Employment intermediaries and tax relief for travel and subsistence

Employment Tax

04 December 2015

ATT, CIOT and LITRG respond to the HMRC consultation

LITRG, the ATT and CIOT responded to an HMRC consultation which proposed removing home-to-work travel and subsistence tax relief for a worker engaged through an employment intermediary and who is subject to supervision, direction or control (SDC).

LITRG called on HMRC and the Department for Business, Innovation and Skills to adopt a single, consistent policy so that lower paid workers were not unwittingly involved in complex arrangements that benefit the providers of these rather than the workers. LITRG urged HMRC to ensure that any changes do not affect the relief available for expenses incurred in the normal course of an employee's duties and are not reimbursed by the employer. In addition, LITRG wants the legislation to clarify that workers cannot be pursued for any tax or NIC debt, particularly when workers face benefit sanctions if they choose not to take work offered under such arrangements.

The ATT's view is that the definitions of SDC have been drafted so widely that no end engager or intermediary would be willing to take the risk of deciding that this legislation did not apply to the engagement because the consequences of making a mistake would be significant. The ATT also raised concerns about the impact on industries that need specialist skills but cannot source them from the local community – such as those required for nuclear power station construction. If travel and subsistence relief are denied it will become difficult to recruit for these jobs.

The CIOT disagreed with the government's policy of a blanket restriction on employment intermediary workers claiming home-to-work travel costs. If the policy is implemented the definitions of 'employment intermediary' and 'personal service

company’ must be made clear so that there is no misunderstanding about which entities are caught. Without this the CIOT thinks there will be non-compliance through ignorance and many workers will not claim tax relief when they are entitled to do so.