

Explanatory Memorandum to

The Income Tax (Travel Expenses of Members of Local Authorities) Regulations 2015 No. [xxxx]

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 Sections 235A and 295A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) provide an exemption from income tax for qualifying payments made by a local authority in respect of travel expenses incurred by a member of the local authority.
 - 2.2 Sections 235A(3) and 295A(3) provide that the Treasury may define, in regulations, what is meant by “local authority” and “qualifying payment”. The purpose of these regulations is to set out those definitions.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 Sections 235A and 295A ITEPA were inserted by section xxx of the Finance Act 2015 with effect from 6 April 2015.
 - 4.2 Section 235A provides that a qualifying journey made by a member of a local authority is to be treated as business travel for the purposes of calculating mileage allowance payments paid to the member and the approved amounts for such payments but not for the purposes of calculating mileage allowance relief. It defines a qualifying journey as a journey between a member’s home and the local authority office they use most frequently to perform their duties as a member, where the home is either in the local authority area or within 20 miles of the boundary of the area. A qualifying payment must also be made by the local authority to the member for expenses related to the use of the member’s own vehicle for the journey.
 - 4.3 Section 295A provides an exemption from income tax for qualifying payments made to a member of a local authority for travel expenses, including any subsistence expenditure and other associated costs, incurred in making the journey. It sets out that the exemption will not apply to expenses incurred on journeys between the member’s home and most frequently used local authority office where the member’s home is more than 20 miles outside the boundary of the local authority area.

4.4 These Regulations define the terms 'local authority' and 'qualifying payment' for the purposes of sections 235A and 295A.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 Travel expenses paid to members of a local authority are generally subject to the current rules that govern the tax treatment of all employees and office-holders. Although travel undertaken in the performance of the duties of the employment, or travel for the employee's necessary attendance at a temporary workplace, will generally qualify for tax relief, tax relief is not usually available for travel between an employee's home and a permanent workplace i.e. ordinary commuting.

7.2 To ensure that individuals are not discouraged from undertaking a role as a councillor by the tax treatment of their travel expenses, the Government announced by a Written Ministerial Statement on 22 July 2014 its intention to introduce an exemption from a charge to income tax where a local authority pays a member for travel expenses incurred. A corresponding disregard for Class 1 National Insurance contributions (NICs) will also be introduced.

7.3 To ensure that the exemption does not enable members of local authorities to benefit from unlimited tax relief on their travel expenses, where a local authority makes mileage payments to a member for using their own vehicle for travel the exemption will be restricted to the Approved Mileage Allowance Payments (AMAP) rates.

8. Consultation outcome

8.1 In accordance with the government's Tax Consultation Framework, draft Regulations are published on the HMRC website for comment.

8.2 This draft Explanatory Memorandum will be updated following consideration of comments received in the course of consultation.

9. Guidance

9.1 Guidance will be made available when the exemption comes into effect.

10. Impact

10.1 There is not expected to be any impact on business or civil society organisations.

10.2 There are likely to be implementation costs for local authorities due to the need to change some internal processes, but there will be ongoing administrative savings once implementation is complete.

10.3 A Tax Impact and Information Note was published on 10 December 2014 alongside the draft clauses and explanatory notes for Finance Bill 2015 and is available on the [GOV.UK](http://www.gov.uk) website. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Regulations will be monitored and reviewed as appropriate within the context of the wider tax framework

13. Contact

Lynn Meikle at HMRC on Telephone: 03000 586644 or email: lynn.meikle@hmrc.gsi.gov.uk can answer any queries regarding the instrument.