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Charities & Not for Profit newsletter

Homeworking & the weekly flat rate tax allowance

The current Coronavirus (COVID-19) lockdown measures have resulted in more people working from home than ever before. Employees who have been forced into this homeworking arrangement have seen an increase in their household bills such as electricity, heating and water charges.

Prior to the lockdown and where a contractual homeworking arrangement existed, an employer could pay to the employee a 'reasonable amount' to cover these additional costs of working from home free of income tax.

Without any evidence as to what is a 'reasonable amount,' HMRC allowed employers to pay employees a flat rate amount of £4 per week, rising to £6 per week from 6 April 2020, to cover the additional expenses which is exempt from income tax and national insurance contributions.

Previous HMRC guidance confirmed that a homeworking arrangement exists between an employer and an employee where the employee regularly performs some, or all, of their duties from home. The guidance suggested that this needed to be more of a formal agreement rather than working from home on an ad-hoc basis, and it should be frequent, or follow a pattern but each case will be considered on its merits by HMRC, depending on the circumstances.

New HMRC guidance on employee claims for homeworking tax relief

On 27 March 2020, Jesse Norman MP, financial secretary to the Treasury, confirmed in a reply to a Parliamentary question that employees who work from home could claim a tax deduction of £6 per week from 6 April 2020, or £4 per week for periods before that. This came as a surprise to tax advisers, as until that point HMRC had been clear that flat

rate claims for tax relief by employees were not permitted.

On 15 May 2020, HMRC changed the guidance in its employment income manual to say that from 6 April 2020 "for ease of administration" it will accept that employees who are required to work at home can claim a deduction of £6 per week (£26 per month), without having to justify that figure. For years before 2020/21 HMRC will accept claims for deductions amounting to £4 per week (£18 per month).

This means that employees can submit claims to HMRC for homeworking expenses, without having to calculate the additional costs of their household bills or keep evidence of those costs. HMRC accept that the four statutory conditions for claiming this tax relief are met where the following circumstances apply:

- the duties that the employee performs at home are substantive duties of the employment. "Substantive duties" are duties that an employee has to carry out and that represent all or part of the central duties of the employment;
- those duties cannot be performed without the use of appropriate facilities;
- no such appropriate facilities are available to the employee on the employer's premises; 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.

The current lockdown means that most if not all employees working from home under the Coronavirus lockdown measures will satisfy the above conditions.

If the employee wants to claim more than the flat rate of £6 per week, evidence of the additional household costs will be required.

How employees can claim homeworking tax relief

Employees who complete a self-assessment tax return can make a claim for their additional homeworking costs under the section in that form titled "using your home as an office".

Most employees are not required to submit a tax return, so they can claim the tax deduction for homeworking expenses either online or by post on [form P87](#), or by phoning HMRC on 0300 200 3300.

Additional homeworking tax exemption for employees buying equipment

Employees who are working from home due to

Coronavirus (COVID-19) may need to purchase their own home-office equipment and employers who encourage their staff to do this may reimburse the expense.

However, the current rules mean that where an employee buys their own home-office equipment and is reimbursed by their employer, they will currently not be entitled to tax relief. This is because the expense incurred puts the employee in a position to perform their duties and is therefore not incurred in performance of their duties.

The government want to support employees and employers in this situation, so they have created a temporary Income Tax and National Insurance contributions exemption for employer reimbursed expenses that cover the cost of relevant home-office equipment.

Home-office equipment is the equipment deemed necessary for the employee to work from home as a result of Coronavirus, including a laptop, desk or necessary computer accessories.

The exemption will ensure that employees can receive the full reimbursement of such costs free from tax and Class 1 NICs and this temporary exemption will apply from 11 June 2020 until the end of the tax year 2020-21. HMRC will exercise its collection and management discretion and will not collect tax and NICs due on any reimbursed payments made from the start of the lockdown on 16 March 2020 provided the relevant conditions set out in the legislation are met (see below).

For the expenditure to be eligible for relief, it must meet the following 2 conditions:

- that equipment is obtained for the sole purpose of enabling the employee to work from home as a result of the Coronavirus outbreak
- the provision of the equipment would have been exempt from income tax if it had been provided directly to the employee by or on behalf of the employer

The exemption will be conditional on the benefit of any reimbursement in respect of home-office equipment expenses being made available to all an employer's employees generally on similar terms.

