

# Expenses paid to members of the devolved administrations

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## Who is likely to be affected?

Assembly Members in Wales (AMs); Members of the Legislative Assembly in Northern Ireland (MLAs); Members of the Scottish Parliament (MSPs).

## General description of the measure

The measure exempts from income tax and National Insurance contributions (NICs) certain travel expenses paid to members of the three devolved administrations by the Assembly or Parliament.

## Policy objective

The measure will bring the income tax and NICs treatment of travel expenses paid to members of the devolved administrations into line with the treatment of similar expenses paid to Westminster MPs. In doing so, it will formalise most aspects of the existing income tax and NICs treatment of payments of travel expenses received by members of the devolved administrations.

## Background to the measure

The current tax and NICs treatment of certain travel expenses received by members of the three devolved administrations is currently subject to some long-standing special rules which recognise the unique constitutional role of members. The rules are based on existing statutory exemptions as well as some informal concessionary arrangements.

Following the creation of the Independent Parliamentary Standards Authority (IPSA) and the introduction of the new MPs' Expenses Scheme, legislation was enacted in Finance (No.2) Act 2010 to continue existing statutory exemptions and formalise aspects of these concessions as they applied to Westminster MPs.

Similar legislation is now needed to formalise the income tax and NICs treatment of travel and subsistence expenses incurred by members of the devolved administrations and to ensure consistency in the treatment of all parliamentary expenses.

The measure was announced at Budget 2012.

## Detailed proposal

### Operative date

The measure will apply to expenses paid or reimbursed on or after 6 April 2013.

### Current law

Sections 337 to 339 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) set out the rules under which an income tax deduction is available for payments or reimbursements made to an employee or office holder for travel undertaken in the performance of duties or for necessary attendance at a temporary workplace. The NICs disregard of such expenses is determined by legislation in the Social Security (Contributions) Regulations 2001, Schedule 3, Part 8, paragraph 3 which is applicable to all employed earners in relation to travel expenses. On a strict application of these rules certain expenses paid or reimbursed to

members as necessary travel for the performance of their Parliamentary or Assembly duties would not qualify for income tax or NICs relief.

To recognise the requirement of members in having to carry out their duties in both their constituencies and the Assembly or Parliament, these rules have therefore, under a long standing concessionary arrangement, been extended to allow relief for journeys between their home in their constituency or region and Parliament or Assembly, and their constituency or regional office.

Section 293A of ITEPA formalised this concessionary treatment as it applied to expenses incurred on similar journeys by Westminster MPs. Section 293A also introduced a statutory exemption for travel by MPs' spouses and partners where paid or reimbursed by IPSA. Paragraph 16(c) of Schedule 3 of the Social Security (Contributions) Regulations 2001 mirrors section 293A of ITEPA for NICs purposes.

### Proposed revisions

Legislation will be introduced in Finance Bill 2013 to exempt from income tax payments or reimbursements of expenses in respect of:

- travel by AMs, MLAs and MSPs between their constituency or region (including a home within the constituency or region or within 20 miles its boundary) and Parliament or Assembly complex or a residence close to it;
- travel by AMs, MLAs and MSPs within their constituency. Travel between a member's home in their constituency or region and their only or most frequently occupied constituency or regional office will become taxable; and,
- travel undertaken by the spouse or partner of a member between the constituency or regional home and a member's residence close to the Parliament or Assembly where the spouse or partner shares caring responsibilities for a dependent with the member.

The exemptions will be employment income exemptions (as defined at section 227(3) Income Tax (Earnings and Pensions) Act 2003 (ITEPA)).

Regulations which will be made under existing powers will also be introduced to ensure that the treatment of NICs will mirror that for income tax.

### Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	negligible	negligible	negligible	negligible	negligible
This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013.						
<b>Economic impact</b>	The measure is not expected to have any economic impacts.					
<b>Impact on individuals and households</b>	<p>This measure brings the tax treatment of reimbursed expenses for members of the devolved administrations into line with the treatment for MPs.</p> <p>AMs, MLAs and MSPs who currently receive tax-free expenses for journeys between their home and their most regularly attended constituency or regional office will have to pay income tax on those expenses from April 2013. There are 297 elected members who could potentially receive payments in respect of such travel.</p>					

<b>Equalities impacts</b>	The measure has no negative effect on the relative positions of different equality groups.
<b>Impact on business including civil society organisations</b>	This measure is expected to have no impact on businesses or civil society organisations. The measure only affects expenses paid to members of the devolved administrations.
<b>Operational impact (£m) (HMRC or other)</b>	This measure formalises rules that have applied for many years, so there are no new operational or compliance costs for HM Revenue & Customs.
<b>Other impacts</b>	Other impacts have been considered and none have been identified.

### **Monitoring and evaluation**

This measure will be kept under review through communication with the devolved administrations.

### **Further advice**

If you have any questions about this change, please contact Basil Rajamanie on 020 7147 2384 (email: basil.rajamanie@hmrc.gsi.gov.uk).

