



TAXREP 61/15 (ICAEW REPRESENTATION 172/15)

TRAVEL AND SUBSISTENCE

ICAEW welcomes the opportunity to comment on the discussion paper [Travel and subsistence](#) published by HM Treasury on 23 September 2015.

This response of 15 December 2015 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments.

On 4 July 2013 we attended a meeting with the Office of Tax Simplification (OTS published its [interim report](#) in August 2013) and on 2 September 2014 we met HM Treasury and HMRC jointly with other professional bodies. In both meetings we were able to put forward some key comments and concerns and discuss aspects of this topic.

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ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

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COMMENTS

1. We consider that that there is no justification for fundamentally changing the travel and subsistence rules.
2. Employers and affected employees by and large understand the existing rules. The proposals in the discussion document would simply substitute a new set of rules, with new conditions that employers, employees and HMRC would have to interpret, for the existing rules that employers, employees and HMRC have had 17 years to become familiar with and which still work well.
3. Since the introduction of the rules in 1998, which followed detailed consultations and meetings in which ICAEW Tax Faculty played a part, the rules and HMRC's guidance have stood the test of time – indeed, HMRC's booklet 490, after many years with no need for an update, was only recently updated. The changes proposed in the discussion paper are expressed as being fiscally neutral but new rules would give rise to winners and losers and probably take another ten years to bed in, creating a new set of compliance problems.
4. We are concerned that stakeholders' reported concerns may not have taken into account what works well under the current regime.
5. We also believe that much abuse will be prevented by the separately announced changes to travel and subsistence rules for workers supplied by employment intermediaries via umbrella companies and personal service companies, and the abolition of salary sacrifice travel and subsistence schemes.
6. More generally we are concerned that constant changes to tax rules are undermining the integrity of the UK tax system. Businesses take on and deploy their employees on the basis of the rules in place at the time and constant changes to the tax system destroy confidence and make it impossible to plan efficiently. For example, businesses were discouraged from providing diesel cars to employees by the 3% company car tax surcharge, which was then going to be removed, but is now to be reinstated. This affects plans on a three-or four-year timescale.
7. We believe that there is still a need for the travel and subsistence rules as they were originally framed, because much work these days is project-based and the workers involved have to live away from home whilst funding the family, and they therefore should get some tax relief for this. We see no justification for the abolition of relief for day subsistence costs representing the extra costs incurred entirely due to working away from base.
8. The only change that we would advocate to the existing rules is to extend the 24 months rule to 36 months. Many of today's infrastructure projects, for example Heathrow Terminal 5, Crossrail, power stations and wind farms, hospitals and schools and the like, are much bigger than in the past and therefore last longer. Extending the 24 month rule to 36 months would simplify compliance, as there would be less policing needed by employers (and HMRC), and would cost the exchequer relatively little as most of the workers involved in such projects are normally supplied via employment intermediaries (who will be ineligible for exemption from tax and NICs on travel between home and work from April 2016) and/or work on six month contracts.

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 via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).