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Health Service Executive

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**HSE HR Circular 021/2013**

**To: Each Member of Leadership Team, HSE;  
Each Regional Director of Performance and Integration, HSE;  
Each Assistant National Director of Human Resources, HSE;  
Each Employee Relations Manager, HSE  
Each CEO/HR Manager directly funded Voluntary Hospital / Agency**

**From: Barry O'Brien, National Director of Human Resources**

**Date: 12<sup>th</sup> November 2013**

**Re: Emergency Call Outs**

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Dear Colleagues

I wish to remind you that employees who are rostered for emergency on-call duty should only be called out in the event of a genuine emergency situation which requires immediate attention.

I refer to the Revenue Commissioners' **Statement of Practice SP – IT/2/07 on Tax treatment of the reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees** (copy enclosed). Section 4.3.4.3 of the Statement of Practice provides that where an employee is required to attend his/her normal place of work outside his/her normal working hours to deal with emergencies requiring his/her immediate attention, then the travel expenses to and from his/her normal place of work may be paid without deduction of tax in respect of a maximum of 60 such emergencies per annum.

Emergency in this context encompasses an unforeseen or sudden event:

- (a) requiring immediate or urgent attention; and
- (b) that would have **serious consequences** if left unattended until the individual commences his/her normal working hours.



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**All Queries to:** Individual employees who have queries in relation to the application of this Circular must contact their local Employee Relations/HR Department

Queries from HR and Employee Relations in relation to the implementation of this Circular please contact: Corporate Employee Relations Services, HSE HR Directorate, 63-64 Adelaide Road, Dublin 2, Tel: 01-662 6966, email [info.t@hse.ie](mailto:info.t@hse.ie)

An emergency does not include an event where a member of staff is required to attend his/her normal place of work outside of his/her normal working hours, for example, to:

- (a) Replace a scheduled member of staff who fails to attend work; or
- (b) Assist with an increased volume of work; or
- (c) Attend a non-emergency or other routine event.

Whether a 'call out' is in respect of a genuine emergency is a question of fact having regard for relevant facts and circumstances supported by the records kept relating to the event.

Whilst it would be expected to be rare, if it is the case that, in a particular situation, the number of emergency 'call outs' is in excess of 60 per annum, please contact your local Revenue Office for guidance.

It should be noted that the restriction of paying expenses for a maximum of 60 emergency callouts does not apply to employees with 'specialist skills' (e.g. hospital consultants) whose callouts come within the scope of section 4.3.4.2. The type of case to which the exception applies is one where a 'specialist', because of the grave consequences of the relevant situation, must give instruction or direction to those present at the relevant situation and also have a responsibility for the emergency whilst travelling to the normal place of work. It is not envisaged that many such cases arise in practice.

Managers are required to keep a record of the details of the nature of the emergency which required the call-out so that the information provided in the employee's travel expenses claim form can be verified in the event of a Revenue Audit. Please note that it is mandatory for managers to maintain these records as any payments which relate to call-outs, the emergency nature of which cannot be verified on audit, will be subject to recoupment of taxes from the employee.

Please note that in relation to consultant call-outs, section 23 h) of the Consultant Contract 2008 provides as follows:

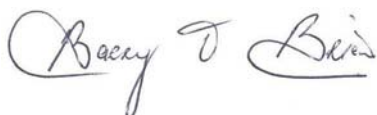
"The Consultant will be eligible for payment on a per call-out basis for the provision of on-site services when:

- i) rostered for on-call duty and is contacted by another medical practitioner in the hospital, by a senior nurse or other member of staff specifically designated for that purpose and attends on-site to provide emergency services;
- ii) rostered for on-call duty and who, in the exercise of his/her professional judgment, attends on-site and performs clinical work of an urgent nature or carries out urgent diagnostic or therapeutic procedures;
- iii) requested by another Consultant to provide on-site services in public hospital / agency to which the Consultant does not have a scheduled commitment and where such services cannot be provided within the Consultant's scheduled commitment as adjusted by the Clinical Director / Employer. This payment shall be on the basis of the equivalent payment per call-out."

**All Queries to:** Individual employees who have queries in relation to the application of this Circular must contact their local Employee Relations/HR Department

Please bring this to the attention of all relevant staff in your area of responsibility as a matter of priority to ensure that employees who participate in emergency call-out rotas are only called out for genuine emergencies as defined by Revenue's **Statement of Practice**

Yours sincerely



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**Barry O'Brien**  
**National Director of Human Resources**

*Encl*

**All Queries to:** Individual employees who have queries in relation to the application of this Circular must contact their local Employee Relations/HR Department

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# **Income Tax**

## **Statement of Practice**

### **SP - IT/2 /07**

#### **Tax treatment of the reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees**

Enquiries in relation to the reimbursement of travel and subsistence expenses should be addressed to the Revenue office dealing with the employer.

