

Budget representations: employment and pension taxes

Employment Tax

04 November 2021

The CIOT have submitted several suggestions to HMT to improve the employment taxes and pensions tax systems, including a working from home expenses deduction, allowing employer reimbursed benefits to fall within the trivial benefits exemption, and reviewing home to employer's premises travel rules where home is also a workplace.

The CIOT made a number of suggestions to HMT for the betterment and simplification of the employment taxes and pension tax systems.

Working from home and household expenses

We suggested the introduction of a specific deduction for the extra cost of working from home. The Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 316A provides an exemption under which employers can make a tax-free payment to an employee to meet the reasonable extra household expenses their employee incurs in carrying out duties of the employment at home under a homeworking arrangement. However, it does not provide the employee with a right to claim a tax deduction for those costs if the employer does not reimburse that expense. Although a claim can be made under s 336, this is notoriously difficult because of its strict requirements that the expense was incurred wholly, exclusively and necessarily in the performance of the duties of their employment (albeit HMRC has taken a more relaxed approach to working from home expenses claims during the pandemic). With homeworking arrangements seemingly becoming a commonplace choice for employees, and the limitations of s 336 claims, the introduction of a specific deduction for additional household expenses would be very welcome.

The trivial benefits exemption and employer reimbursements

We also suggested amending ITEPA 2003 s 323A so that the trivial benefits exemption applies when employers reimburse employees the cost of a benefit, as well as when the employer arranges for its provision (or a voucher to obtain it). At present, the trivial benefits exemption is not available where the employee directly incurs the cost of the benefit, and the employer then reimburses that cost (even where the employer provides the same benefit, or a voucher to obtain it, to other employees). The wider issue of who pays for a benefit or an expense manifested itself at the start of the pandemic with the rush to work from home and the need to obtain equipment, and the government introducing a time-limited exemption for employee purchased equipment. We recommended a wider review to remove the distinction between circumstances where the 'employer pays' and the 'employer reimburses'.

Ordinary commuting, business travel and hybrid working from home arrangements

With many employees now splitting their working time between home and the office, the travel rules on workplace to workplace travel when one of those workplaces is home has come under scrutiny. There are some good examples in HMRC's 490 Booklet of when travel from home to an employer's premises is: (a) allowable business travel; or (b) ordinary commuting.

We have suggested reviewing the existing exemptions and deductions for employee's travel expenses for hybrid working from home arrangements and updating the relevant legislation and guidance accordingly.

Employer payments on death and equality of tax treatment In addition, we suggested amending the legislation in respect of ex-gratia payments from employers on the death of an employee so that payments arising following a death by natural causes receive the same tax treatment as payments that arise following an accidental death. Noting the differences between payments falling under ITEPA 2003 s 406 and those under s 394, we identified a particular problem in determining which section applies, which arises from the meaning of 'accidental death'. We consider that the unequal treatment of ex-gratia payments following a death is therefore capricious and unfair, and recommended a review of the legislation.

Enhancing enterprise management incentives (EMI) and other tax-advantaged share schemes

We referenced the recommendation in our response earlier this year to the EMI call for evidence (see www.tax.org.uk/ref768) and made a number of suggestions to enhance the EMI scheme to include more companies and thus assist those companies in growing, especially post-pandemic. In particular, we suggested increasing the number of qualifying employees and gross asset value thresholds, fixing the qualifying point such that the number of employees or gross asset value is set for a 12 or 18 month period, and relaxing the working time requirement and the list of excluded activities.

The full Budget representation, which also included a recommendation to clarify the tax treatment of pension lump sums in certain circumstances, addressing anomalies in pensions schemes administration, and a suggestion to temporarily relax the money purchase annual allowance for those over 55s that have had to access their pension savings during the pandemic, can be read at www.tax.org.uk/ref854.