Travel and subsistence: modern working arrangements

Employment Tax | Personal tax

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Changing working practices are testing long-established travel and subsistence rules, requiring employers to review workplace status, expenses and compliance arrangements.

Key Points

What is the issue?
Working practices have evolved considerably, but the travel and subsistence rules remain based on long-established principles. Hybrid working and changing workplace arrangements can therefore create unexpected employment tax consequences.

What does it mean to me?
Employers need to consider whether changing working patterns affect workplace categorisation and the tax treatment of travel and subsistence, particularly where actual arrangements differ from those originally documented.

What can I take away?
Assess the employment tax consequences before workplace changes become established, document arrangements appropriately and monitor working patterns over time, using available workforce data to identify potential compliance risks.

The way in which organisations deploy their workforces continues to evolve. Employees increasingly tend to divide their time between homes, regional offices, client sites and other locations, whilst many employers have embedded hybrid and flexible working arrangements into their operating models.

Despite these developments, the tax legislation that governs travel and subsistence is still founded on the statutory principles that were substantially recast in April 1998, and which have changed relatively little since. The distinction between a permanent workplace, a temporary workplace and ordinary commuting remains central to determining whether travel expenses qualify for tax relief.

This presents an ongoing challenge for employers. As workplace arrangements become more varied, the application of long-established tax concepts can become increasingly difficult. Changes that have been introduced for operational, commercial or employee-relations reasons can have significant and sometimes unexpected employment tax consequences. Arrangements that are intended to support workplace flexibility may inadvertently alter the tax treatment of travel expenses, creating PAYE and NIC exposures.

The compliance environment has also evolved. Since the introduction of the statutory exemption for qualifying business expenses in April 2016, which replaced P11D dispensations, employers have assumed greater responsibility for ensuring that expense payments satisfy the legislative requirements. Looking ahead, mandatory payrolling of benefits from April 2027 will further increase the importance of obtaining the correct tax treatment when expenses are reimbursed, rather than identifying errors retrospectively through year-end reporting processes.

Against this background, employment tax should be considered at the outset whenever new workplace arrangements are being planned. Procedures should also be in place to identify subsequent changes in working patterns that could alter the tax position.

Travel and subsistence compliance

Travel and subsistence remains one of the areas most frequently challenged during HMRC employment tax compliance reviews. Although the legislative framework is well established, its application to modern working practices is not always straightforward.

Errors often arise where employers redesign workplace arrangements without fully considering the tax consequences or where working patterns evolve over time. A new regional office, hybrid working policy, client-site arrangement or relocation programme may appear to be primarily an operational matter, but each has the potential to affect workplace categorisation and, therefore, the tax treatment of travel expenses.

Relatively small changes in working patterns can transform travel that previously qualified for relief into ordinary commuting. Where this occurs, reimbursements previously treated as exempt may become taxable, potentially creating liabilities for tax, NIC, interest and penalties.

These risks are becoming more significant as employers make greater use of automated expense management systems and HMRC has access to increasingly detailed information about actual attendance patterns and working arrangements.

The legislative framework

The legislation provides two principal routes to relief for employment-related travel expenses.

The first, contained in the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 337, applies where travel is undertaken in the performance of the duties of the employment. This can include travel between workplaces during the working day and circumstances in which travelling forms part of the employee’s duties.

The second, contained in ITEPA 2003 s 338, provides relief where travel is undertaken for necessary attendance at a workplace in the performance of the employment duties, provided the journey does not constitute ordinary commuting.

In practice, it is the interaction between workplace categorisation and ordinary commuting that gives rise to most difficulties. Travel that qualifies as business travel may generally be reimbursed free of tax and NIC, whereas ordinary commuting cannot.

Workplace change and travel relief

Before introducing or modifying arrangements such as homeworking, hybrid working, regional office attendance, co-working facilities, client-site working or employee relocations, employers should consider whether the arrangements could alter employees' workplace categorisation for tax purposes.

In many cases, employees will continue to have a permanent workplace at their employer's premises even where they undertake some duties elsewhere. As a consequence, travel that may appear to qualify for relief may in fact constitute ordinary commuting.

Travel and subsistence consequences should therefore be assessed when workplace changes are designed and kept under review as working patterns evolve. Attempting to address the tax implications after arrangements have become established can be considerably more difficult and may reveal historic compliance failures.

