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HMRC dispensations and new expenses regime from 6 April 2016

Fiona Holloway, Rödl & Partner Birmingham

In the past, many businesses have applied to HMRC for expenses dispensations. Dispensations have allowed expenses and benefits to be provided to employees without being included on a P11D or subjected to PAYE and NIC.

A dispensation was only given where HMRC were satisfied that the employee would have been entitled to full tax relief on that payment or benefit.

> The changes

From 6 April 2016 businesses are no longer able to apply for a dispensation and all existing dispensations will come to an end. Instead, a new exemption has been introduced which effectively means that businesses will not have to pay tax and NIC on paid or reimbursed expenses payments or put them on a P11D. The exemption is subject to the condition that the business satisfies itself that the employee would be entitled to full tax relief on that payment or benefit.

The main types of expenses to which the exemption applies are:

- > travel and subsistence expenses
- > fees and subscriptions
- > business entertainment expenses.

All other non-allowable expenses will still be reportable on a P11D and/or subject to PAYE (and possibly NIC). Employees will still be able to claim tax relief in respect of unreimbursed business expenses.

The new exemption does not apply to expenses or benefits provided under a relevant salary sacrifice arrangement.

This includes any arrangement where an employee gives up the right to receive earnings in return for tax free expenses payments or where the level of their earnings depends on the amount of any expenses payment.

> Consequences of the changes

In the past, HMRC were prepared to include some payments in dispensations which were reasonable but perhaps not strictly in accordance with the law. This will not be the case going forward. Furthermore, the tax rules relating to reimbursed expenses are complex. For example, HMRC's guidance on the rules on tax relief for travel and subsistence costs is 70 pages long.

If HMRC conducts a compliance visit which determines that some payments are not exempt, the business may be subject to P11D penalties and/or be responsible for the payment of arrears of tax, NIC, interest and penalties.

> Scale rates

As part of these changes, a second option is introduced, which allows amounts based on scale rates to be paid or reimbursed, instead of the employee's actual costs. The rates that can be used are either HMRC approved figures or amounts which are specifically agreed in advance with HMRC in writing.

We have attached an appendix of the HMRC approved figures. These only cover meals purchased by an employee in the course of business travel. If the business wants to pay bespoke rates for other types of expense, it can apply to HMRC. HMRC have issued a specific form for this purpose: www.gov.uk/government/publications/payee-employer-expenses-and-benefits-exemption

Authorised mileage allowance payments (AMAPs) are scale amounts that employers can pay to employees using their own vehicle for business travel on a tax and NIC free basis. For cars and vans, the scale rate is 45p per mile for up to 10,000 miles in the tax year and 25p per mile above this. AMAPs are a separate statutory regime and therefore do not come within the new exemption regime.

> Important points to note about scale rates

Employers must operate a system for checking that the employee is incurring and paying amounts in respect of expenses of the same kind and that tax relief would be allowed. HMRC have issued guidance on what checking systems they will expect employers to operate and these are also attached as an appendix.

> What to do now

The new system means that you may have to change what you have been paying or reimbursing your staff and/or apply to HMRC for new rates. The changes are not simple, so we suggest you review your dispensation as soon as possible and contact us if you are unsure as to how the new rules will affect you.

If you would like to discuss any of these changes or would like help with applying to HMRC for new scale rates, please do not hesitate to contact us.

For more information please contact:



Fiona Holloway

Head of Tax

Phone: + 44 (0)121 227 8950

E-Mail: Fiona.holloway@roedl.pro



Adding value

„We strive to create a clear value added for our clients through all our services – be it legal advisory, tax audits or resolving business management issues.“

Rödl & Partner

„The work of every single person contributes to adding value to the whole group and ultimately the joint success of the team.“

Castellers de Barcelona



„Each and every person counts“ – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today. „Força, Equilibri, Valor i Seny“ (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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170 Edmund Street
Birmingham, B3 2HB, United Kingdom
Phone: +49 (0)121227 8950
E-Mail: birmingham@roedl.pro

Responsible for the content:
Fiona Holloway – fiona.holloway@roedl.pro

Layout: **Georgina Hale** – georgina.hale@roedl.pro

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