



## Tax exemption for travel expenses of members of local authorities

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### Who is likely to be affected?

Councillors who are elected or appointed to serve as members of a local authority.

### General description of the measure

The measure will introduce a new exemption from income tax for travel expenses paid to councillors by their local authority.

There will be a corresponding National Insurance contributions (NICs) disregard.

### Policy objective

Councillors perform an important constitutional role in representing communities across the UK. They carry out their duties in their own time, often in addition to other professional and personal commitments, and many receive no payment other than allowances in recognition of the time and expenses they incur. This measure will help ensure that individuals are not discouraged from undertaking a role as a councillor by the tax treatment of travel expenses paid by their local authority.

### Background to the measure

On 22 July 2014 the Government announced its intention to introduce a tax exemption and matching NICs disregard for councillors' travel expenses.

Following the announcement, informal discussions were held with representative bodies for councils and councillors.

## Detailed proposal

### Operative date

This measure will have effect on payments made on and after 6 April 2015.

### Current law

Travel expenses paid to councillors are generally subject to the rules that govern the tax treatment of the travel expenses of all employees and office-holders.

Payments by employers of travel expenses for home to office travel are generally chargeable to income tax as a payment of earnings under section 62 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and create a liability for Class 1 NICs as earnings from the employment as provided for in section 3 of the Social Security (Contributions) and Benefits Act 1992 (SSCBA).

Sections 229 to 236 ITEPA set out the current rules for Mileage Allowance Payments (MAPs), Approved Mileage Allowance Payments (AMAPs) and Mileage Allowance Relief (MAR) for employees who use their own vehicle for business travel.

Sections 337-338 ITEPA provide for deduction from earnings for costs necessarily incurred on business travel, specifically on travelling in the performance of the duties of the employment and travelling for the employee's necessary attendance at a temporary workplace.

Subsection 338(2) ITEPA specifically excludes the expenses of ordinary commuting, defined as travel between an employee's home and permanent workplace, from qualifying as business travel.

Sections 6–9 SSCBA impose a Class 1 NICs liability on employees and employers in respect of payments of earnings. Regulation 25 of, and Schedule 3 to, the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (SSCR) provide for specified payments to be disregarded in the calculation of earnings for these purposes.

### Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend Part 4 of ITEPA to exempt payment of councillors' travel expenses from a charge to income tax. This will include expenses paid for journeys between the councillor's home and most frequently used local authority office, except where the councillor's home is more than 20 miles from the boundary of the local authority area.

The current rules for MAPs, AMAPs and MAR will continue to apply to business travel undertaken by a councillor in their own vehicle. Journeys between a councillor's home and most frequently used local authority office, where their home is either in the local authority area or within 20 miles of the boundary of the area, will be treated as business travel when calculating MAPs and applying the AMAPs limits, but will not be treated as business travel for calculating MAR.

The exemption will only apply where payments are made by a local authority under certain provisions. Treasury Regulations will set out the definition of a local authority and the provisions that payments must be made under. Draft Regulations will be made available for consultation early in 2015.

Amendment will also be made to the SSCR to give effect to these provisions for Class 1 NICs purposes.

### Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	negligible	negligible	negligible	negligible	negligible
This measure is expected to have a negligible impact on the Exchequer.						
<b>Economic impact</b>	This measure is not expected to have any significant economic impacts.					
<b>Impact on individuals, households and families</b>	<p>This measure will only apply to elected or appointed councillors. It will affect those who currently receive taxable home to work travel expenses. The impact on affected individuals will be limited to the tax and National Insurance currently paid on such expenses.</p> <p>The measure is not expected to impact on family formation, stability or breakdown.</p>					
<b>Equalities impacts</b>	HM Revenue & Customs (HMRC) does not hold any data on the protected characteristics of councillors. However, this measure will apply equally to all councillors and will not impact other groups.					
<b>Impact on business including civil society organisations</b>	This measure is expected to have no impact on businesses or civil society organisations. 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.					

<b>Operational impact (£m) (HMRC or other)</b>	The additional costs for HMRC in implementing these changes are expected to be negligible.
<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 affected group.

### **Further advice**

If you have any questions about this change, please contact the Employment Income Policy Team at [employmentincome.policy@hmrc.gsi.gov.uk](mailto:employmentincome.policy@hmrc.gsi.gov.uk)

## 1 Travel expenses of members of local authorities

- (1) ITEPA 2003 is amended as follows.
- (2) After section 235 insert –

### “235A Qualifying journeys made by members of local authorities

- (1) A qualifying journey made by a member of a local authority –
    - (a) is to be treated as business travel when calculating for the purposes of section 229 the mileage allowance payments paid to the member and the approved amount for such payments, but
    - (b) is not to be treated as business travel when making those calculations for the purposes of section 231.
  - (2) A journey is a “qualifying journey” for the purposes of this section if –
    - (a) it is a journey between the member’s home and the offices of the local authority most frequently used by the member for the purposes of performing the member’s duties,
    - (b) the member’s home is situated in the area of the local authority or no more than 20 miles outside the boundary of the area, and
    - (c) a qualifying payment is made by the local authority to the member for expenses related to the member’s use for the journey of a vehicle to which this Chapter applies.
  - (3) The Treasury may by regulations define what is meant by “local authority” and “qualifying payment” for the purposes of this section.
  - (4) Regulations made under subsection (3) may contain transitional provision and savings.
  - (5) The first regulations to be made under that subsection may contain provision having retrospective effect if they are made before the end of the tax year 2015-16.”
- (3) In section 236 (interpretation of Chapter 2 of Part 4), after subsection (1) insert –