**Revenue** 

April 2011 (revised)

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## CHAPTER 1

### Introduction

#### 1.1 Purpose of this Statement of Practice

Whilst the reimbursement to an office holder or employee of expenses of travel and subsistence is a matter for the relevant body or employer, a separate and distinct issue is the circumstances under which such reimbursement can be made without deduction of tax.

The purpose of this Statement of Practice is to set out the tax treatment of the reimbursement of expenses of travel and subsistence to office holders (including directors)<sup>1</sup> and employees with the view to having a consistent approach that takes into account the necessity of business travel for different categories of office holders and employees.

Whilst it is not possible to address all the circumstances that may arise -

- (a) Chapter 2 sets out the **general principles** relating to the tax treatment of the reimbursement of expenses of travel and subsistence;
- (b) Chapter 3 addresses the **general scenarios** relating to the reimbursement of expenses of travel and subsistence; and
- (c) Chapter 4 addresses the reimbursement of expenses of travel and subsistence in certain **specific scenarios**.

**Note - Where circumstances arise that are not covered by this Statement of Practice, guidance may be sought from the Revenue office dealing with the employer.**

#### 1.2 Overview of the tax treatment of the reimbursement of expenses of travel and subsistence to office holders and employees

Where office holders and employees **necessarily** incur expenses of travel (and subsistence relating to that travel) **in the performance of the duties of their office or employment**, the reimbursement of such expenses may, within certain limits (see Par. 2.8), be made tax-free.

It is a long established principle of tax case law that the expenses incurred in travelling from home to work and work to home are expenses which are NOT necessarily incurred **in the performance of the duties of an office or employment**. Hence, the reimbursement to an office holder or employee of such expenses is taxable and subject to PAYE deductions (but see Par. 4.3.4 re employees recalled to their normal place of work to deal with emergencies and Paragraph 4.4 re taxis home on an irregular basis).

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<sup>1</sup> The remuneration of office holders is subject to tax under the PAYE system. An office holder is a person who 'holds office'. Whilst there is no statutory definition of 'office', tax case law has held that the word 'office' means "a permanent, substantive position which has its existence independent of the person who fills it, and which went on and was filled by successive holders"<sup>1</sup> and that the term 'office' "must involve a degree of continuance (not necessarily continuity) and of independence; it must connote a post to which a person can be appointed, which he can vacate and to which a successor can be appointed".<sup>1</sup> The position of 'office' can be created by statute, statutory regulation, charter, deed of trust or other such means.

### 1.3 Mislabelling remuneration as expenses

Where the payment of remuneration to office holders and employees is labelled incorrectly as tax-free expenses, the Revenue Commissioners will consider whether there is any element of fraud or neglect involved or whether a Revenue offence may have been committed, and will take whatever action they deem appropriate.

### 1.4 Records to be kept

As regards the reimbursement of expenses based on an acceptable flat rate allowance (see Par. 2.8), the employer must retain a record of all of the following:–

- the name and address of the director or employee;
- the date of the journey;
- the reason for the journey;
- the kilometres involved;
- the starting point, destination and finishing point of the journey; and
- the basis for the reimbursement of travel and subsistence expenses [e.g. an overnight stay away from an individual's normal place or work].

As regards the reimbursement of actual expenses vouched by receipts, the employer must retain such receipts, together with details of the travel and subsistence expenses incurred.

The period of retention of records is 6 years after the end of the tax year to which the records refer.

Queries as regards the adequacy of records to be maintained may be referred to the Revenue office dealing with the employer.



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## CHAPTER 2

### Reimbursement of Travel and Subsistence Expenses - General Principles

#### 2.1 Reimbursement of expenses of travel and subsistence without deduction of tax

Arising from an employee's or office holder's entitlement to a tax deduction in respect of certain expenses, there exists a long-standing practice under which employers may reimburse tax-free to office holders and employees the expenses of travel (and subsistence relating to that travel) subject to certain conditions being fulfilled.

The conditions under which the reimbursement to office holders and employees of the expenses of travel and subsistence may be made without deduction of tax are as follows -

- (a) firstly, the office holder or employee must be temporarily away from his/her normal place of work in the performance of the duties of his/her office or employment;
- (b) secondly, the travel expenses must be necessarily incurred in the performance of the duties of the office or employment; and
- (c) thirdly, arising from a long accepted position supported by tax case law, the expenses of subsistence must attach to travelling necessarily incurred in the performance of the duties of the office or employment.