The temporary tax exemption will mean that employees can purchase the office equipment necessary for them to work from home without worrying about the tax and NICs consequences, and employers will no longer need to report the reimbursed expense which would normally be liable to tax and NICs.

Gift Aid Small Donation Scheme

The Gift Aid Small Donations Scheme (GASDS) allows 25% to be claimed on cash donations or contactless card payments of £30 or less since 6 April 2019 without any supporting gift aid declaration in place. There is a cap of £2,000 per tax year and certain other conditions also need to be met. Guidance is available [here](#).

The Charity Tax Group (CTG) raised concerns about the loss of eligible cash donations during the COVID-19 pandemic, for example lost plate collections in churches etc. Donors have asked whether they can amalgamate their “usual” weekly cash donations and make one payment after lockdown has ended. However, that would normally take the donation over £30. Charities are likely to be unable to bank cash donations during lockdown for operational reasons and to adhere to government travel restrictions etc. CTG asked HMRC whether donors could “save up” their weekly donations but still have them count as GASDS even though more than £30 would be in an individual envelope.



HMRC advise that “Where it is the case, for example, of separate donations being given in an envelope, then if the church/charity official is happy that these are clearly separate “small donations” (and clearly stated as such) then they will be eligible for GASDS, as is the case where separate envelopes are used.” E.g. if a donor puts £200 in an envelope and clearly states that it covers 10 weeks of £20 weekly donations when they were not able to make their usual offering, then HMRC are happy for the church to regard that as donations under GASDS.

Changes to furlough

The Chancellor Rishi Sunak announced changes to the furlough scheme on 29 May 2020, including allowing a furloughed employee to return to work part-time from 1 July and expecting employers to

contribute towards the wages bill for furloughed employees as from 1 August 2020. More detailed guidance and a timeline for the changes is available [here](#).

Staying safe while working from home



When times are tough, innovation steps in. While the current pandemic has led to a huge leap forward in adopting new technology, it has also created some lucrative opportunities for criminals to commit fraud and steal your data. Email has never been more important as a communication tool, so here are some tips to help keep you safe:

Protect your email account. This is the keyring that holds the keys to all your online accounts. Most systems allow you to reset passwords by sending codes or links to your email address, so if this is compromised then so are many of your other online accounts. Your password for your email should be unique, and not used for any other online systems.

Multi-factor authentication (MFA) is a great way to provide additional security to your accounts. A lot of online email providers now offer this either free, or for a minimal cost. Just like with online banking, these work by sending additional codes to your phone or other device when you log in via the Internet. This means that even if someone does get access to your username and password, if you have your mobile phone then you are still protected.

Think your account is secure? If you've had an email address for a few years, then your details have probably been compromised at least once by one of numerous large-scale data breaches around the world. Some of the biggest online sites in the world have managed to lose huge numbers of passwords, including LinkedIn and Adobe. You can check for yourself by using the [HaveIBeenPawnd site](#). Enter your email address and you will see which breaches have included your details. If you have been included, make sure that your password has been changed since the breach and that any old password has not been reused on any other online systems.

Be suspicious. If you receive emails that contain any of the following red flags then treat with caution. If in doubt, check with your IT team or contact the sender via phone (not email) to confirm the request is genuine.

From: IT <IT@4cc.co.uk> **Sender email address matches organisation, but could be spoofed**

Reply-to: IT <IT@4cc.co.uk>

Subject: Change of Password Required Immediately **Sense of urgency (Do this Now)**

We suspect a security breach happened earlier this week. **In order to prevent further damage, we need everyone to change their password immediately.**

Please click here to do that **Tells you to click a link or open an attachment**

[Change Password](#) **Hover over the link. Link does not take you to the site the email content says it will**

Please do this right away. Thanks!

Sincerely,
IT

Warns of negative consequences if you don't complete request

COVID-19 & the workplace

On 18 May, the UK government released guidance to employers and employees regarding COVID-19 and the workplace.

The lockdown

Employees should not attend the workplace if:

- they can work from home;
- they are self-isolating for seven days due to COVID-19 symptoms; or
- they are a “clinically extremely vulnerable” person (cancer sufferer, severe asthma, etc.).

