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# HART SHAW

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# Home is where the laptop is

Over the last ten years technology has advanced massively. It was not so long ago that mobile phones were the size of a brick. Now emails and the internet can be accessed on the move. However, whilst technology has moved on, travelling has become more and more difficult. Homeworking has become the answer for many but how have the tax rules kept up with these changes?

## Your status is important

The tax rules differ considerably depending on whether you are self-employed, as a sole trader or partner, or whether you are an employee, even if that is as an employee of your own company. One way or the other though, if you want to maximise the tax position, it is essential to keep good records. If not, HMRC may seek to rectify the tax position several years down the line. This can lead to unexpected bills including several years worth of tax, interest and penalties.

## The self employed

The self-employed pay tax on the profits that the business makes or their share thereof. So, the critical issue is to ensure that costs incurred can be set against that profit. For day to day overheads, those costs generally have to be incurred 'wholly and exclusively' for the purposes of the trade to be tax deductible. What does this really mean in practice? Well, HMRC have issued a lot of guidance on the matter which is summarised below.

## Use of the home

If the self-employed carry on some of their business from home, then some tax relief may be available. HMRC accept that even if the business is carried on elsewhere, a deduction for part of the household expenses is still acceptable provided that there are times when part of the home is used solely for business purposes. To quote:

'If there is only minor use, for example writing up the business records at home, you may accept a reasonable estimate without detailed enquiry.'

So that there is no confusion, wholly and exclusively does not mean that business expenditure has to be separately billed or that part of the home must be permanently used for business purposes. However, it does mean that when part of the home is being used for the business then that is the sole use for that part at that time.

HMRC accept that costs can be apportioned but on what basis? Well, if a small amount is being claimed then HMRC will usually not be too interested. In fact, HMRC seem to accept that an estimate of £2 or £3 per week is acceptable with no great record keeping or other requirements. However, if more is to be claimed then HMRC suggest that the following factors are considered:

- the proportion in terms of area of the home that is used for business purposes
- how much is consumed where there is a metered or measurable supply such as electricity, gas or water and
- how long it is used for business purposes.

## What sort of costs can I claim for?

Generally, HMRC will accept a reasonable proportion of costs such as council tax, mortgage interest, insurance, water rates, general repairs and rent, as well as cleaning, heat and light and metered water.

Other allowable costs may include the cost of business calls on the home telephone and a proportion of the line rental, in addition to expenditure on internet connections to the extent that the connection is used for business purposes.

## So how does this work in practice?

As already mentioned, if there is a small amount of work done at home, a nominal weekly figure is usually fine but for substantial claims a more scientific method may be needed.

### Example

Andrew works from home and has no other business premises. He uses a spare room from 9am to 1pm and then from 2pm until 6pm. The rest of the time it is used by the family. The room represents about 10% of the total area of the house.

The costs including cleaning, insurance, council tax and mortgage interest are about £8,000. 10% = £800 and 8/24 of the use by time is for business, so the claim could be £267.

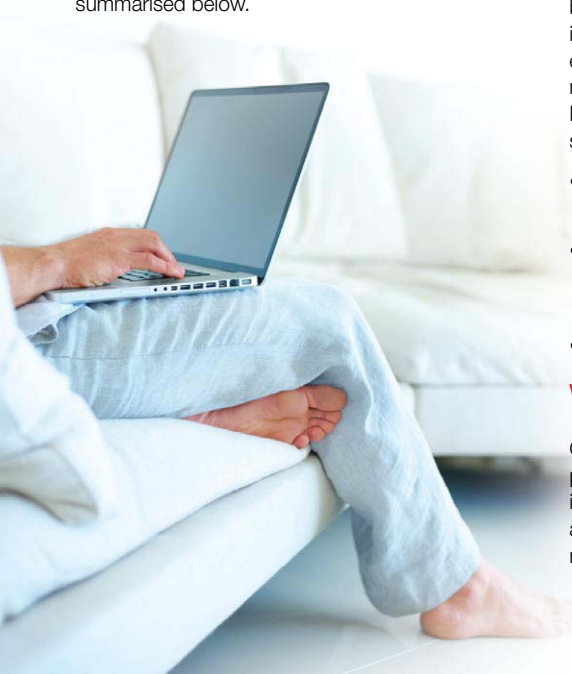
Electricity costs total £1,500, so 10% is £150 of which 8/24 = £50.

In addition, a reasonable proportion of other costs such as telephone and broadband costs would be acceptable.

The key to Andrew's claim will be that he keeps the records to prove the figures and proportions used.

## Equipment costs

For self-employed businesses, the depreciation of assets is covered by a set of tax reliefs known as capital allowances. For equipment at home, such as a laptop, desk, chair, etc, capital allowances may be available on the business proportion (based on estimated business usage) of those assets. So, if Andrew uses his laptop solely for business, the whole cost will be within the capital allowances rules.



## What about travel costs?

Another consequence of working from home is the potential impact on travel costs. The cost of travelling from home to the place of business or operations is generally disallowed, as it represents the personal choice of where to live. The fact that the individual may sometimes work at home is irrelevant.

Where an individual conducts office work for their trade does not by itself determine their place of business, so although many may be able to claim tax relief for the costs of working from home, far fewer will be able to claim travel costs of going to and from their home office.

