

Minutes of employee benefits and expenses Consultative Committee

13.00 – 15.00 on Monday 17 June 2013 at

1 Horse Guards Road

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| **Committee** | **OTS** |
| Andy Read (Balfour Beatty) | Rt. Hon. Michael Jack |
| Anne Palmer (HMRC) | John Whiting |
| Colin Ben-Nathan (KPMG/CIOT) | Jeremy Sherwood |
| David Heaton (Baker Tilly/ICAEW) | Theresa Dendy |
| Emanuel Meyer (Meyer Consultancy) | Suzy Giele |
| Jackie McGeehan (HMRC) |  |
| John Hampton (BT/CBI) |  |
| John Wilson (British Beer and Pub Association) |   |
| John Mundy (HMT) |   |
| Peter Gravestock (Sole practitioner) |   |
| Tony Page (Telefonica) |   |
| Trevor Blackmur (TRB Tax and Payroll/ATT) |   |
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| **Apologies:** |   |
| Andy Richens (OTS) |   |
| Duncan Weldon (TUC) |  |
| Jackie Petherbridge (The Payroll Practice/FSB) |  |
| Michael Wilson (OTS) |  |
| Simon Parsons (Ceridian UK/BCS Payroll/IReeN) |  |
| Tracey Bowler (OTS) |  |

1. Welcome and introductions

Michael Jack welcomed the members to the second Committee meeting for the expenses and benefits review.

1. Summary of meetings

A paper had been circulated listing the meetings the OTS team had held or was planning as part of the review. John Whiting asked Committee members whether there were any gaps in the subject areas or groups covered by the 50 or so meetings. John Hampton offered to arrange a meeting for the OTS to talk to the BT fleet managers to discuss car benefits. Andy Read and Tony Page offered to arrange another meeting of the large employers’ forum for early July.

The OTS had been able to talk to many medium and large companies through meetings arranged by Deloitte, KPMG and PwC around the country. However, it was proving difficult to reach small businesses. The OTS had spoken to Jackie Petherbridge of the Federation of Small Businesses and was arranging several events for small businesses in the regions that would be advertised by local chambers of commerce and other business organisations.

The Committee suggested groups that might have something to say on accommodation benefits, including independent schools and country landowners. The OTS would try and arrange meetings with these.

1. Main areas of complexity identified so far

The OTS had circulated a paper listing the main issues that were arising from meetings they had held so far. Michael Jack asked the Committee for their thoughts on the list, especially whether there were any areas of complexity missing from it.

The list covered:

* Travel expenses, especially for people with multiple workplaces or temporary workplaces, foreign travel, HMRC guidance involving subjective terms such as “trivial” or “substantial” and difficulties agreeing PAYE Settlement Agreements and dispensations
* Abuse by some umbrella companies and recruitment agencies of the travel expenses rules
* Working from home, with tax rules out of date with business practices
* Lower paid employees, and the £8,500 threshold for benefits
* Removal expenses, with many thinking the £8,000 limit out of date
* The P11D process, especially regarding the unnecessary burden of filling in P11Ds when there wasn’t a tax charge, problems with one-off benefits leading to incorrect tax codes, different treatment of tax and NIC, HMRC errors
* National Insurance and income tax misalignment, such as tax relief for using own cars, the business mileage cap, section 336 ITEPA 2003 claims
* Additional burdens on employers caused by RTI (HMRC’s Real Time Information project) and Universal Credit reporting.
* Trivial benefits – inconsistency over what HMRC allows as “trivial”
* Third party benefits – employers are not always aware of them
* Accommodation benefits, especially problems of calculating rateable values the relevance of the £75,000 threshold for expensive properties and difficulties interpreting the exemptions for job related accommodation.
* Vouchers, especially tax/NIC mismatches. Childcare vouchers have complex rules for high earners
* Voluntary use of private smartphones and similar devices at work – rules are complex
* Tax rules for long service awards are too inflexible
* Tax impact of credit card expenses are often misunderstood
* Termination payments are causing problems for a small minority, but most people say they understand them and when the £30,000 exemption applies
* Beneficial loans rules are difficult to explain to employees
* Car hire – employers may book for a period including weekends as more cost effective, but it is difficult to prove the car is not available for private use.
* Other minor issues such as travel in own cars, entertainment, medical insurance for global employees, pecuniary expenses, salary sacrifice, accountancy costs, in-house benefits

The Committee thought the list was comprehensive and contained few surprises. One member thought the travel expenses rules worked, having been arrived at in the 1990s after a lot of deliberation. He was surprised at some of the suggestions which might lead to more complexity. He thought the guidance could be improved, especially removing subjective terms such as “trivial” or “substantial”.

Another point made was that the tax rules were meant to apply to all employers, from the largest to the smallest. Whilst large companies had a responsibility to their shareholders to pay reasonable expenses, smaller owner managed businesses had no such constraints.

Some committee members felt that small businesses often misunderstood the rules and were not aware of them. An example was given about the use of company Oyster cards for travel in London, where it was assumed that no tax issues arose when one card was shared among several employees and topped up by the company.

Michael Jack asked what data HMRC had on the scale of the problems with the benefits and expenses system. Detailed statistics on the numbers of employers and employees receiving different benefits (and the tax and national insurance due on them) were published on HMRC’s website, but some areas had patchy data – such as the number of dispensations issued, or amounts of expenses claimed. The OTS was exploring with HMRC what further data was available to help assess relative priorities. One suggestion was to look at records of calls made to HMRC contact centres on the subject of employee benefits and expenses, or count hits on the relevant HMRC website guidance.

On the subject of dispensations, one member thought a simple improvement would be to allow dispensations to be back dated beyond the start of the current tax year. Others suggested extending PAYE settlement agreements to all categories of benefits and expenses, and made on a rolling basis rather than annually.

Another suggestion was to allow employers to self-assess the taxable benefits and expenses paid to employees, rather than fill in P11Ds knowing there wouldn’t be a tax charge. This was how some other countries operated the reporting of taxable benefits. One simple change might be to allow reporting of net benefits on P11Ds, rather than having to report the gross benefit and make the linked expenses claim separately.

Michael Jack noted that there was a long list of issues, but no-one had really suggested scrapping the whole system and starting again. Emanuel Meyer had noted this earlier in the meeting, and Peter Gravestock had pointed out how difficult it was for small businesses to understand all the detailed tax rules. Michael Jack therefore asked Emanuel and Peter to draw up a short paper for the Committee setting out at a very high level what a complete rewrite of the system might look like. He asked Jeremy Sherwood to help identify the high level Government aims for the expenses and benefits rules from public statements, to inform the paper.

1. The interim report timetable

Jeremy Sherwood asked Committee members to send in any further thoughts on the review by Monday 24th June. The OTS team would then write a first draft of the interim report, aiming to circulate it to Committee members on 12 July for comment. The plan was to publish the report in the week starting 5 August. The OTS expected to agree with the Chancellor over the summer which areas to focus on for the second stage of the review.

1. AOB

The next Committee meeting would be arranged for September, when the subject areas for the next stage of the review should be known.