HMRC.

But to benefit from this treatment, costs must meet the stringent requirements for business travel. This makes it very important to be able to distinguish between what is allowable and what is not. The rules on subsistence, such as meals and accommodation, follow the rules for travel, meaning any mistakes can multiply quickly.

Business travel: basic definition

What it's not:

- ordinary commuting (defined below): no tax relief due
- private travel (all non business travel): no tax relief due.

What it is:

- travel expenses that an employee has to make because of their job, **and**
- which are necessarily incurred in the performance of their duties; **or**
- which are for necessary attendance at what is known as a temporary workplace; or travel between permanent workplaces in the performance of their duties.

Special rules apply where the workplace is an area.

Quick guide to HMRC concepts

Ordinary commuting: Travel between a permanent workplace and home, or any other place that is not a workplace.

For most employees, ordinary commuting is the journey made, most days, between home and their normal place of work. The position can be more complicated, however.

Workplace: A place where the employee's attendance is necessary for the performance of the duties of that employment.

Permanent workplace: A place that the employee attends regularly for the performance of the duties of the employment; and which is not a temporary workplace. More detail below.

Attends regularly: Here HMRC looks at factors like frequency of attendance; attendance that follows a pattern; and attendance for all, or almost all the time that an employment is held (or likely to be held).

Temporary workplace: Somewhere the employee goes only to perform a task of limited duration, or for a temporary purpose. Even when this test is passed, other rules can still prevent it being a temporary workplace. More detail below.

Task of limited duration: Where an employee attends a workplace for a limited period of time, to do a particular task or project, the workplace will be a temporary workplace (even if the employee attends regularly). But the employee must be performing a task of limited duration. The position can be complicated, and needs checking against other rules.

Temporary purpose: Self contained visits for a particular purpose, like a one-off safety check; or attendance for a meeting.

Note: These areas are not intuitive, and HMRC's guidance should be checked before decisions are made.

Understanding travel in the performance of the duties

Travel in the performance of the duties is sometimes described as travel on the job, rather than travel to the job. Most usually this is travel between one workplace and another, in connection with a single employment.

Scenario: Sofia is a senior manager. She is responsible for managing teams in offices in Leicester and Nottingham, and travels regularly between the two offices to do so.

What's allowable? Travel between the two workplaces is travel in the performance of the duties: the cost of travel attracts tax relief. Sofia's travel from home to each office is ordinary commuting, and no relief is available. (Based on HMRC example.)

Other cases: In some jobs, such as meter readers, delivery drivers, and mobile service engineers, travel is an integral part of the performance of the duties.

Scenario: Tony is a service engineer. He works for a company servicing and maintaining white goods for the commercial sector. He has no normal workplace, and a job list is emailed to him each evening for the next day. He might visit up to ten customers daily, who could be located anywhere in the UK.

What's allowable? All Tony's business travel attracts relief. This includes travel from his home to his first appointment, and from his last appointment back home. Travel is integral to his job, and he carries out the duties of his employment at each customer's premises. (Based on HMRC example.)

Understanding permanent and temporary workplaces

The distinction between a permanent and a temporary workplace is fundamental to applying the rules correctly. Generally:

- travel from home to a temporary workplace is an allowable expense
- travel from home to a permanent workplace is not.

Note, however, that HMRC may seek to deny relief for travel from home to a temporary workplace if the journey is 'substantially similar' to the journey to or from the permanent workplace. In HMRC's view, this means a journey using the same roads, or the same train or bus for most of the journey, for example.

How to get the workplace decision right

To assess if a workplace is a permanent workplace, check:

- that it is a place an employee attends regularly for the performance of the duties of the employment and
- it is not a temporary workplace.

The second step, making the call on whether it's a temporary workplace, means a series of checks. First, is it a workplace where the employee goes only to perform a task of limited duration, or for a temporary purpose? If the answer is yes, make two additional tests:

- the 24 month rule and
- the fixed term appointment rule.

These tests can work to prevent somewhere being a temporary workplace – even if it has passed the first test.

The 24 month rule: The workplace is a permanent workplace if the employee attends (or there is an intention that they attend) in the course of a period of continuous work that lasts, or is likely to last, for more than 24 months. HMRC treats a period of continuous work as meaning 40% or more of the employee's working time.

Temporary workplace: example

Scenario: Zak has worked for five years at his employer's head office in Bolton. He is sent by his employer to perform duties at a branch office in Wigan for 18 months.

