

Contractor travel and subsistence expenses rules face wide-ranging Treasury review

Contractors are facing another major review of their travel and subsistence costs that could introduce major cuts to expenses tax relief. This includes forcing contractors, and all employees, to pay for daily subsistence costs out of their own pockets when working on site with a client.

The Treasury's [Travel and subsistence framework discussion paper](#) seeks to update existing rules on what expenses can be claimed, and proposes that tax relief on some expenses – such as lunch expenses when working away from the office – should be abolished.

"In a year when we thought that the Government formed by the supposed party for business could do no further damage to the contracting sector, we are now faced with the possibility of further tax hikes as expenses tax reliefs are withdrawn," highlights ContractorCalculator CEO [Dave Chaplin](#).

"Genuine contractors have nothing to fear from HMRC's [ongoing Employment Intermediaries and Tax Relief for Travel and Subsistence consultation](#) that finishes at the end of September. But this latest and more wide-ranging review may negatively impact on all UK workers."

Why has the Treasury embarked on another review of expenses?

According to the Treasury, this latest discussion document is: "In response to the Office of Tax Simplification's (OTS) [January 2014 report](#) on the tax treatment of employee benefits and expenses."

The OTS highlighted in its report that, due to the changing nature of work, some existing expenses rules are outdated, and others are poorly understood and would benefit from simplification.

The Treasury goes on to say that: "The purpose of this review is to consider ways of modernising and simplifying the rules for tax relief on T&S expenses in order to make them easier for employers to understand and to apply in practice, while reflecting contemporary practices in the labour market."

Another "window dressing" review by the Treasury

However, Chaplin believes that the Chancellor George Osborne has seen yet another route to generating greater tax yields without breaking the election promise to not increase income tax, the payroll and employee tax that are National Insurance Contributions (NICs) and VAT.

"Despite saying that the discussion paper 'does not include any firm proposals', the content reads exactly like a consultation document. Our experience is that the Treasury and HMRC treat consultations like window dressing and proceed with their plans regardless of what stakeholders say and how unworkable and unrealistic the proposals may be."

Chaplin also points out that although the Treasury says that any changes to expenses will be revenue neutral, those measures that simplify and reduce tax are far outweighed by those designed to increase tax.

"Cutting tax relief for lunch expenses will impact on vastly more contractors and employees than the tinkering around abolishing benefit in kind for lower earners, allowing some workers to claim for a greater number of journeys and changing reporting rules."

What are the key expenses changes contractors can expect from this review?

The Treasury has outlined the principles that will underpin any rules changes. These include the fundamental principle "that tax relief should continue to be available for business travel, but not for ordinary commuting".

Two principles that seek to reduce the complexity of the existing rules are:

"New rules should not be based on the concepts of 'permanent' and 'temporary' workplaces except and unless these terms carry their everyday meaning. Employees should not have their journeys to multiple locations or areas which are a significant distance apart all treated as being 'ordinary commuting.'"

However, less positive is the principle that "relief should not be available for subsistence where this is essentially akin to a private expense". Chaplin is concerned that whilst this principle is absolutely correct, it is likely to be abused when formulating new expenses rules, and that many reasonable expenses will be disallowed.

"The Treasury already says in this discussion document that it believes that contractors should not be able to claim subsistence expenses during the day."

"For many contractors forced to work in expensive city centre locations far from their home offices, tax relief on expenses is what makes these contracts possible, and not prohibitively expensive. What else will Treasury officials decide is a 'private expense' and forbid contractors to claim it?"

A new travel and subsistence expenses framework

Based on the principles governing rule changes, the Treasury is proposing a new framework that will allow contractors to claim tax relief on three types of journeys:

“Journeys made necessarily in the performance of the duties of the employment

Journeys to allow the employee to attend a location where their attendance at that location is a necessary part of their job, and the location is not the employee’s “main base”

Journeys to the employee’s main base where all bases of the employee are ‘detached duty’ locations.”

Based on its definition, the proposed detached duty rule is likely to work in contractors’ favour and is less complex than the existing 40% and **24 month rules**, although expenses could only be claimed for the first 24 months of any contract. Furthermore, there are no proposed changes to home working rules.

‘Day subsistence’, or daily meal expenses, face the axe

However, under the heading ‘Day subsistence’, the Treasury says: “The government is interested in proposals to restrict tax relief from areas of the current rules where the results could be seen as being overly generous or difficult to justify.

“One of the identified areas where this is the case is day subsistence, as there is an argument against the taxpayer continuing to subsidise employees for what is effectively a private expense.

“In most cases employees on a business journey who would usually bring lunch from home could still do so if they wished, and employees who would usually buy a sandwich could still do so.”

Chaplin concludes: “Whilst the Treasury is to be congratulated for attempting to simplify and update the existing travel and subsistence expenses rules, this should not be used as an opportunity to introduce more stealth taxes.

“Sadly, despite what the Treasury says about welcoming feedback, this discussion document looks like it plans to give a little to a minority with one hand and take a huge swipe at the legitimate expenses incurred by contractors and all employees who are required to travel for business with another.”

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