#### 2.2 Normal place of work

The **normal place of work** is the place where the individual normally performs the duties of his/her office or employment. The employer's base may not always correspond with the employee's normal place of work. For example, a business may have its principal base in one location and have a number of subsidiary bases elsewhere. It is, therefore, possible for two employees, who have the same employer, not to have the same normal place of work.

Usually, the employer will provide the facilities necessary for the work to be performed at the business premises. The office holder's or employee's home would not be regarded as the normal place of work unless there is an objective requirement that the duties of the office or employment must be performed at home. In particular, it is not sufficient for an office holder or employee merely to carry out, or opt to carry out, some of the duties of the office or employment at home for home to be considered the normal place of work.

#### 2.3 Travelling from home to work and work to home

It is a long established principle of tax case law that the expenses of travelling from home to work and work to home are expenses of travelling which are NOT necessarily incurred by an office holder or employee *in the performance of the duties* of his/her office or employment.

If an office holder or employee receives expense payments in respect of travelling to and from work, such expense payments are taxable and subject to PAYE deductions (but see Par. 4.3.4 re employees recalled to their normal place of work to deal with emergencies and Paragraph 4.4 re taxis home on an irregular basis).

#### **2.4 Travel between separate employments**

Where an individual holds more than one office or employment, the travel between those separate offices or employments is considered to be travel to and from work and any reimbursement of expenses in respect of such travel (and subsistence relating to that travel) is taxable.

#### **2.5 Employee working at a number of locations on a daily basis in the same employment**

In some instances, an employee may work at a number of locations on a daily basis in the same employment.

Where an employee performs the duties of his/her employment at more than one location on a daily basis, the reimbursement of expenses of travel necessarily incurred in travelling *between* these separate locations may be made tax-free.

##### ***Example***

John is employed and his duties involve working, firstly at Location A, then Location B and, lastly, at Location C on a daily basis. The reimbursement of expenses between –

- Locations A and B; and
- Locations B & C

may be made free of tax. However, any reimbursement of expenses of travel between home and location A (the first location) and Location C (the last location) and home is taxable.

#### **2.6 Office holder or employee commencing a business journey from home or ending a business journey at home**

Where an office holder or employee, in the performance of the duties of his/her office or employment, begins a business journey directly from home or returns directly to home, then the expenses of travel and subsistence that may be reimbursed without deduction of tax are the lesser of those incurred on the journey between -

- (a) home and the temporary work location; or
- (b) the normal place of work and the temporary work location.

##### ***Example***

Tom, an employee, lives in Balbriggan and his normal place of work is in Dublin City centre. He is required by his employer to use his private car to attend a temporary work location in Naas. He is entitled to claim for allowable travel expenses necessarily incurred on the return journey between Dublin City centre and Naas [i.e. the lesser of (a) and (b) above].

## 2.7 Travelling between the State and overseas

The travelling from home in the State to temporary work location abroad on a temporary work assignment and in returning home on the termination of that temporary assignment is considered to be a business journey.

## 2.8 Rates of reimbursement to office holders and employees of expenses of travelling and subsistence

### ***Reimbursement of expenses of travel and subsistence by way of 'flat rate' allowances***

Provided the office holder or employee **bears the cost of all expenses** of travel necessarily incurred in the performance of the duties of his / her office or employment (and bears the cost of subsistence relating to such travel), Revenue will disregard for income tax purposes the reimbursement of expenses of travel and subsistence where such reimbursement is made by way of:

- (i) a flat rate up to, but not exceeding, the prevailing Civil Service rates for travel and subsistence (see *Appendix* re such rates); or
- (ii) a flat rate based on any other schedule of rates and related conditions of travel and subsistence which do no more than reimburse the office holder or employee for actual expenditure necessarily incurred.

Scale (i) may be applied without specific Revenue approval where a satisfactory recording and internal control system is in operation.

Revenue approval is required for scale (ii).

### ***Reimbursement of actual expenses of travel and subsistence***

Provided the office holder or employee **bears the cost of all expenses** of travel necessarily incurred in the performance of the duties of his / her office or employment (and bears the cost of subsistence relating to such travel), Revenue will disregard for income tax purposes the reimbursement of such vouched expenses by his / her employer.

**Note** – Notwithstanding that expenses of travel are reimbursed by an employer, an office holder or employee retains his/her statutory right to claim tax relief against his/her emoluments of the office or employment in respect of actual allowable expenses incurred. However, where the employee decides to make such claims, any reimbursement of expenses by the employer, including any flat rate allowances, is regarded as pay and taxed accordingly.