Allowable? The full cost of his travel between home and the workplace in Wigan is allowable.

Why? Wigan is a temporary workplace because though the period in Wigan is a period of continuous work (being 40% or more of his working time), it is not more than 24 months. (Based on HMRC example.)

The original intention matters here, and can be particularly significant if plans later change.

Temporary workplace status trumped by 24 month rule: example

Scenario: Isai has worked for an employer in Sutton for three years, and is sent to perform full-time duties at a workplace in Maidstone for 28 months. The posting comes unexpectedly to an end after 18 months.

Allowable? The cost of his travel between home and the workplace in Maidstone is not allowable because his attendance was expected to last longer than 24 months. The fact that this didn't happen does not affect workplace status.

Why? Maidstone could have been a temporary workplace because Isai's attendance was for a limited duration. But the 24 month rule comes in over the top of this. Attendance is in the course of a period of continuous work (40% or more of Isai's working time); and is expected at the outset to last for more than 24 months. It is therefore a permanent workplace.

The fixed term appointment rule: The workplace is a permanent workplace if the employee attends in the course of a period of continuous work expected to last for all, or almost all the period they are expected to hold the employment. This rule has its own complexities, and is of particular relevance to agency/umbrella company workers. We can advise further here.

Common problem areas

More than one permanent workplace

It is possible for someone to have more than one permanent workplace at a time. If an employee has two workplaces, therefore, it should not be assumed that one is a temporary workplace by default. It is still important to check the underlying reality against HMRC's rules.

Scenario: Monica is an office manager for a firm of chartered surveyors. The firm operates from offices in Kendal and Lancaster. She spends each morning in the office in Kendal, and each afternoon in the office in Lancaster.

What's allowable? None of the travel from home to either office attracts tax relief. This is because Monica attends both offices regularly in the performance of the duties of her employment. Her attendance is not to perform a task of limited duration, and is not for a temporary purpose. This makes each office a permanent workplace.

The cost of travel between the Kendal and Lancaster offices, on the other hand, does attract relief, as travel in the performance of Monica's duties. (Based on HMRC example.)

Working at home

Unless working at home is an objective requirement of the job, HMRC is unlikely to accept that home is a workplace. If home is not a workplace, travel from home to a permanent workplace is not allowable. Where the employer provides suitable facilities elsewhere that the employee could use; or where working at home is by choice, this condition is unlikely to be met.

Travel from a home workplace to a temporary workplace may be allowable as travel in the performance of the duties; or as travel for necessary attendance, depending on the details.

Hybrid working

The position for hybrid workers also needs care. As hybrid working usually arises from choice rather than necessity, it is unlikely that tax relief will be due for travel from home to the office. The office is likely to remain the permanent workplace, meaning home to office travel will be ordinary commuting. Where the employer meets the cost of such travel, it will usually be taxable.

Area workplaces

The whole of a geographical area can be treated as a permanent workplace where: there is no single place that is the permanent workplace; and the employee attends the area regularly; and the duties of the employment are defined by reference to that area; and if the area was to be treated as a workplace, it would be a permanent workplace.

Where all four conditions are met, there is relief for travel within the geographical area, and travel between the area and other workplaces outside the area. If the employee lives outside the area, travel between their home and the edge of the area is ordinary commuting: no tax relief is available.

When things go wrong

A recent case at the First-tier Tax Tribunal highlights how easily mistakes can be made, and the cost that can attach. In this case, the taxpayer was left with a demand for nearly £26,000 in additional tax.

The case involved an employee who claimed relief for mileage on her Self Assessment tax return. She worked as a community manager for a construction business, and was required to attend multiple construction sites and meetings in London. Sites changed over time as projects were completed and new projects began. Home was outside London, and the employee's own vehicle was used for some travel. The employee believed she was site-based, and travelling to temporary workplaces. She therefore thought travel from home to those workplaces was deductible.

The Tribunal held that there was an area workplace, and this was London within the perimeter of the M25: further, it said it was a permanent workplace. This meant travel from home to the edge of the area was ordinary commuting, and no travel costs deductible. Travel in the course of the performance of the duties within the area, on the other hand, was deductible.

Use our expertise

In reality, travel arrangements come in every shade of grey, and it is not always clear where specific examples stack up against HMRC guidance. We have only been able to outline some of the issues involved here. Please talk to us for further advice.

Together we can make the journey for your business as smooth as possible.

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