“Clinically vulnerable” people, including the over 70s, people with non-severe health conditions and pregnant women, can attend the workplace subject to the two restrictions above.

More information on homeworking is available in our article “Homeworking and the weekly flat rate tax allowance”.

Employer obligations

Employers should “make every effort” to facilitate homeworking. Employees who are self-isolating or clinically extremely vulnerable are entitled to Statutory Sick Pay (providing the other criteria are met). Of course, employers can continue to use the Coronavirus Job Retention Scheme (CJRS), which has been extended until the end of October 2020 (see our separate article relating to furlough).

Making the workplace safe (COVID-19 Secure)

Importance of risk assessments

Employers should do what is “reasonably practicable” to protect employees from COVID-19, which also includes providing sufficient training and guidance. The steps taken will depend on the severity of the risk. A risk assessment will enable employers to identify the risks, assess their severity and prioritise the processes and procedures to mitigate them. The effectiveness of these processes and procedures should be reviewed regularly. New guidance on working safely during COVID-19

“expects” employers with more than 50 employees to publish their risk assessments (this could eventually become mandatory).

UK government expectations

Employers are expected to control rather than prevent exposure to COVID-19. The UK’s “COVID-19 Secure” guidelines, which are not law, are designed to help employers respond to COVID-19 within the existing legal framework. The guidance suggests the following steps to control exposure:

- make every effort to enable homeworking;
- increase frequency of handwashing and surface cleaning;
- make every reasonable effort to enable employees to keep at least two metres apart;
- where social distancing cannot be achieved, consider whether the activity is necessary; and
- if social distancing is not practicable, minimise time needed to complete tasks, encourage back-to-back or side-to-side working and use fixed teams to reduce contact.

If mitigation cannot be achieved due to the nature of the activity, employers will need to assess carefully whether the activity can go ahead (no one is obliged to work in an unsafe environment).

Note that employers with five or more employees are obliged to have a health and safety policy, which must be brought to the attention of all employees.

Employee consultations

Employers have a duty to consult employees (perhaps via a representative) on health and safety matters. Such consultation should always be timely.





The duty to consult employees is not intended to thwart employers' right to manage; it is intended to ensure employees' views are at least considered. Ultimately, the final decision on COVID-19 policy rests with the employer.

PPE

PPE has been the subject of much heated debate recently. Presently, the guidance states that PPE should be reserved for workers in the health and social care sectors. In other sectors, the government believes social distancing is adequate. However, the guidance recommends that workers wear face masks or coverings. Experts are divided on the utility of face masks and coverings.

Employees working in confined, densely packed and poorly ventilated spaces may require high-grade protective equipment the government wishes to reserve for health and social care workers. This problem will abate as global supply chains adapt.

Providing PPE should be a last resort if other measures are not enough to control the risk.

Health monitoring

Currently, there is no requirement to monitor the health of employees and visitors entering the workplace (e.g., temperature checks). Remember, if health data is collected, Information Commissioner's Office (ICO) guidance still applies.

Refusing to work due to COVID-19

It is still a criminal offence to attend a workplace if homeworking is possible. If homeworking is

possible, it would be unlawful for an employer to ask an employee to attend the workplace.

Implied in contracts is the requirement to obey the lawful and reasonable instructions of employers. Employees may refuse to attend the workplace if they believe COVID-19 presents a serious and imminent danger. An impasse may emerge if an employer's request to attend the workplace is reasonable and lawful. Currently, this predicament can be avoided by furloughing the employee under the CJRS.

Legislation protects an employee from dismissal if he refuses to work because he believes COVID-19 presents a serious and imminent danger.

Employees with caring responsibilities

Employees do not have a right to refuse to attend work to care for dependents (such as children). However, they do have a right to a reasonable amount of unpaid time off to care for dependents. Furloughing under the CJRS is a good option in these circumstances.

COVID-19 whistleblowing

Employees can make "protected disclosures" regarding COVID-19 (and other matters) without risk of dismissal.

The disclosure must meet the following two requirements to be a "protected disclosure":

- Qualifying disclosure: an employee must have a reasonable belief that a legal obligation has been breached or an individual's health and safety has been endangered. The employee must also believe that the disclosure is in the public interest (interpreted broadly)
- Method of disclosure: the disclosure must be made to either the employer, a legal adviser, the Health and Safety Executive, local authorities or MPs.