## 1 Expenses of elected representatives

(1) After section 293A of ITEPA 2003 insert –

### “293B UK travel expenses of other elected representatives

- (1) No liability to income tax arises in respect of a payment to which this section applies if it is expressed to be made in respect of relevant UK travel expenses.
- (2) This section applies to payments –
  - (a) made to members of the Scottish Parliament under section 81(2) of the Scotland Act 1998,
  - (b) made to members of the National Assembly for Wales under section 20(2) of the Government of Wales Act 2006 or to a member of the Welsh Assembly Government under section 53(2) of that Act, or
  - (c) made to members of the Northern Ireland Assembly under section 47(2) of the Northern Ireland Act 1998.
- (3) In this section “relevant UK travel expenses” means expenses necessarily incurred on journeys of the following kinds within the United Kingdom –
  - (a) journeys within subsection (4) made by the member that are necessary for the performance of his or her duties as a member;
  - (b) if the member shares caring responsibilities with a spouse or partner, journeys made by the spouse or partner between the constituency or region and the member’s parliamentary home.
- (4) The journeys referred to in subsection (3)(a) are those –
  - (a) between the constituency or region and the Parliament or Assembly to which the member belongs,
  - (b) between the constituency or region and the member’s parliamentary home, or
  - (c) within the constituency or region, but not excluded by subsection (5).
- (5) A journey is excluded if –
  - (a) in the case of a member who has only one local office, it is between the member’s local home and that office, and
  - (b) in any other case, it is between the member’s local home and the principal local office.
- (6) In this section –
  - “constituency or region”, in relation to a member, means the constituency or region which the member represents and the area within 20 miles of the boundary of that constituency or region;
  - “local office”, in relation to a member, means an office which is situated in the constituency or region and occupied by the member for the purposes of performing duties as a member;
  - “the member’s local home” means a residence of the member situated in the constituency or region;
  - “the member’s parliamentary home” means the member’s only or main residence in the area comprising –

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- (a) the main site of the Parliament or Assembly to which the member belongs, and
    - (b) the area within 20 miles of that site;
  - “principal local office”, in relation to a member, means the local office most frequently occupied by the member for the purposes of performing duties as a member.
  - (7) A person has “caring responsibilities” if the person –
    - (a) has parental responsibility for a dependent child aged under 17 or for a child aged 17 or 18 who is in full-time education, or
    - (b) is the primary carer for a family member in receipt of –
      - (i) attendance allowance,
      - (ii) disability living allowance at the middle or highest rate for personal care, or
      - (iii) constant attendance allowance at or above the maximum rate with an industrial injuries disablement benefit, or the basic (full day) rate with a war disablement pension.
  - (8) The Treasury may by order amend the definition of “caring responsibilities” in subsection (7).”
  - (2) The amendment made by this section has effect in relation to payments made on or after 6 April 2013.

**EXPLANATORY NOTE**

**EXPENSES OF ELECTED REPRESENTATIVES**

**SUMMARY**

1. This clause introduces a new income tax exemption for certain travel expenses paid or reimbursed to Members of the Scottish Parliament, Members of the National Assembly for Wales, and Members of the Legislative Assembly in Northern Ireland. This will broadly have the effect of maintaining the tax treatment that applies to similar expenses paid under a long-standing concessionary arrangement.

**DETAILS OF THE CLAUSE**

2. Clause 0624(1) inserts new section 293B into the Income Tax (Earnings and Pensions) Act 2003 (ITEPA).
3. New section 293B(1) provides for payments to which new section 293B applies to be exempt from income tax if they are expressed to be made in respect of relevant UK travel expenses.
4. New section 293B(2) defines the payments to which new section 293B applies.
5. New section 293B(3) defines 'relevant UK travel expenses' as expenses necessarily incurred on the kinds of journeys made by the member listed in new section 293B(4) and journeys made by the member's spouse or partner with whom they share caring responsibilities.
6. New section 293B(4) lists the qualifying journeys for the purposes of new section 293B(3)(a), including journeys within the member's constituency or region which are not excluded journeys.
7. New section 293B(5) sets out the circumstances in which journeys within the member's constituency or region are excluded journeys .
8. New section 293B(6) defines the terms 'constituency or region', 'local office', 'the member's local home', 'the member's parliamentary home', and 'principal local office', for the purposes of new section 293B.
9. New section 293B(7) defines the term 'caring responsibilities' for the purpose of new section 293B(3)(b).

10. New section 293B(8) provides an order-making power to amend the definition of ‘caring responsibilities’.
11. Clause 0624(2) provides that the amendments made to ITEPA by this clause have effect in relation to payments made on or after 6 April 2013.

**BACKGROUND**

12. Members of the three devolved administrations (DAs) are reimbursed in accordance with the respective allowances schemes administered by the DAs. The current tax treatment of travel expenses paid to members of the DAs is subject to certain long standing concessions which need to be formalised or ended.
13. To recognise the requirement of elected members having to carry out their duties in both their constituencies and their respective Parliament or Assembly headquarters, the general rules which allow tax relief for expenses incurred on work-related travel have, under long standing concessions, been extended in the case of members of the DAs.
14. Following the creation of the Independent Parliamentary Standards Authority (IPSA) and the introduction of the new MPs’ Expenses Scheme, legislation was enacted in Finance (No.2) Act 2010 to formalise aspects of these concessions as they previously applied to MPs. Similar legislation was not introduced at the same time in relation to members of the DAs because, at that time, new allowances schemes were not in place for all of the DAs.
15. The concessionary treatment applying to travel expenses paid to members of the DAs will end from 6 April 2013 and instead these amendments to ITEPA will provide a statutory exemption for certain relevant UK travel expenses paid to members by the respective authority, as expenses necessarily incurred in the performance of their Parliamentary or Assembly functions. This will bring the tax treatment of these members’ expenses broadly into line with their Westminster counterparts.
16. From 6 April 2013, expenses incurred by members of the DAs on travel between their home and their sole or most frequently occupied office in their constituency or region will become taxable.
17. The new exemption will apply to relevant expenses paid or reimbursed on or after 6 April 2013.
18. If you have any questions about this change, or comments on the legislation, please contact Basil Rajamanie on 020 7147 2384 (email: basil.rajamanie@hmrc.gsi.gov.uk).