



HOME WORKING: COVID-19: £6/£26 ALLOWANCE

Issued 24 September 2020

Text of a letter dated 21 August 2020 to HMRC

Employee choice over working from home should not be fatal to the deductibility of the £6pw/£26pm home-working allowance.

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TEXT OF A LETTER DATED 21 AUGUST 2020 TO HMRC

1. I am writing regarding the £6pw/£26pm allowance to cover deductible additional costs that employees who are required to work from home have incurred as a result of working at home due to the coronavirus.
2. As explained in HMRC's guidance at [EIM32815](#), employers can pay up to this amount to homeworking employees or employees can claim it as a deduction in their tax returns provided certain conditions are met. These conditions are set out in [EIM32760](#), namely that:
 - “the duties that the employee performs at home are substantive duties of the employment. ‘Substantive duties’ are duties that an employee has to carry out and that represent all or part of the central duties of the employment (see [EIM32780](#))
 - “those duties cannot be performed without the use of appropriate facilities
 - “no such appropriate facilities are available to the employee on the employer’s premises (or the nature of the job requires the employee to live so far from the employer’s premises that it is unreasonable to expect him or her to travel to those premises on a daily basis)
 - “at no time either before or after the employment contract is drawn up is the employee able to choose between working at the employer’s premises or elsewhere.”.
3. There are three situations: first, during covid-19 lockdown when the government told everyone to stay safe by staying at home, secondly, currently, where the government is encouraging people to go back to the office, and, thirdly, looking to the future when under the “new normal” we anticipate that many more employees will be working from home.
4. For the purposes of this letter, we take it as read that the first two conditions are met in the cases that we are considering.
5. Please confirm that HMRC accepts that during lockdown the second two conditions are also considered as met.
6. Currently, whilst there is still a risk of contracting covid-19, responsible employers are likely to allow employees to choose whether they work from home or in the office. Whilst the country is cautiously moving out of lockdown, we do not see why employee choice should be fatal to the deductibility of the £6/£26 allowance when they are working from home. We feel that in the interests of public health and employee wellbeing HMRC should interpret the third and fourth conditions as met for homeworkers.
7. Looking ahead to the new normal, as noted in our letter dated 20 August on the taxation of homeworking [ICAEW REP 73/20], the world has changed and the tax legislation is not fit for purpose in the light of the likely increase in employees working from home. If HMRC feels that it cannot relax its guidance, then we believe that the law should be changed to support homeworking.
8. We look forward to discussing this further with you.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).