The tax treatment of subsistence generally follows that of the associated travel. Where travel qualifies for tax relief, associated subsistence expenditure will usually qualify too, subject to the normal considerations regarding reasonableness, dual-purpose expenditure, scale-rate arrangements and round-sum allowances.

Qualifying business expenses can generally be reimbursed without reporting them to HMRC under the statutory exemption. Employers must, however, ensure that payments satisfy the relevant conditions and should be able to demonstrate that appropriate policies, governance arrangements and internal controls support the treatment adopted.

Where relief is not available, employers may be required to process payments through payroll or account for the benefit through the benefits regime. With mandatory payrolling of benefits from April 2027, identifying the correct treatment when expenses are incurred and reimbursed will become increasingly important.

Workplace status and hybrid working

The concepts of permanent and temporary workplaces and ordinary commuting were considered in detail by Susan Ball and Lee Knight in *Tax Adviser* in June 2022 ('The temporary workplace: applying the intention or expectation test'). The growth of hybrid working has since continued to raise questions about how those principles apply in practice.

The fact that an employee performs duties from home does not, of itself, mean that the home constitutes a workplace for tax purposes, nor does it automatically convert home-to-office travel into business travel.

HMRC's long-established view is that where suitable facilities are available at the employer's premises and homeworking is undertaken wholly or partly as a matter of personal choice, travel between home and the employer's premises will generally constitute taxable ordinary commuting.

There are circumstances in which a home may constitute a workplace for tax purposes, depending on the contractual arrangements and practical requirements of the employment. The distinction between duties being performed at home and the home itself qualifying as a workplace remains critical.

A common misconception is that regular homeworking automatically changes the nature of travel to the employer's premises. In many cases, it does not. Employers should therefore exercise caution before reimbursing home-to-office travel free of tax and NIC solely because hybrid working arrangements are in place.

Workplace status in the digital age

Whatever workplace arrangements are adopted, employers should ensure that they are appropriately documented. Employment contracts, flexible working agreements and internal policies should accurately reflect the intended arrangements and be

reviewed whenever working practices change.

The issue extends beyond HMRC compliance activity. Employment tax compliance is routinely considered during mergers, acquisitions, business reorganisations and investment transactions. Travel and subsistence arrangements can attract particular attention where workplace categorisation has not been reviewed for some time or actual working practices differ from documented arrangements.

Employers should also ensure that actual attendance patterns remain consistent with the assumptions underpinning workplace determinations. This is becoming increasingly important as organisations make greater use of building access systems, desk-booking platforms, travel and expense management systems, workforce planning tools and attendance monitoring systems.

Data analytics and artificial intelligence can help employers use this workforce data to identify attendance patterns that may require further review under the workplace rules. For example, analytical tools may identify employees who regularly attend the same location, exceed the 40% attendance threshold, continue assignments beyond 24 months or repeatedly travel to locations previously treated as temporary workplaces.

Used effectively, these tools can help organisations to move from reactive compliance towards ongoing monitoring, with workplace determinations reviewed as working patterns evolve. However, technology can only identify potential risk indicators: workplace status ultimately remains a matter of applying the legislation to the facts and circumstances of the individual case.

What the courts have said

The following cases illustrate how the courts have applied the travel and workplace rules to different working arrangements. They reinforce the importance of applying the legislation to the underlying facts rather than simply relying on how arrangements are described, particularly for employers with home-based, project-based or temporary workers, or employees working across multiple locations.

Homeworking and commuting

In *Kirkwood v Evans* [2002] EWHC 30, Mr Evans worked from home for four days a week under a voluntary homeworking scheme and attended his employer's Leeds office on the fifth. Although his home was also a workplace, the Leeds office remained a permanent workplace and his journeys there constituted ordinary commuting.

The case remains particularly relevant to hybrid working: regular homeworking does not, by itself, turn travel between home and an employer's permanent workplace into business travel.

Successive assignments

In *Mainpay Ltd v HMRC* [2025] EWCA Civ 1290, Mainpay, an umbrella company, engaged temporary workers who undertook assignments principally in the education, health and social care sectors. Mainpay argued that the assignments formed part of a single employment, so that the locations at which the workers carried them out could be temporary workplaces.

The Court of Appeal dismissed Mainpay's appeal, holding that the successive assignments did not constitute a single employment for these purposes. Each assignment was therefore a separate employment and the location at which it was carried out was a permanent workplace. The associated subsistence expenses were not deductible.

