**Subsistence expenses – using the benchmark scale rate**

The option to pay employees flat rate subsistence expenses tax-free can be an attractive one; the employees are clear on what expenses will be paid, and the employer is saved the work involved in reimbursing the actual amounts incurred.

**The rates**

HMRC set benchmark scale rates which can be used to make subsistence payments to employees. The rates are as follows:

|  |  |
| --- | --- |
| **Minimum journey time** | **Maximum amount of meal allowance** |
| 5 hours | £5 |
| 10 hours | £10 |
| 15 hours (and ongoing at 8pm) | £25 |

For these purposes, a meal is taken to be the combination of food and drink. Where the £5 or £10 rate applies and the qualifying journey in respect of which it is paid lasts beyond 8pm, a supplementary rate of £10 can be paid tax-free to cover the additional expenses necessarily incurred by working late.

The rates are the maximum that can be paid tax-free; the employer can pay below these rates if they choose to do so. If a higher amount is paid without first agreeing that it is appropriate with HMRC, the excess over the above rates is liable to tax and National Insurance contributions. However, employers can negotiate a higher rate with HMRC where they can demonstrate that actual expenditure is more than the benchmark rates.

**Conditions**

The benchmark rates can only be used to make tax-free subsistence payments where the qualifying conditions are met. These are that:

* the travel is in the performance of the employee’s duties or to a temporary place of work on a journey that is not substantially ordinary commuting (i.e. the normal journey between home and work);
* the employee is absent from his normal workplace or home for a continuous period in excess of five hours or ten hours, as appropriate;
* the employee has incurred costs on a meal (food and drink) after starting the journey and retained evidence of their expenditure.

**Checking**

Under the rules as they currently apply, employers are required to have a checking procedure in place. The employer must be satisfied that the employee has in fact incurred expenditure of the type that are being reimbursed (e.g. by checking receipts or credit card statements) and had the employee not been reimbursed for that expenditure, it would be tax deductible.

The checking system which is appropriate will depend on the size and nature of the employer’s business. However, it should be sufficient to ensure that the expenditure relates to qualifying travel, it does not include any disallowable items (e.g. private expenditure) and it is not excessive.

However, the checking requirement will soon be history – legislation is to be introduced from 6 April 2019 to remove the requirement for employers to check evidence of amounts spent when making benchmark scale rate payments.

**Tax deduction for employees**

If the employer pays less than the benchmark rates, the employee is not allowed a deduction for the shortfall. However, if the employee’s actual expenditure is more than that reimbursed, the difference is deductible, as long as the usual conditions for deductibility are met.