

CHANCERY MANAGEMENT NEWS UPDATE

Issue 08

01 August 2009

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On This Day In Previous Years

On this day in 1960 Islamabad was declared as the Federal Capital of the Government of Pakistan.

On this day in 1944 Anne Frank made her last known entry in her diary.

On this day in 1940 the first expulsion of Jews from Krakow took place.

On this day in 1934 Paul Von Hindenberg died aged 86 and Hitler took over the presidency.

Identity Theft

HM Revenue & Customs (HMRC) have sent out letters to some individuals under the heading Safeguarding Your Personal Details.

Apparently personal details are being obtained and bank accounts are being opened in the name of individuals by fraudsters who have obtained the National Insurance number and enough other information on certain individual innocent people to enable them to claim tax credits in the name of the individual.

HMRC have set up a department in the tax credit office to detect and stop any suspect claims but then if an individual actually then makes a genuine claim they will also be blocked.

If this has happened to any of your employees they should call 0845 300 3900 to have their record unblocked.

HM Revenue & Customs Introduce Advisory Rates For Subsistence

HM Revenue & Customs (HMRC) introduced advisory benchmark scale rates effective 6 April 2009 which employers can use to make subsistence payments to employees who incur allowable business expenses free of tax and National Insurance. The advisory rates only apply to scale rates for day subsistence.

If an employer pays subsistence for overnight stays, the expenses can be paid on a receipt basis, assuming they are allowable, or by using the scale cost rate agreed with HMRC in a dispensation document.

Some organisations do not realize that under current legislation an employer is duty bound to report all expense payments made to an employee to HMRC, including all allowable expenses unless the employer has a dispensation from HMRC. These are usually reported on a form P9D or more likely on a form P11D. All expenses reported on a for P9D or P11D should be inclusive of VAT.

Dispensation applications can include agreement that the employer can use the scale rate for employee subsistence claims instead of paying out claims on a receipt only basis.

HMRC used to expect an employer to carry out a sampling exercise before agreeing a particular rate being included in a dispensation. The purpose being to identify the level of costs that are actually being incurred by employees and set the scale rates accordingly.

HMRC have now recognized that sampling exercises are a burden and expensive for the employer and decided to introduce the advisory system of benchmark scale rates for day subsistence payments without having the sampling exercise.

The main change compared with previous schemes is that HMRC has now determined the circumstances in which a day subsistence payment can be allowed.

Previously the HMRC used many unpublished guides such as the five and five rule.

Under this particular rule HMRC allowed subsistence payments to be made to an employee for certain expenses such as lunch provided the employee was five miles away from their normal place of work for more than five hours.

Under the new advisory benchmark rates the rules have been simplified and reasonably published with most of the unpublished guidelines being relaxed.

However, the new rules and advisory rates are not statutory and will remain voluntary.

The new advisory benchmark subsistence rates are listed below.

BREAKFAST RATE (*for irregular early starters only*)

A rate of up to £5.00 can be paid if an employee leaves home earlier than usual provided it is before 06.00 hours and incurs a cost for breakfast while away from home. If the employee does this on a regular basis or if the employee leaves home before 06.00 hours due to an early shift to finish work early the claim for subsistence would not be allowed.

ONE MEAL RATE (*five hour rate*)

A rate of up to £5.00 can be paid if an employee has been away from home or normal place of work for a period of at least five hours and has had to buy a meal.

TWO MEAL RATE (*ten hour rate*)

A rate of up to £10.00 can be paid for a meal if an employee has been away from home or normal place of work for a period of at least ten hours and has had to buy a meal.

LATE EVENING MEAL RATE (*irregular late finishers only*)

A rate of up to £15.00 can be paid to an employee who has to work later than usual and has to buy a meal which would normally have been eaten at home, provided the late working is after 20.00 hours. If the employee has claimed for a meal under the five or ten hour rule a late evening meal can still be paid provided the work finishes after 20.00 hours. However, if the employee regularly finishes work late because of an afternoon shift or any other reason due to starting work later the claim would not be allowed.

OTHER CONDITIONS

HMRC will allow these new advisory benchmark scale rates to be used by an employer who wishes to implement them to reimburse subsistence costs without the necessity to pay against receipts. However, we do recommend receipts are kept.

The advisory benchmark scale rates can only be paid if travel is wholly, exclusively and necessarily in the performance of duty by the employee.

The employee should be absent from home or their normal place of work for a minimum and continuous period in excess of five or ten hours. The employee should only claim for the various expenses after starting the journey.

The early starter and late finishing rates are for use in exceptional circumstances and do not

apply for employees who regularly start early or finish late through their work pattern or shifts. Tax and National Insurance free payments for subsistence must be limited to three meal rates in any one 24 hour period. A meal is defined as food and non alcoholic drinks.

