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Remote Working Guidance Consultation
Enterprise Strategy, Competitiveness and Evaluations Division
Department of Business, Enterprise and Innovation
23 Kildare Street,
Dublin 2

Sent by email to: RemoteWorkingGuidance@dbei.gov.ie

23 July 2020

Dear Sir/Madam

Re: Public Consultation on Guidance on Remote Working

The Irish Tax Institute is the leading representative and educational body for Ireland's Chartered Tax Advisers (CTA), with over 5,000 members. Our members assist thousands of Irish taxpayers to comply with their tax obligations and play an integral part in the effective administration of the Irish tax system. After 50 years, the Institute remains deeply committed to the role it can play in education, tax administration and tax policy in Ireland and in building an efficient and innovative tax system that contributes to a successful economy and society.

The Institute very much welcomes the publication by the Department of Business, Enterprise and Innovation of [Guidance for Working Remotely during COVID-19](#) in response to the unprecedented number of people working from home as a result of the Covid-19 pandemic and the action now taken to consult on how to build on this guidance. The Institute would like to take the opportunity to contribute to this important consultation by providing insights on the guidance needed for employees relating to the tax treatment of travel expenses and the existing tax relief available for remote working.

1. Greater clarity is needed for employees on the tax treatment of travel expenses

In August 2015, a public consultation was conducted on the tax treatment of travel expenses - "*Tax Treatment of Expenses of Travel and Subsistence for Employees and Office Holders*". The Institute provided our members' views and recommendations in response to the consultation paper¹ in September of that year. A Feedback Statement on the findings and conclusions of this public consultation has yet to be published.

¹ Public Consultation on the Tax Treatment of Expenses of Travel and Subsistence for Employees and Office Holders, Irish Tax Institute, September 2015. <https://taxinstitute.ie/wp-content/uploads/2018/01/Submission-to-DoF.pdf>

We would strongly urge for this Feedback Statement to be published without further delay, as uncertainty continues to remain over the tax treatment of a range of common business travel arrangements involving remote working, including:

- Freelance workers
- Individuals working from home
- Employees working across multiple locations
- Virtual office workers
- Site-based workers

Even if an employee is working full-time at home, currently their home cannot be considered their place of work for the purposes of claiming travel and subsistence expenses for travel to business clients or to their employer's premises, according to Revenue guidance².

Extract from Revenue Manual on eWorking and Tax

"If an employee works part-time in the office and part-time at home/full-time at home, the normal place of work is the office. Note that under no circumstances may expenses be reimbursed tax free in relation to travel between a person's home and his or her place of work. Likewise, subsistence expenses may not be paid without deduction of tax in respect of periods spent in an individual's home. The rules on determining normal place of work are discussed in more detail in Tax and Duty Manual Part 05-01-06."

Currently, many employees are working full-time at home due to the COVID-19 pandemic and this trend is likely to continue given the ongoing nature of the pandemic and the success of remote working over recent months. In the case of a person working full-time at home it would seem incongruous that their place of work is not their home.

The current uncertainty exists because of the wording of section 114 of the Taxes Consolidation Act (TCA) 1997 and its interpretation. The legislation requires the holder of an office or employment to be *"necessarily obliged to incur and defray out of the emoluments of the office or employment of profit expenses of travelling in the performance of the duties of that office or employment"*

Legislation in this area needs to be brought up to date with new working practices to ensure that expenses incurred for business purposes, which do not provide a personal benefit to an employee, can be reimbursed without deducting tax. At the end of last year, the Minister for Finance had previously committed to examine policy and legislative options relating to the entitlement to tax relief for expenses incurred in employment as part of the Tax Strategy Group review and 2021 Budgetary process.

Publication of the feedback and conclusions from the 2015 public consultation on the tax treatment of travel and subsistence expenses, as part of this year's Tax Strategy Group papers would be an initial step in modernising the regime, so that the way forward can be appropriately considered and planned.

2. Increase awareness among employees of the tax relief available for remote working

The current [Guidance for Working Remotely during COVID-19](#) cross-refers to the Revenue Guidance on [eWorking and Tax](#), which sets out the circumstances when an employer can make payments to an employee to cover the additional costs of working from home. In addition, it outlines the entitlement an employee may have to make a claim under section 114 TCA 1997 for vouched expenses incurred wholly, exclusively and necessarily in the performance of the duties of the employment in certain circumstances, especially where the Government has recommended that employees work from home to support the national public health agenda due to the Covid-19 outbreak.


We recommend that this guidance be further developed to include other examples to illustrate where

² eWorking and Tax, Revenue Tax and Duty Manual Part 05-02-13 <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-05/05-02-13.pdf>

employees can avail of tax relief where they continue to work remotely beyond the period of the Covid-19 restrictions, and a Government campaign undertaken to increase awareness of the availability of this tax relief for working from home. This would support the Government's longer-term agenda to increase remote working to support regional balance and the Green agenda.

We trust that the above feedback and recommendations will be helpful in building on the Government's published guidance on the tax related issues of remote working.

Yours sincerely

A handwritten signature in black ink that reads "Martin Lambe". The signature is written in a cursive, slightly slanted style.

Martin Lambe
Chief Executive