## CHAPTER 3

## Reimbursement of Travel and Subsistence Expenses - General Scenarios

**3.1 Reimbursement by way of 'flat rate' allowances**

Where an office holder or employee –

- (a) necessarily incurs the expenses of travelling (and subsistence relating to that travel) in the performance of the duties of his/her office or employment; and
- (b) is reimbursed by her/his employer in respect of such travel and subsistence on the basis of 'flat rate' expenses (see Par. 2.8),

such reimbursement may be made free of tax.

**3.2 Reimbursement by way of vouched receipts**

Where an office holder or employee –

- (a) necessarily incurs the expenses of travelling (and subsistence relating to that travel) in the performance of the duties of his/her office or employment; and
- (b) is reimbursed by her/his employer in respect of such travel and subsistence on the basis of vouched receipts,

such reimbursement may be made free of tax.

**3.3 Payment of 'round sum' expenses**

Where an office holder or employee is paid a weekly or monthly 'round sum' in respect of expenses [for example, €500 per month for expenses irrespective of expenses actually incurred], such a 'round sum' payment in respect of expenses **is taxable** and subject to PAYE deductions.

Where a 'round sum' in respect of expenses has been taxed at source, the office holder or employee may claim a tax deduction in respect of the actual expenses of travel (and subsistence relating to that travel) necessarily incurred in the performance of the duties of the office or employment.

**3.4 Car Allowance**

Any amount payable to an office holder or employee in lieu of the use of a car **is taxable** and subject to PAYE deductions. For example, Mr. Y has a remuneration package of either -

<b>A.</b>	A salary of €70,000 plus the private use of a company car	In this instance, the salary of €70,000 is taxable and the use of the car is a taxable benefit in kind and both the salary and the cash equivalent of the benefit are subject to PAYE deductions.
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**OR**

<b>B</b>	A salary of €70,000 plus an allowance of €10,000 in lieu of the use of a car	In this instance, both the salary of €70,000 plus the allowance of €10,000 in lieu of the use of a car are taxable in full and both are subject to PAYE deductions.
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## CHAPTER 4

### Reimbursement of Travel and Subsistence Expenses

#### Certain Specific scenarios

#### 4.1 Overview

**It is not envisaged that this Statement of Practice will cover all of the possible scenarios as regards the reimbursement of expenses of travel and subsistence that may, in practice, arise.**

Set out below is the tax treatment of the reimbursement of travel and subsistence expenses in certain specific scenarios.

Where circumstances arise that are not covered by this Statement of Practice, guidance as to the correct tax treatment of the expenses may be sought from the Revenue office dealing with the employer.

#### 4.2 'Travelling Appointments' - Employees

A travelling appointment is one where either -

- a) an employee is required to travel in the course of his/her job (e.g. travelling salesperson, travelling repairperson, service engineers, etc. - the occupation will generally involve multiple daily appointments with customers); or
- b) travelling is an integral part of the job (e.g. bus driver, lorry driver, coach driver, van driver, etc.).

The reimbursement of expenses by the employer to such an employee is, generally, only in relation to subsistence but may sometimes include expenses of travelling where an office holder or employee is required to use his/her own car on a business journey.

Where an individual whose job can be categorised as a 'travelling appointment' would not otherwise be regarded as having a 'normal place of work' for the purposes of computing travel and subsistence expenses for this category of worker, his/her employer's base will be regarded as his/her normal place of work.

Where a business journey commences from the employee's home or the employee returns directly to home, then the expenses of travel and subsistence that may be reimbursed without deduction of tax are the lesser of those incurred on the journey between: -

- (a) home and the temporary work location; or
- (b) the employer's base (normal place of work) and the temporary work location.

#### 4.3 Staff 'on call'

##### 4.3.1 On call allowance

An allowance payable to office holders and employees for being 'on call' is taxable and subject to PAYE deductions.

#### **4.3.2 Overtime or other such payment payable in respect of 'call outs'**

All overtime and other such payments relating to 'call outs' are taxable and subject to PAYE deductions.

#### **4.3.3 A member of staff attending his/her normal place of work outside of his/her normal working hours**

Where a member of staff attends his/her normal place of work outside his/her normal working hours, for example, to:

- (a) replace a scheduled member of staff who fails to attend work; or
- (b) assist with an increased volume of work; or
- (c) attend for a non-emergency or other routine event,

and the employer pays travel expenses to and from the normal place of work, such expenses are not an expense of travel necessarily incurred in the performance of the duties of the employment and are, therefore, taxable and subject to PAYE deductions.

