



COVID-19: TEMPORARY WORKPLACES: TRAVELLING EXPENSES: 24 MONTH RULE

Issued 24 September 2020

Text of letters dated 18 June and 10 August 2020 to HMRC

An employee who attends in the performance of their duties of the employment a temporary workplace for a limited duration of not more than 24 months can deduct from their earnings the costs of travel to that temporary workplace. Where the employee has been unable to work at the temporary workplace owing to being furloughed or told to work from home, the 24 month clock should temporarily be stopped.

This representation has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System are summarised in Appendix 1.

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COVID-19: TEMPORARY WORKPLACES: TRAVELLING EXPENSES: 24 MONTH RULE

Text of a letter dated 18 June 2020 to HMRC

An employee who attends in the performance of their duties of the employment a temporary workplace for a limited duration of not more than 24 months can deduct from their earnings the costs of travel to that temporary workplace under ss337-339 ITEPA 2003.

Owing to the coronavirus pandemic, many employees have been furloughed and have therefore been unable to undertake the duties of their employment. Once they resume their duties, taking into account the time for which they have been furloughed, they may be unable to complete the duties at the temporary workplace by 24 months from when they started.

As furloughed employees are by definition unable to carry out any duties of employment, we should welcome HMRC's confirmation that the 24 month duration applies only to the time that the employee is allowed to work, so that the 24 month clock stops for periods that an employee is on furlough.

We would like your confirmation that where employees have had to work from home that the period of working from home also stops the 24 month clock.

HMRC's guidance at [EIM32075](#) et seq and [How to treat certain expenses and benefits provided to employees during coronavirus](#) does not address these points.

We would welcome the opportunity to discuss this with you.

Text of a letter dated 10 August 2020 to HMRC

I wonder whether there has been a misunderstanding of what we are asking for. EIM32106 covers a different point, ie same workplace but different contract, and the other guidance covers the continuous work rule and late-night taxis.

What we are requesting is simply that where employees have been unable to work at a temporary workplace owing to government-imposed covid-19 restrictions under which the employees were furloughed or told to work from home, the 24 month clock should temporarily be stopped.

If this flexibility cannot be accommodated by way of amended guidance, then we recommend that the law is changed to allow this. We included this point in our pre-Summer Statement representations to the FST (published as [ICAEW REP 43/20](#)) who has informed us that he has passed it on to HMT and HMRC.

We are copying this correspondence to fellow representatives of EPG as we believe it should be an agenda item at our next meeting.

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>).