

Contractor doctor: does taking a break get around the 24 month contractor expenses rule?

Dear Contractor Doctor,

I wanted enquire about the 24 month expenses rule.

I have been with my current company for 18 months and do not envisage going on beyond 24 months.

However if I wanted to come back to take another contract with the company at a later date how long a break will I have to take before I am entitled to claim expenses?

Thanks

[Name supplied]

Contractor Doctor says:

If you are travelling from your home to your contract, then you are entitled to claim travelling expenses subject to "the 24 month rule".

This rule states that the cost of travel from your home (being your permanent place of residence) to your contract site address (your temporary workplace) is only allowable as a tax deductible expense for as long as you believe your contract will not exceed 24 months.

In your case, you have been at the current contract site address for 18 months and do not envisage going on beyond 24 months, so there is no problem with the tax allowability of your travelling expenses to date.

As far as further work is concerned, you will be subject to the "40% rule". This is a test applied by HMRC as to whether you have spent or are likely to spend 40% or more of your working time at your current company workplace over a period of 24 months or more.

Taking a possible example which might apply to you, you have been employed for 18 months but then leave for three months, returning to the contract site for a further six months. You therefore expect to be working at the contract site for a total of 24 months (18 + 6). You would be entitled to relief for your travel from home to the site during the first 18 months because you did not expect to be at the contract site for more than 24 months. You would not, however, be entitled to relief for your travel expenses from home to the client's site for the further six months. That is because you now expect to spend more than 40% of your working time at that site over a period longer than 24 months (18 + 3 + 6 = 27 months).

You therefore need to establish what percentage of the total time will be spent at the one client location, to see if you are affected by the 40% rule. If it is less than 40%, then it does not matter if you are working at the site for longer than 24 months.



Another point to consider is that if you can arrange your contract so that the workplace is a "significantly different place", at least 10 miles away from the previous location, then the 24 month clock would be reset to zero.

If you have no choice but to return to the same site after a "significant break", then another option would be to ask your accountant to write a letter to your Inspector of Taxes, asking for clearance to start the 24 month clock at zero. There is no specific guidance in the legislation or case law as to what exactly constitutes a "significant break" for this purpose but an absolute minimum of six months is likely to be necessary to satisfy your Inspector.

HM Revenue and Customs provided [clarification on the 24 month rule](#) in Tax Bulletin 74.

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