“(1A) The definition of “business travel” in subsection (1) has effect subject to section 235A in the case of qualifying journeys (as defined in that section) made by members of local authorities.”
  - (4) After section 295 insert –

*“Members of local authorities***295A Travel expenses of members of local authorities**

- (1) No liability to income tax arises in respect of a qualifying payment made to a member of a local authority for travel expenses incurred by the member if—
    - (a) the payment is for expenses other than those related to the member’s use of a vehicle to which Chapter 2 applies, and
    - (b) the expenses are not excluded by subsection (2).
  - (2) Expenses are excluded by this subsection if—
    - (a) they are incurred on a journey between the member’s home and the offices of the local authority most frequently used by the member for the purposes of performing the member’s duties, and
    - (b) the member’s home is situated more than 20 miles outside the boundary of the area of the local authority.
  - (3) The Treasury may by regulations define what is meant by “local authority” and “qualifying payment” for the purposes of this section.
  - (4) Regulations made under subsection (3) may contain transitional provision and savings.
  - (5) The first regulations to be made under that subsection may contain provision having retrospective effect if they are made before the end of the tax year 2015-16.”
- (5) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

## EXPLANATORY NOTE

### TRAVEL EXPENSES OF MEMBERS OF LOCAL AUTHORITIES

#### SUMMARY

1. Clause [X] introduces a new exemption from income tax for qualifying payments made by a local authority in respect of travel expenses incurred by a member. This includes payments for journeys between the member's home and most frequently used local authority office, if the member's home is in the local authority area or within 20 miles of the boundary of the area. The exemption will be limited to the Approved Mileage Allowance Payment (AMAP) rates when applied to qualifying payments made to a member who uses their own vehicle for travel.

#### DETAILS OF THE CLAUSE

2. Subsection 1 amends Part 4 of the Income Tax (Earning and Pensions) Act 2003 (ITEPA) - Employment Income: Exemptions.

3. Subsection 2 inserts a new section 235A into Chapter 2 which deals with mileage allowance payments to an employee for the use of a vehicle.

4. New subsection 235A(1)(a) sets out 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. New subsection 235A(1)(b) provides that a qualifying journey is not to be treated as business travel for the purposes of calculating mileage allowance relief.

5. New subsection 235A(2) defines a 'qualifying journey' for the purposes of this section. The journey must be between the member's home and the local authority office that they use most frequently to perform their duties as a member, and the home must be 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.

6. New subsection 235A(3) provides a power to make regulations that define 'local authority' and 'qualifying payment', and new subsection 235A(4) allows these regulations to contain transitional provision and savings.

7. New subsection 235A(5) provides that the first regulations made under new subsection 235A(3) may have retrospective effect for 2015-16 if they are made before the end of that tax year.

8. Subsection 3 inserts a new subsection (1A) to section 236 ITEPA to set out that the existing definition of 'business travel' is subject to new section 235A for qualifying journeys by members of local authorities.
9. Subsection 4 inserts new section 295A into Chapter 8 - Exemptions: Special Kinds of Employees.
10. New subsection 295A(1) provides an exemption from income tax for qualifying payments made to a member of a local authority for travel expenses incurred. For the purposes of this clause, 'travel expenses' include the costs of travel together with any subsistence expenditure and other associated costs that are incurred in making the journey.
11. New subsections 295A(1)(a) and (b) apply the exemption to payments of expenses other than those relating to the member's use of their own vehicle and covered by existing exemptions in Chapter 2 or expenses specifically excluded by new subsection 295A(2).
12. New subsection 295A(2) 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.
13. New subsections 295A(3), (4) and (5) provide a power to make regulations in the same way as set out in paragraphs 6 and 7 above.
14. Subsection 5 provides that changes made to ITEPA by this clause have effect for payments made in the tax year 2015-16 and for subsequent tax years.

## **BACKGROUND NOTE**

15. 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. These rules will not be affected by this measure and 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.
16. To ensure that individuals are not discouraged from undertaking a role as a councillor by the tax treatment of their travel expenses, this legislation will provide 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.
17. 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. This will ensure that the exemption does not enable members of local authorities to benefit from unlimited tax relief on their travel expenses.

18. If you have any questions about this change, or comments on the legislation, please contact Lynn Meikle on 03000 586644 (email: [employmentincome.policy@hmrc.gsi.gov.uk](mailto:employmentincome.policy@hmrc.gsi.gov.uk)).