#### **4.3.4 A member of staff attending his/her normal place of work outside of his/her normal working hours to deal with emergencies**

##### **4.3.4.1 General principle**

Subject to Paragraphs 4.3.4.2 and 4.3.4.3 below, the reimbursement by an employer of the expenses of travelling to an office holder or employee in respect of journeys to the individual's normal place of work (including journeys undertaken outside of normal working hours) is taxable. Journeys undertaken to return to work in emergency or 'on call' situations do not alter this principle.

##### **4.3.4.2 Exception to the general principle**

Tax case law has found that a person with 'specialist' skills may be working from the time he/she receives notification to attend his/her normal place of work to deal with an emergency. The type of case to which the exception applies is one where a 'specialist', because of the grave consequences of the relevant situation, must give instruction or direction to those present at the relevant situation and also have a responsibility for the emergency whilst travelling to the normal place of work. *It is not envisaged that many such cases arise in practice.* The reimbursement by the employer of the expenses of travelling to and from the normal place of work in such cases may be made without deduction of tax.

##### **4.3.4.3 Practice with effect from 1<sup>st</sup> January 2006**

With effect from 1<sup>st</sup> January 2006, and without affecting Par. 4.3.4.2 above, where an office holder or employee is required to attend his / her normal place of work outside his/her normal working hours to deal with **emergencies** requiring his/her immediate attention, then the travel expenses (i.e. the cost of the provision of taxis or mileage expenses up to the appropriate civil service mileage rate) to and from his/her normal place of work may be paid without deduction of tax in respect of **a maximum** of 60 such emergencies per annum.

Emergency in this context is dependent on the nature of the industry but, in general, encompasses an unforeseen or sudden event -

- (a) requiring immediate or urgent attention; and
- (b) that would have serious consequences if left unattended until the individual commences her/his normal working hours.

An emergency does not include an event where a member of staff is required to attend his/her normal place of work outside of his/her normal working hours, for example, to,:

- (i) replace a scheduled member of staff who fails to attend work, or
- (ii) assist with an increased volume of work; or
- (iii) attend a non-emergency or other routine event.

Whether a 'call out' is in respect of a genuine emergency is a question of fact having regard for relevant facts and circumstances supported by the records kept relating to the event.

Whilst it would be expected to be rare, if it is the case that, in a particular situation, the number of emergency 'call outs' is in excess of 60 per annum, the employer should contact the local Revenue office for guidance.

#### **4.3.5 A member of staff attending to an emergency other than at his/her normal place of work outside of normal working hours.**

Where a person is 'on call' and is required to attend a temporary work location other than his/her normal place of work outside of his/her normal working hours (for example, a plumber 'on call' to deal with emergencies in customers' properties), then the expenses of travel (i.e. where employee provides his/her own car) and subsistence relating to such 'call outs' may be reimbursed without deduction of tax.

#### **4.4 Payment of taxi fares from work to home and home to work**

The provision of taxis, hackneys, etc. (or the payment of taxi, hackney, etc. fares) on behalf of an office holder or employee for non-business journeys (e.g. travel to and from work) constitutes a taxable perk/benefit, which is subject to PAYE deductions. Where more than one office holder or employee shares a taxi, hackney etc., an apportionment of the benefit to each will be necessary.

However, PAYE deductions need not be applied to the benefit arising from the provision of taxi, hackney, etc. transport from work to home (but not from home to work) on an *irregular* basis where –

- (a) the office holder or employee is required to work until after 10 pm; and
- (b) finishes work before 6 am.

Irregular in this context may be taken as not exceeding 60 journeys per annum.

**Note** – Records should be kept as regards the use of taxis, hackneys, etc. to transport staff from work to home.

## 4.5 Company Directors

### 4.5.1 General

Company directors (including non-executive directors) are officers of the company (even where they own, or part own, the companies of which they are directors) and, as such, are subject to the same tax legislation, rules and conditions as employees as regards the tax treatment of the reimbursement of expenses of travel and subsistence.

As with other office holders and employees, the reimbursement of expenses to a director (including a non-executive director) relating to travelling to and from his/her normal place of work (i.e. the normal place of work in his/her capacity as a company director) is taxable and subject to PAYE deductions.

### 4.5.2 Normal place of work

The **normal place of work** of a company director is the place where he/she normally performs the duties of his/her office. This is determined having regard for the facts and circumstances of each directorship held.

As with employees, the reimbursement to a director of the cost of travelling to and from his/her normal place of work (i.e. in his/her capacity as a company director) is taxable and subject to PAYE deductions.

