

Clause 4: Exemption for expenses related to travel

Summary

1. This clause removes the requirement for employers to check receipts or other forms of documentary evidence of the amounts spent by employees when using the HMRC benchmark scale rates to pay or reimburse their employees' qualifying subsistence expenses. This clause also makes necessary amendments to allow HMRC to introduce a statutory exemption for overseas scale rates, subject to the same checking requirements as benchmark scale rates.

Details of the clause

2. Subsection (1) introduces an amendment to the exemption for paid or reimbursed expenses in section 289A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003).
3. Subsection (2) amends section 289A ITEPA 2003 to introduce section 289A(2A). Section 289A(2A) contains a new exemption for expenses in the course of qualifying travel that have been paid or reimbursed in accordance with regulations made by the Commissioners for HMRC, subject to a new Condition C, which contains a lower checking requirement, being satisfied. Both benchmark scale rates and overseas scale rates will be covered by these regulations. The exemption will not apply if the payment or reimbursement is offered in conjunction with a relevant salary sacrifice arrangement.
4. Subsection (3) introduces section 289A(4A) ITEPA 2003 which contains the further condition, Condition C, allowing payments or reimbursements of expenses to be made with a lower checking requirement than under other parts of section 289A. This condition requires employers to operate a system for checking that employees were engaged in qualifying travel in relation to the amount paid or reimbursed.
5. Subsection (4) makes a consequential amendment to section 289A(5) ITEPA 2003.
6. Subsection (5) inserts section 289A(5A) ITEPA 2003 to create a definition of qualifying travel, as travel for which a deduction from earnings would be allowed under Chapter 2 or 5 of Part 5 ITEPA 2003
7. Subsections (6) and (7) make consequential amendments to section 289A(6) and (7) ITEPA 2003.
8. Subsection (8) inserts section 289A(8) ITEPA 2003 to allow regulations made under new section 289A(2A)(a) to exempt amounts of expenses that are calculated by reference to rates for expenses published from time to time by HMRC.
9. Subsection (9) provides that the amendments will have effect from the tax year 2019-20.
10. Subsection (10) provides that from the tax year 2019-20, the Income Tax (Approved Expenses) Regulations 2015 (S.I. 2015/1948) have effect as if they were made under new section

289A(2A)(a) ITEPA 2003 rather than section 289A(6)(a) and (7) ITEPA 2003. It also makes consequential amendments to these regulations to reflect this change.

Background note

11. Benchmark scale rate payments are payments or reimbursements in respect of certain types of subsistence expenses that are currently listed in regulations made under the power in section 289A(6)(a) ITEPA 2003: S.I. 2015/1948. These regulations cover meal allowances for employers to pay or reimburse their employees for food and drink costs that would otherwise be tax deductible.
12. This clause will provide that these expenses may be paid or reimbursed using benchmark scale rates without requiring an employer to check amounts spent in order to make the payments free from tax. Instead, legislation will only require employers to ensure that employees are undertaking qualifying travel on the occasions in respect of which a payment is made or reimbursed (i.e. travel for which a deduction would be allowed under Chapter 2 or 5 of Part 5 ITEPA 2003).
13. Overseas scale rates are amounts currently set out in HMRC guidance. Employers can use these rates for paying or reimbursing accommodation and subsistence expenses to employees, whose duties require them to travel abroad, free of tax and NICs.
14. This legislation will allow HMRC to bring the concessionary exemption for overseas scale rates into legislation. Similar to benchmark scale rates, there will be no requirement for employers to check amounts spent in order to pay or reimburse employee expenses using overseas scale rates free from tax, but they will need to ensure the employees are undertaking qualifying travel on the occasions in respect of which a payment is made or reimbursed.
15. If you have any questions about this change, or comments on the legislation, please contact the Employment Income Team email: employmentincome.policy@hmrc.gsi.gov.uk.