Conclusion

The situation is fast moving and liable to change as data on the effectiveness of the government's strategy emerges. Keeping abreast of the latest guidance published on the government's website and reputable news outlets (such as the BBC) is essential. Indeed, failure to follow the rules is a criminal offence with an unlimited fine.

We recommend that you seek HR and / or legal advice if you have any questions about these important issues.

Corporate Governance & Insolvency Bill

The Department for Business, Energy & Industrial Strategy has announced that the Corporate Governance and Insolvency Bill has been introduced to Parliament, which is designed to support organisations during the current Coronavirus pandemic.

It consists of measures to give more flexibility in insolvency situations, allow for filing extensions and allows for use of electronic means for meetings and communications. Some measures have been brought in retrospectively, for example a statutory AGM held since 26 March 2020 in a manner that adhered to social distancing but may not have met with other statutory obligations will now have been held in accordance with the law.

The deadlines for filing of accounts, confirmation statements and the registration of charges can be extended in law.



Whistleblowing

Protect is the UK's leading whistleblowing organisation and they have offered a free, confidential Advice Line (020 3117 2520) since 1993 to support whistleblowers who wish to speak up about workplace wrongdoing. Whistleblowing law protects individuals from detriment or dismissal for raising their concerns.

Protect launched a Third Sector pilot programme to support those with concerns in the charity sector. Calls about charity organisations have increased from 12% in 2017 to 19% in 2019. Late in 2019, 40 charities took part in a round table discussion, which produced the following findings:

- No charities taking part had a follow up process in their charity to monitor wellbeing of staff who had raised concerns.
- Only 52% of charities differentiated between whistleblowing and grievances.
- 86% of charities did not train those tasked with receiving and acting on whistleblowing concerns.
- Of matters raised within the charity sector 27% related to working practices, 24% ethical concerns, 20% financial misconduct and 12% safeguarding issues.

More information can be found [here](#).

Waiving income & donating to charity

HMRC have issued new guidance recognising that some people may want to give up part of their income in order to support their employer or business. Options include:

- Waiving salary or bonuses before they are paid. If this agreement is not part of any wider arrangement to divert sums to a particular recipient or cause, then no income tax or national insurance (NI) is due on the waived amount.
- Waiving the rights to dividends. A formal Deed of Waiver must be executed, signed and dated by the shareholder, witnessed and return to the company before the right to receive a dividend is declared.
- Giving back salary or dividends to their employer after they have been paid. However, it would not be possible to claim back any tax and NI already paid on the salary.
- Payroll Giving - Employers need to use a Payroll Giving Agency to set up a scheme. Donations are deducted from pay before income tax but after NI. The charity recipient must be registered in the UK or Europe, recognised by HMRC as a charity for tax purposes and able to receive donations via Payroll Giving.
- Gift Aid - Donations by individuals are made from their taxed income. The charity is eligible to claim back tax from HMRC equivalent to the basic rate tax the donor would have paid. The donor needs to sign a gift aid declaration and confirm that they have paid more income or capital gains tax in the tax year than the gift aid arising on the donation.

To donate to charity, people can use:

Charity shop survey

Civil Society run an annual survey about charity shops and the 29th questionnaire has just been made available. In 2019 6,440 shops took part, so this is a very useful benchmarking tool for the sector.

The results will be published in October 2020.

More information and a link to the survey questionnaire is available [here](#).

Pro bono Economics survey

Pro Bono Economics (PBE) is a charity that seeks to help charities and social enterprises improve their impact and value with the expertise of economists.

PBE are undertaking a weekly survey to gauge the pressures being felt by the charity sector due to COVID-19. Results are assessed by looking at the size of the charity in terms of income, identifying small, medium and large charities.

In the survey at the end of May, just over 40% of respondents said that the biggest issue they face was the impact of social distancing on their ability to undertake their activities, 30% said the impact on fundraising was their biggest issue and 23% said the uncertainty Coronavirus creates meant that it was difficult to plan ahead.



Links to further advice

Additional information and guidance can be found from the following sources:

- [PEM Knowledge Hub](#)
- [NCVO Practical Support](#)
- [CFG coronavirus guide](#)
- [Charity Tax Group coronavirus information](#)
- [COVID-19 funders](#)
- [GOV.UK](#)



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