### 4.5.3 Individuals holding a number of directorships

#### ***Directors of unrelated companies***

Where an individual holds a number of directorships, the reimbursement of expenses of travel (and subsistence relating to that travel) in respect of –

- (a) journeys from home to the normal place of work of each directorship and vice versa; and
- (b) journeys between each company,

is taxable and subject to PAYE deductions (see Paragraphs 2.3 and 2.4).

#### ***Directors of related companies***

A director of two or more companies within a Group of parent and subsidiary or associated companies may be regarded as having one normal place of work within the Group. This normal place of work is where the director performs most of his/her duties within the Group. Travelling expenses necessarily incurred in travelling from this normal place of work to other places on the business of the Group in the performance of the duties of the office may be paid tax-free provided all such journeys are necessarily incurred in the performance of the duties of the office and the travelling expenses incurred are reasonable.

Associated company means a company on whose board the Group is represented because of the Group's shareholding or other financial interest.

### 4.5.4 Individual who, because of the duties of his/her office or employment, holds directorships in other companies

This is probably best explained by way of example.



**Example**

Mr. Brown is employed by ABC Bank Ltd. As part of the duties of his employment with ABC Bank Ltd, he is nominated as a director of DEF Ltd, which is not a subsidiary of or otherwise associated with ABC Bank Ltd. Part of the duties of his employment with ABC Bank Ltd is to travel to DEF Ltd to oversee certain operations.

The reimbursement of expenses to Mr. Brown, relating to his travel from his normal place of work at ABC Bank Ltd to DEF Ltd and return to ABC bank Ltd may be made without deduction of tax.

**4.6 Site-Based Employees****4.6.1 General**

A site-based employee may be described as one who does not have a fixed base and who, in the course of his/her employment, performs substantive duties on behalf of his/her employer at different locations (generally, for periods longer than one day) [e.g. employees in the building industry].

**4.6.2 Tax treatment of expenses paid (including 'country money') to site-based employees**

In many instances, the payment or reimbursement of expenses by employers to site-based employees is governed by the terms of an *Employment Agreement* between employee representative groups and employer representative groups and registered in the *Register of Employment Agreements* maintained by the Labour Court.

The Revenue Commissioners accept that expenses of travel and subsistence not exceeding the rates outlined in the *Appendix* (known as 'country money') may, subject to the exclusions in Par. 4.6.3 below, be paid tax-free to a site-based employee where such employee is employed and working at a site which is 32km (20 miles) or more from the employer's base.

Where, for employees in the construction and electrical contracting industries in the Dublin area, travel and subsistence is calculated by reference to distances from the General Post Office (GPO), the GPO may continue to be treated as the employer's base for the purpose of this tax treatment (provided, of course, this method is used on a consistent basis).

**4.6.3 Exclusions from tax treatment at Par 4.6.2 above**

The tax-free treatment of expenses outlined in Par. 4.6.2 above does not apply where -

- (i) the employee does not incur the expense of travelling to and from the site (i.e. the employee is provided with transport to and from the site by the employer); or
- (ii) the employee is provided with board and lodgings by the employer; or
- (iii) the employee is recruited to work at one site only.

Furthermore, the tax treatment at Par. 4.6.2 above does not apply to 'jobbed on site'<sup>2</sup> employees. However, where an individual who was originally engaged as a 'jobbed on site' employee remains in the same employment and takes up duty at other sites, payment of expenses of travel and subsistence, not exceeding the rate outlined in the Appendix, may be paid tax-free in respect of the second site and subsequent sites where all the relevant criteria are satisfied.

#### **4.6.4 'Eating on Site' Allowance**

An "eating on site" allowance is paid to site-based employees in some sectors of the economy. The following conditions must be adhered to before such an allowance can be paid tax-free;

- (i) facilities for making tea, coffee, etc. are not provided on the site by the employer;
- (ii) the employee is not in receipt of any other form of tax-free subsistence payment;
- (iii) the employee works on the site for at least 1.5 hours before and 1.5 hours after normal lunch break;
- (iv) the allowance is no more than €5 per day.

#### **4.7 Provision of accommodation plus meals at a temporary location**

In some instances, as an alternative to paying subsistence or country money that would, under the terms outlined in this Statement of Practice, qualify as being tax free, employers provide accommodation and meals at the temporary location where their employee's are working. Where this occurs, the Revenue Commissioners are prepared to accept that a taxable benefit will not be treated as arising in the hands of the employee where the following conditions are satisfied:

- the accommodation provided is not the principal private residence of the employee (i.e. he/she maintains separate accommodation where he/she normally resides); and
- if the accommodation is rented by the employer, the rent paid represents the reasonable cost of accommodation for the location; and
- the reimbursement as regards meals represents no more than a reasonable reimbursement of the actual cost.