Of course, this principle presupposes that there is a business or operational 'base' elsewhere from which the trade is run. Normally, the cost of travel between the business base and other places where work is carried on will be an allowable expense, while the cost of travel between the taxpayer's home and the business base will not be allowable.

However, where there are no separate business premises away from the home, travel costs to visit clients should be fully allowable. The crux of the matter is where the business is really run from.

## So what about employees?

The tax position of employees is very different. Generally, any costs paid on behalf of, or reimbursed to, an employee by their employer will be taxable. The employee will then have to claim the personal tax relief themselves and prove that they incurred those costs 'wholly, exclusively and necessarily' in carrying out their job. The word 'necessarily' creates a much tighter test than that for the self-employed.

In addition, the way in which the services are provided can sometimes make a substantial difference to that tax cost. For example, if the employer provides something for the employee, the rules are often much more generous than if the employee bought it themselves and attempted to claim the tax relief. A bit of advice and forward planning can often prove to be fruitful.

## An exemption

The rules for employees in relation to 'use of home as office', contains a specific exemption from a tax charge. They allow payments made by employers to employees for additional household expenses to be tax free, where the employee incurs those costs in carrying out the duties of the employment under homeworking arrangements. 'Homeworking arrangements' means arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home.

The arrangements do not need to be in writing but it is advisable to do this, as the exemption does not apply where an employee works at home informally.

Where these rules are met, the additional costs of heating and lighting the work area and the metered cost of increased water usage can be

met. There might also be increased charges for internet access, home contents insurance or business telephone calls and where working at home leads to a liability for business rates, HMRC accept that the additional cost incurred can also be included.

However, unlike the self-employed, HMRC do not accept that a proportion of household fixed costs such as mortgage interest, rent, council tax or water rates are allowable.

HMRC accept that a £3 per week payment from the employer is acceptable without too much formality if the above tests are met. However, to justify a higher payment, the message is prove it!

## Tax relief

The above rules only allow tax free payments to be made in specific circumstances. However, if payments are made outside of these rules or, in fact, no payments are made at all, the employee can claim personal tax relief themselves if they can prove that they incurred those costs or received those payments 'wholly, exclusively and necessarily' for the purposes of their job. In reality this is extremely difficult – some would say impossible – as HMRC require the following tests to be met:

- the employee performs the substantive duties of their job from home (ie the central duties of the job)
- those duties cannot be performed without the use of appropriate facilities
- no such facilities are available to the employee on the employer's premises or are too far away
- and at no time either before or after the employment contract is drawn up is the employee able to choose between working at the employer's premises or elsewhere.

So the moral for employees is to go for tax free payments, not tax relief!

## Equipment costs

As for the self-employed, capital allowances will be available to the company for the costs of providing equipment to employees who work at home. Provided that the private use of those assets by the employee is insignificant, then there will be no taxable benefit on the employee. Again, this could apply to things such as a laptop, desk and chair, provided that the employer has a written policy making it clear that the provision of the equipment is for work related purposes.

## Employees' travel costs

The rules are so 'simple' that HMRC explain them in a convenient 100-page booklet, IR490! However, the main point to note is that although an employee's home may be treated as a workplace for tax purposes this is not enough, on its own, to allow the employee to get tax relief for the expenses of travelling to another permanent workplace.

Employees are able to claim tax relief on the full travelling cost incurred in the performance of

their duties. However, no relief is available for the costs of ordinary commuting or private travel.

The rules are complex but ordinary commuting is defined as travel between the employee's home and a place which is a 'permanent workplace'. A 'permanent workplace' includes places where there is a period of continuous work lasting more than 24 months or the period of attendance is all or most of the period of employment.

HMRC state that, for most people, the place where they live is a matter of personal choice, so the expense of travelling from home to any permanent workplace is a consequence of that personal choice. As a result such travelling expenses will not qualify unless the location of the employee's home is itself dictated by the requirements of the job.

Even if that condition is met, the cost of travel between the employee's home and another permanent workplace is only deductible during those times when the home is a place of work.

Of course, employees who work at home are entitled to a deduction for the expenses of travelling to a temporary workplace, that is anything which is not a permanent workplace. It is as clear as that!

### Example

Jane's duties often involve her working late into the evenings and she has no access to her employer's premises (her permanent workplace) at night, so she takes work home with her. As it is a matter of personal choice where the work is done (there is no objective requirement that it is done at her home) any travel to or from her home cannot be said to be in the performance of her duties and no relief is available for any costs.

However, Jane's husband is an area sales manager who lives in Leicester. He manages his company's sales team in the Midlands and the company's nearest office is in Newcastle. He is therefore obliged to carry out all his administrative work at home, where he has set aside a room as an office. He is entitled to relief for the expenses of travelling to the company's office in Newcastle, as well as for journeys within the Midlands as these should all qualify as temporary workplaces.

## And finally...

Capital gains tax contains a tax exemption for the sale of an individual's private home, known as principal private residence relief (PPR). Where part of the dwelling is used exclusively for business purposes, PPR relief will not apply to the business proportion of the gain. However, HMRC make clear in their guidance that 'occasional and very minor' business use is ignored.

## Be reasonable

As you can see, all things are possible but the key is to be clear about the rules, keep good records and be sensible about how much to claim. If you would like any help about obtaining tax relief on the costs of homeworking, please do get in touch.