

LOW INCOMES TAX REFORM GROUP

Tax relief for travel expenses: temporary workers and overarching employment contracts RESPONSE TO HM TREASURY / HM REVENUE & CUSTOMS CONSULTATIVE DOCUMENT

1. Executive Summary

- 1.1. Our response to this consultation is short and is intended to make a single recommendation – that the whole area of tax relief for travel expenses should be subject to fundamental review, rather than a limited examination of certain areas as in the current consultation.
- 1.2. If there is a decision to proceed on the specific anti-avoidance route envisaged in the consultative document despite our main recommendation, then we think it is vital that any measure is precisely targeted. There is a real danger that in trying to hit a particular area, HMRC cause collateral damage on valid home-based workers.

2. Introduction

2.1. About us

- 2.1.1. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes.
- 2.1.2. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

2.2. Our response

- 2.2.1. We are therefore examining this consultation from the viewpoint of those we aim to represent rather than those who perhaps seek to use the law as it stands to the best advantage. The low-income, unrepresented taxpayer is more likely to be on the

receiving end of exploitation rather than seeking him/herself to exploit the tax system to maximum effect.

3. A fundamental review

3.1. *The current system – simplification and modernisation*

- 3.1.1. Travelling costs – in particular, those incurred in home-to-work travel – have been the subject of numerous appeals over the years. The rules are replete with vagaries, difficult for the layman to understand and, in certain instances, simply unfair.
- 3.1.2. Much of the case law underpinning the HMRC approach to travel expenses was determined in a very different age when workplaces were fixed and the demands of our current flexible economy were unknown.
- 3.1.3. The tax system must move with the times and, in this respect, it is pleasing to note that the Government recognises that employment patterns are changing (para 1.1). We accept that the effect of the umbrella company arrangement creates an injustice between workers; but it is better to look at the fundamental issue of the requirement of such types of worker to incur costs in that type of work pattern. It is no answer in dealing with one perceived injustice to create others.
- 3.1.4. We think the consultation lights upon the wrong issue. We believe instead that a fundamental review of employment taxes in the context of changing and more flexible working patterns is necessary. Such a review should encompass – inter alia – the tax treatment of home-working (and related expenses) and travel expenses. In the latter context, it should consider whether tax relief should be given more readily for travel that the individual cannot avoid incurring; i.e. circumstances in which it is impossible to relocate their residence and not incur those or equivalent costs (see appendix for an illustration).
- 3.1.5. A review of the current system should assess how well it is working, whether it is coping with changing circumstances and whether changes could be made to make it more appropriate for the future. It would also be an opportunity to rationalise the travel rules as between those who are employed and those who are self-employed.

3.2. *In work and off benefits*

- 3.2.1. It is generally acknowledged that having maximum numbers in work is good for economic prosperity and individuals' well-being. The current Welfare Reform Green Paper¹ acknowledges this and seeks to review how benefits claimants can be encouraged into employment.
- 3.2.2. A report² LITRG published jointly with Community Links and the Child Poverty Action Group identified that the interaction of tax, benefits and tax credits is far too complicated and the costs of getting into work are often a barrier to employment. In this context, travel costs may be a significant barrier for those at the lower end of the employment spectrum. A review of the tax system could consider how to overcome this issue.

¹ See <http://www.dwp.gov.uk/welfarereform/>

² See *Interact: benefits, tax credits and moving into work* - <http://www.litrq.org.uk/reports/reports.cfm?id=483>

3.3. ***Equal opportunities***

- 3.3.1. Disabled people, for example people with physical disabilities, who wish to work are likely to incur higher-than-general transport costs. There is some recognition of this in the tax system in that there is no taxable benefit where employers contribute to a disabled employee's home-to-work travel or provide a car for ordinary commuting¹.
- 3.3.2. However, where the employee is not so fortunate as to work for an employer willing to provide such assistance, no deduction is available for them in meeting the cost themselves. This is again something which we feel should be reviewed, originally noted in our 2003 report *Disability in Tax and Related Benefits: The Case for a Modern and Coherent Approach*². Travel issues as a barrier to work were also highlighted in the recent RADAR debate³ on the proposal to move many more disabled people into work as set out in the Government's Welfare Reform green paper.

3.4. ***A stark contrast***

- 3.4.1. We would like to make a comparison here between two extremes: a Member of Parliament who travels between their second home in London and their primary constituency home; and an agency worker on the National Minimum Wage (NMW), or little more, who has to go from wherever they call home to a variety of premises and who cannot adjust home to achieve a reasonable commute. The appendix illustrates this using an example of a care-worker with two places of work.
- 3.4.2. The MP receives expense allowances which are exempted from income tax by virtue of Part 4, Chapter 8 of ITEPA 2003. The agency worker, if s/he is lucky, may receive a contribution towards travel costs, but this is likely to be taxable on the grounds it is for home-to-work travel. If no payment of expenses is made, there is no tax deduction for the costs incurred. For someone on the NMW, their income – and therefore their standard of living and inclination to work – is correspondingly and disproportionately depleted.

3.5. ***A fair outcome***

- 3.5.1. In conclusion, whilst short-term action may be taken to address the problem identified in this consultation, we would like to see a commitment from HM Treasury and HMRC to embark on a wider, fundamental review of employee travel.
- 3.5.2. We would like to see fairness for all workers, not by denying reliefs but by looking at what is just and reasonable; particularly looking at solutions for the low-paid to overcome costs of travel disproportionate to their income.
- 3.5.3. We suspect that HMRC will nonetheless feel the need to take action in the short term. If the route chosen is to deem as separate employments various tasks undertaken under an overarching employment arrangement, we have concerns that this measure might catch the innocent. In simple terms, there are many people who validly have a home base and work from home. They go to a variety of locations and validly claim travel expenses. Their entitlement to travel expenses – often an important component of their overall reward – must not be affected by the proposed

¹ Sections 246 and 247 ITEPA 2003

² See <http://www.litrg.org.uk/reports/reports.cfm?id=72>

³ 'This House Believes the Majority of Disabled People Can and Should Work' – pp 78 and 79

changes.

- 3.5.4. Any change should be tied to arrangements that are set up with one of the main objectives being to obtain travel expenses deductions.

LITRG

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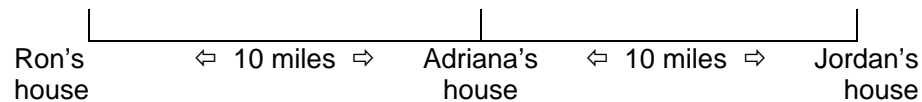
Appendix

Adriana is a care-worker earning £7.25 an hour. She has two, entirely separate, part-time jobs.

For the first, she drives 10 miles west from her home to visit Ron who is 85 and who needs help in the morning and in the evening. Adriana works 4 hours a day for Ron, helping him with personal care, preparing meals and cleaning. She stays for 2 hours in the morning and returns for 2 hours in the evening.

Adriana's second job is providing respite care for Jordan, a disabled child, for 4 hours in the middle of the day. She travels to the child's home which is 10 miles east of Adriana's own home.

Adriana's travel pattern can therefore be illustrated thus:



Time of day	Travel	Distance
Morning	Home to Ron's house	10 miles
Mid-morning	Ron's house to Jordan's house	20 miles
Mid-afternoon	Jordan's house back to Ron's house	20 miles
Early evening	Ron's house to home	10 miles

Total travel per day: 60 miles, no tax relief.

Adriana's position is inescapable: Ideally, she would prefer to work full-time in a single location, reducing her travelling time and costs, but has been unable to find such a job. She also cannot move to live nearer to her place of work given the distance between the two jobs.