#### **4.8 Tax treatment of travel and subsistence expenses for temporary assignees from abroad working in the State**

##### **4.8.1. General**

With effect from 1 January 2007, the Revenue Commissioners are prepared to accept that, subject to Paragraphs 4.8.2 to 4.8.4 hereunder, tax-free subsistence may be paid or reimbursed for the first twelve months of a temporary assignment provided that the period of assignment in the State does not exceed 24 months.

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<sup>2</sup> A 'jobbed on site' employee is an employee recruited to work on a particular site.

#### **4.8.2. Temporary assignment and temporary assignee in the State**

For the purposes of this Statement of Practice -

- (a) a *temporary assignment* in the State is one where -
  - (i) an office holder or employee resides temporarily in the State for the purposes of the performance of the duties of his/her foreign office or employment; and
  - (ii) there is the intention that the office holder or employee will, at the end of the assignment, return to work at the foreign location from which he/she was assigned;
- (b) a *temporary assignee* in the State is an office holder or employee who -
  - (i) holds a foreign office or employment with a non-resident employer and, prior to coming to work in the State, has been employed outside the State for a period of not less than 3 months by that employer; and
  - (ii) holds a temporary assignment (as defined above) in the State on behalf of his/her non-resident employer; and
  - (iii) actually performs the duties of the office or employment in the State for the period of the temporary assignment; and
  - (iv) remains an office holder or employee of that employer while on temporary assignment in the State.

However, a temporary assignee **does not** include an individual who -

- i. is recruited to work in the State; or
- ii. in the normal course of his / her duties, is posted or transferred from country to country.

**Note:** It is expected that, in general, the period of assignment in the State should not exceed the period of employment with the employer outside the State prior to the commencement of the temporary assignment.

#### **4.8.3 Subsistence Expenses re temporary assignees**

The reimbursement of expenses may be by way of either -

- (a) vouched expenses; or
- (b) a flat rate.

##### ***Vouched Expenses***

Reimbursement (which may be made for a maximum period of 12 months) of vouched expenses free of tax must not exceed the cost of reasonable accommodation and meals whilst on temporary assignment.

As regards hotel accommodation, reasonable accommodation includes accommodation for an assignee for a twelve month period. Where a spouse and children accompany an assignee to the State during the period of the temporary assignment, reasonable accommodation includes hotel accommodation for the spouse and children for the first month only of the assignment to facilitate the procurement of rented accommodation.

As regards rented accommodation, reasonable accommodation includes vouched rent, rental of furniture and payment of utilities (e.g. light and heat) which would normally be payable by a tenant. Where an assignee is accompanied by a spouse and children in the State during the period of the temporary assignment, reasonable accommodation includes rental of residential accommodation which is suitable for an assignee and his / her spouse and children.

#### **Flat Rate Expenses**

Flat rate reimbursement of expenses free of tax for the temporary assignee only on the basis of the Civil Service schedule of rates must not exceed the following amounts -

<b>Period of Assignment</b>	<b>Allowable Tax Free Subsistence</b>
First 14 nights of the assignment	Up to the Normal Rate Civil Service Rates as per Revenue Leaflet IT54
Next 14 nights of the assignment	Up to the Reduced Rate Civil Service Rates as per Revenue Leaflet IT54
Next 28 nights of the assignment	Up to the Detention Rate Civil Service Rates as per Revenue Leaflet IT54
Remainder of the assignment (up to a maximum of twelve months)	<b>Vouched</b> expenses subject to a maximum of three nights subsistence per week at the normal rate

**Note** – Revenue Leaflet IT 54 is available on Revenue’s website [www.revenue.ie/en/tax/it/leaflets](http://www.revenue.ie/en/tax/it/leaflets).

#### **4.8.4 Travel Expenses re temporary assignees**

Expenses which may be paid or reimbursed free of tax include the vouched cost of the journeys to and from the State at the commencement and cessation of the temporary assignment.

Notwithstanding that tax-free subsistence is limited to a twelve-month period, in accordance with the Revenue published practice (Tax Briefing Issue 42), the vouched cost of one return trip per year to the home location may also be paid or reimbursed free of tax. This applies to the assignee, his or her spouse and children.

In the case of an assignee whose spouse and children do not accompany him/her on temporary assignment, the cost of one return trip per year to the State for the spouse and children may be paid or reimbursed free of tax.

#### **4.9 Members of non-commercial bodies**

Section 195A Taxes Consolidation Act 1997 (as inserted by Section 12 Finance Act 2007) exempts from tax the reimbursement of expenses of travel and subsistence to certain members of non-commercial bodies, in both the public and private sector, in respect of attendance at meetings of such bodies. The exemption applies where the work of the members is generally carried out at such meetings.

