Taxation of employee expenses call for evidence

Employment Tax

01 May 2017

On 20 March HM Treasury published a call for evidence into the future of employee expenses. The CIOT and ATT will be responding to this consultation and we would like our members' input to inform our responses.

The consultation document states that the government's main objectives of this review are to understand:

- if the current rules or their administration can be clearer and simpler;
- whether the tax rules for expenses are fit for purpose; and
- why the cost to the exchequer of the tax relief for expenses which are not reimbursed has increased.

There can be a disconnect between employer practice on reimbursing employees' expenses and the tax reliefs available to those expenses; whether it is expenses reimbursed by employers, or non-reimbursed expenses for which a claim for a tax deduction can be made to HMRC. Understanding those distinctions and making obtaining tax reliefs as simple as possible is important to employees, employers and HMRC. At a time when traditional employments seem to be fast being overtaken by new ways of working, it is right to look at to what extent the tax rules on employee expenses need updating.

Although the government has said that there are no plans to remove the relief on employee expenses it should be noted that the tax relief on expenses which employers do not reimburse and employees then claim from HMRC costs the Exchequer £800 million per year. There has been a 25% increase in claims for relief since 2009/10, and undoubtedly the government will want to look at the reasons why employers are not reimbursing these expenses.

The consultation poses 17 questions split into three sections. The first nine questions look at current employer practice. In particular, what expenses employees normally incur, what actually employers pay or reimburse (and what evidence employers expect to see before doing so), what expenses employees expect employers to meet, how policies on expenses are decided on and to what extent the type of expense incurred or reimbursed has changed in recent years. This first section also asks why employers do not reimburse expenses for which current tax rules provide tax relief for (and to what extent employees then make a claim to HMRC for tax relief on such expenses).

Section 2 focuses on the current tax rules and to what extent they remain fit for purpose. Tax relief is generally available when expenses are incurred 'wholly, exclusively and necessarily in the performance of the duties of the employment' but expenses which put an employee in a position to do their job (such as the cost of ordinary commuting) are not eligible for tax relief. There are also provisions for relief for specific expenses, such as professional fees and subscriptions, and travel and subsistence.

The six questions in section 2 are aimed at finding out whether existing tax rules reflect the expenses employees incur in today's working environments and to what extent tax rules are outdated and need to catch up. For example, has the April 2016 change from dispensations and P11D's to the 'reimbursed expenses rule', which means that qualifying expenses can be paid by employers free of tax without the need for an employer to apply to HMRC for a dispensation or include the expenses in an end of year P11D, made a difference?

This section also asks whether employers' policies generally follow HMRC's guidance on tax deductible expenses, whether employees understand the tax rules and how employees then claim the tax reliefs they are entitled to. In addition, the call for evidence asks whether tax-relief approved flat-rate allowances (e.g. for working from home) remain appropriate.

The final section considers the future for employee expenses and poses two questions asking how expenses' practices might evolve and what aspects of the tax treatment of expenses should be explored further.
Members' comments on the call for evidence can be sent to technical@tax.org.uk or atttechnical@att.org.uk by 19 May.

Finally, there were two other consultation documents mentioned in the Budget – on employer-provided living accommodation benefits, and the taxation of benefits-in-kind more widely – which were expected to also be published on 20 March. These have not been published by the government at the present time. We do, however, understand that the government plans to come back to these other documents at a later date.