If employees are required to start early or finish late on a regular basis, the over five hours, over ten hours and late meal costs incurred can be paid provided all the other rules are satisfied such as being away from the normal place of work or home E.G. a sales representative.

The employer must be aware that by voluntarily adopting the advisory benchmark scale rates although it is not a statutory rule to do so, once implemented the employer will be locked into all these conditions and in addition, will be obliged to acknowledge and implement any changes that HMRC may make to them from time to time. Therefore, the arrangement may not necessarily be desirable.

The employer must also change their expenses policies accordingly and ensure all employees claim expenses that comply with the rules.

Difficulties could arise by the interpretation of working away from the normal pace of work or home if for example an employee is working away but not very far from the normal place of work or home.

WARNING

The employer cannot just decide to introduce these advisory benchmark subsistence rates.

HMRC require any employer who wishes to implement these rates to apply to them for a dispensation on an official form P11DX.

On that form the employer needs to tick the appropriate statement "Travel and Subsistence" indicating that the employer intends using the advisory benchmark scale rates for the purpose of reimbursing subsistence payments and must ensure they have the procedures and adequate processes in place to ensure all the terms and conditions are met.

Any employer with existing dispensations should note that they will remain in force until they come up for review in accordance with the HMRC review process which is normally for up to five years unless the employer applies for changes. The employer can apply for a review to switch from any existing arrangement to these new rates although it is probably better to continue with any existing arrangement to the end of the tax year.

If any employer wishes to apply to HMRC to operate a tailored system HMRC will probably insist on a statistical sampling process which is why it may be advantageous to adopt the new advisory benchmark scale rates.

RATE CHANGES

HMRC will make various changes to these advisory rates in a similar way that they change scale fuel advisory rates from time to time.

SUMMARY

The introduction of advisory benchmark scale rates are a considerable and useful improvement from HMRC.

The scheme provides clarity and is reasonably easy to implement.

However it is, in our opinion, not necessarily suitable for every type of business and as stated above although it can be implemented on a voluntary basis once introduced it is an obligation to comply with all the rules of the scheme and no doubt will be necessary to prove that the systems and procedures are in place to prove compliance.

Telephone Tax

From 2010 the Government intends introducing a telephone tax commencing at £6.00 per year. The tax is supposed to fund the latest internet technology for every home in the United Kingdom.

The new tax is expected to raise up to £175 million which will subsidise the cost of laying fibre-optic cable to the one in three homes that BT and Virgin will not upgrade at their own expense.

The new technology known as “superfast broadband” and will only be useful for people with the latest computer equipment who wish to download films and music or play online games.

Almost one house in four has no computer at all and four out of ten of those do not want one. Many of those are older people who are the most likely to use a landline phone rather than a mobile, so they will be paying a telephone land line tax to be connected to a service they do not want and will not use.

There is only one concession. Anyone using a BT basic tariff will be exempt from the new charge. BT states there are about 400,000 of them but claims that number will grow to about 700,000 by the end of the year.

In addition there will be more expense incurred as the Government intends to switch all radio broadcasts almost exclusively to digital DAB services. Millions of radios will become obsolete.

The Government says by then new digital sets will cost £20.00 but it is still £20.00 that need not have been spent.

In any event all car radios will have to be changed and will become obsolete and in many cases the digital DAB will not work in cars because of the way in which the digital signal is transmitted.

Bereavement Allowance

Widows aged 45 to pension age may be entitled to bereavement allowance paid for 52 weeks. The allowance depends on the age when their spouse dies. It is not means tested but is taxable.

The weekly allowances for 2009-2010 are:

Age at date of death	Weekly Amount	Age at date of death	Weekly Amount
45	£28.58	50	£61.91
46	£35.24	51	£68.58
47	£41.91	52	£75.25
48	£48.58	53	£81.92
49	£55.25	54	£88.58
		55 to state pension age	£95.25

If you have a dependent child under 19 and you are under state pension age you may qualify for an allowance of £95.25 per week and you may also qualify for an earnings related allowance based on your late spouses earnings.

Quotations of the Month

There is a fine line between a hobby and mental illness.

Argument thrives when facts are scarce.

All you need in this life is ignorance and confidence; then success is sure.

Good things, when short, are twice as good.

Source: The CML Collection

Statistics of the Month

One million Britons used cocaine in the past year, a 25% rise on the previous twelve months; 6.6% of people aged 16-24 admit to using the drug. Source: British Crime Survey.

One in three men aged 20-40 still lives with his parents compared to one in five women of the same age. Source: Daily Mail

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