In this context, a 'member', in relation to a body, means a person holding office as a member of that body and who has no other duties in relation to that body.

To qualify for the exemption, the member's *annualised* emoluments (excluding the expenses) from the body must not exceed €24,000 per annum in the case of the Chairperson and €14,000 in the case of other members. The exemption covers expenses up to the Civil Service rates.

A non-commercial body in this context means a body -

- that is organised solely for purposes other than profits;
- that, in fact, operates other than for profit;
- whose activity income is used by the body to assist it in achieving its purposes;
- does not distribute or otherwise make available any of its income for the personal benefit of any officer, employee or member or connected person other than as wages, salaries, fees or honorariums for services rendered.

#### 4.10 Individuals carrying out work on a voluntary and unpaid basis

Notwithstanding anything contained in tax law or in this Statement of Practice, the reimbursement of expenses of travelling and subsistence to individuals who work on a voluntary and unpaid basis for organisations whose functions and aims are both altruistic and non-commercial (for example, voluntary unpaid workers working for charities, sports bodies, etc.) may be paid tax-free provided the expenses of travelling and subsistence -

- (a) merely put the unpaid individual in a position to carry out his/her work; and
- (b) no more than reimburse the individual the expenses actually incurred by him/her and do not exceed what are known as the Civil Service rates for reimbursement of expenses of travelling and subsistence.

**Note** – Individuals involved in charities, sports bodies, etc. who, in addition to a reimbursement of actual expenses of travel and subsistence, receive, either directly or indirectly, remuneration of any description (for example, weekly or monthly salary, an honorarium, and/or a 'bonus', etc) do **NOT** fall within the description of 'carrying out work on a voluntary and unpaid basis'.

## Appendix

## Civil Service Rates for Travel and Subsistence

## Subsistence Rates

Domestic Subsistence rates from 5 March 2009					
Class of Allowances	Night Allowances			Day Allowances	
	Normal Rate (€)	Reduced Rate(€)	Detention Rate (€)	10 hours or more	5 hours (but <10 hours)
A	108.99	100.48	54.48	33.61	13.71
B	107.69	92.11	53.87	33.61	13.71

Domestic Subsistence rates from 1 July 2007 to 4 March 2009					
Class of Allowances	Night Allowances			Day Allowances	
	Normal Rate (€)	Reduced Rate(€)	Detention Rate (€)	10 hours or more	5 hours (but <10 hours)
A	144.45	133.17	72.21	43.13	17.60
B	141.60	121.11	70.83	43.13	17.60

**Day Allowances**

A day allowance applies to continuous absence of 5 hours or more, provided the absence is not at a place within 5 kilometres of the employee's home or normal place of work.

There are two categories of day allowance, namely, 5 to 10 hours absence and over 10 hours absence.

**Overnight Allowance**

A night allowance applies for an absence away from home overnight at a place more than 48.27 km (30 miles) from the employee's normal place of work and home. However, in exceptional circumstances and where an employer is satisfied that an operational need exists, a night allowance may apply for an absence away from home overnight at a place more than 24.14 km (15 miles) from the employee's normal place of work and home.

## Motor Travel Rates

Rates per kilometre - Effective from 5 March 2009			
Motor Travel Rates in a Calendar Year			
Engine Capacity	Up to 1200 cc	1201cc to 1500 cc	1501cc and Over
	Cent	Cent	Cent
Up to 6437km	39.12	46.25	59.07
6438km and Over	21.22	23.62	28.46

Rates per kilometre - Effective from 1 July 2007 to 4 March 2009			
Motor Travel Rates in a Calendar Year			
Engine Capacity	Up to 1200 cc	1201cc to 1500 cc	1501cc and Over
	Cent	Cent	Cent
Up to 6437km	52.16	61.66	78.32
6438km and Over	27.08	30.96	36.65

### Subsistence Rates – Site based Employees (See Par. 4.6)

**(a) Rates of 'Country Money' Payable under the Registered Employment Agreement for the Construction Industry**

With effect from 1 Jan 2006	€161.37 per week
With effect from 1 July 2006	€165.24 per week
With effect from 1 Jan 2007	€168.54 per week
With effect from 1 July 2007	€173.60 per week
With effect from 1 July 2008	€ 181.68 per week

**(b) Rates of 'Country Money' payable under the Registered Employment Agreement for the Electrical Contracting sector**

With effect from 1 April 2005	€157.09 per week
With effect from 1 April 2006	€161.17 per week
With effect from 1 April 2007	€168.26 per week