Hybrid and distance working: time for a rethink on remote working?

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On 20 December, the Office of Tax Simplification published its final report, following the announcement of its closure on 23 September. The report covers one of today's hot topics – hybrid and distance working (see bit.ly/3wuY48w). Many companies, taxpayers, advisers and representative bodies contacted the OTS to share their challenges and experience.

UK-based hybrid working

The Office for National Statistics estimates that about 40% of the UK workforce are hybrid workers (see bit.ly/3JekemV): that is, they spend part of their time working

from home and part at their employer's offices or other bases or visiting other work sites. It seems that almost everyone who can work in a hybrid manner is doing so. Businesses report significant demand from employees to continue hybrid working; the debate is about the terms, as policies and approaches continue to develop. Academics told the OTS that hybrid working could boost productivity in the short term (mainly due to reducing travelling and flexible working hours) but there was considerable uncertainty over longer term effects.

Hybrid working hasn't needed to be considered very much before 2020 – so it's not surprising that tax reliefs and policies are directed at working at an employer's premises, at customer premises or at home. Most of the business comments about UK hybrid working covered three areas:

- A change of policy towards expenses, with an unsurprising request for more tax deductions. Some employers wanted to reimburse employee costs, such as broadband, or office equipment purchased by the individual. However, the rules don't permit tax relief for reimbursements, which is an unneeded complexity. Some employees were asking employers to pay travel costs from the home office to the employer's base – whilst employers prefer an employee tax deduction. The whole issue of 'workplace' (which defines when travel costs are tax deductible) needs to be re-examined.
- Reconsideration of reliefs originally defined by working at the employer's base, such as the cycle to work scheme.
- Improvement in guidance to recognise the issues of hybrid working.

International hybrid working

Most of the focus is on domestic hybrid working, but there is a growing international dimension. Many multinationals – large and smaller – told the OTS that there was strong employee demand for permission to work part-time in another country. Companies had introduced new policies to help manage the tax and legal issues raised. Despite the keen interest, however, short-term overseas working remains low. Most companies said that fewer than 5% of eligible employees had worked overseas, whilst a few reported that up to 10% had taken up the opportunity.

Most multinationals had tried to set policies to minimise the risks of having a taxable presence for payroll withholding, operation of social security and corporate tax. Whilst businesses believed that any additional tax due would be negligible, the administrative burden would be significant. Accordingly, most had set policies to

permit a small number of overseas workdays (typically 10 to 30 days). Some also imposed restrictions on particular roles working outside their home location and others limited the types of activity (e.g. not permitting reaching contractual agreements) or on the length of an individual stay.

The OECD's Centre for Tax Policy and Administration has acknowledged that work needs to be undertaken internationally to respond to the tax issues raised by new ways of working. However, the focus on international corporate tax (Pillars 1 and 2) means that the OECD has not yet managed to schedule work in this area. Ideally, agreement would be reached on issues such as a minimum number of days needed to create a taxable presence, as well as new approaches to whether an employee's accommodation would be a fixed place of business for their employer, and confirmation that certain types of activity would always be 'preparatory or auxiliary' and so not liable to tax locally. The ancient doctrine of signing contracts almost certainly needs revisiting when many more contracts are made online from potentially anywhere with internet access.

Some companies have seen demand for long-term overseas working. Our internet-enabled world could allow individuals with particular skills to live in a country of their choice, even when the business benefiting from their work is in a different country. Long-term presence would certainly trigger payroll, social security and corporate tax obligations – but trying to minimise the additional administration is a key objective.

Hybrid working prompts the need for governments and tax administrations to rethink longstanding policies. This could be time to reshape parts of the tax system.

Image

UPDATE ON THE OTS

The work of the OTS concluded in December 2022. The OTS website remains (albeit with a 'closed' marker), so that users may view and download all OTS policy papers. The index of OTS work since 2010 with links to the reports is at bit.ly/3WBtMeO. The Chair and Tax Director remain in place until the closure, which is expected under the Spring Finance Bill.