Overarching employment

In *Exchequer Solutions Ltd v HMRC* [2024] UKUT 25 (TCC), an umbrella company employing construction workers argued that successive assignments were covered by an overarching employment contract, so that the different construction sites were temporary workplaces.

The Upper Tribunal upheld the finding that there was insufficient mutuality of obligation between assignments to establish an overarching employment contract. Each assignment was therefore a separate employment and each site a permanent workplace, making reimbursed home-to-site travel ordinary commuting and subject to PAYE and NIC.

Mandatory hotel stays

In *HMRC v British Airways plc* [2026] UKUT 366 (TCC), cabin crew undertaking ‘back-to-back’ flight rotations were required to stay in hotel accommodation at Heathrow between two linked return trips. The stay was compulsory, reflecting aviation safety requirements and the contractual arrangements governing their employment.

The Upper Tribunal dismissed HMRC’s appeal, holding that the entire rotation constituted a continuing journey in the performance of the crew’s duties. The hotel costs were therefore deductible under ITEPA 2003 s 337 as travel expenses necessarily incurred in performing those duties. As a result, the accommodation did not give rise to an income tax or Class 1A NIC charge.

Time for wider reform?

Although the core travel and subsistence rules have remained largely unchanged, there have been continuing calls for reform. Professional bodies and employers have questioned whether some approved rates and thresholds still adequately reflect modern costs and working arrangements. The Budget saw announcement onchanges to the 25p mileage rate above 10,000 business miles from April 2027 and changes to the Benchmark Scale Rates (BSR) of £20 for travel over five hours, £60 over 10 hours and £75 over 24 hours, from April 2028. The Overseas Scale Rates will be simplified, replacing the 200 plus destination-specific rates with a simplified tiered approact that links to the updated BSR.

There is also a broader question about whether the travel and subsistence regime remains aligned with contemporary working practices, including differences in treatment between expenses reimbursed by employers and those paid directly by employees.

It is more than 25 years since the underlying legislative concepts were substantially recast, and more than 10 years since the Office of Tax Simplification reviewed employee benefits and expenses in 2014. This was followed by a government consultation in 2015 and a response in 2016. With working practices having evolved considerably since then, there may now be a case for reconsidering how the rules could be modernised and simplified.

Recent changes to watch

Mileage allowances: From 6 April 2026, the Approved Mileage Allowance Payments (AMAP) rate for cars and vans increased from 45p to 55p per mile for the first 10,000 business miles travelled in a tax year. The rate above 10,000 miles remains at 25p per mile until April 2027 when it becomes 35 per mile. Employees reimbursed at a lower rate may be entitled to claim Mileage Allowance Relief on the difference between the amount reimbursed and the relevant AMAP rate. Employers should check whether expense policies and employment documentation automatically incorporate changes to HMRC rates or need to be amended when rates are revised.

Homeworking expenses: From 6 April 2026, employees can no longer claim income tax relief directly from HMRC for unreimbursed household expenses incurred because of homeworking. Employers may, however, continue to reimburse qualifying additional household expenses, including payments of up to £6 per week under HMRC's established administrative practice, without a tax or NIC charge where the relevant conditions are satisfied.

PAYE Settlement Agreements: Following HMRC's recent consultation, employers should keep potential changes to PAYE Settlement Agreements (PSAs) under review. Any reform could affect which items may be included and the associated compliance obligations. As travel and subsistence errors are sometimes settled through PSAs, changes could affect how employers deal with such liabilities.

In conclusion

The principal risk for employers does not generally arise from uncertainty in the legislation itself, but from failing to recognise when changing working practices alter the application of the workplace rules. Hybrid working, regional office structures, client-site deployments and workforce mobility all require careful consideration if travel and subsistence expenses are to be treated correctly.

Greater access to workforce data and increasingly sophisticated analytical tools can also help employers identify potential compliance risks more readily. Where relevant, organisations should consider the implications of the Uncertain Tax Treatment (UTT) rules and Senior Accounting Officer (SAO) obligations, particularly where travel and subsistence processes form part of wider financial governance frameworks.

Employers should therefore build travel and subsistence considerations into workplace-change programmes and keep workplace categorisation, expense policies and working patterns under review. The key is to assess the employment tax consequences before changes become established and to monitor arrangements as they evolve, rather than attempting to address problems retrospectively.