



COVID-19: KEY WORKERS: TAXATION OF BENEFITS

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Text of a letter dated 14 August 2020 to HMRC

A relaxation is needed so that the provision by an employer in the health and care sectors of accommodation and transport costs to staff to help prevent coronavirus cross infection is not liable to tax or NIC as an employer-provided benefit.

This representation has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System are summarised in Appendix 1.

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TEXT OF A LETTER DATED 14 AUGUST 2020 TO HMRC

1. The impact of COVID-19 has required changes to how key workers operate but the tax treatment of relevant workplace benefits has not kept pace. We believe that there are opportunities for government to adjust the tax system to demonstrate tangible support for key workers.
2. *Accommodation for key workers:* Many staff working in the health and care sectors are isolating away from home to protect their households from infection. When these employees stay in accommodation provided gratis by their employer, this counts as the provision of accommodation at a permanent workplace and HMRC's guidance *How to treat certain expenses and benefits provided to employees during coronavirus (COVID-19)* states that this is taxable.
3. *Transport for key workers:* Housing and care home organisations have been paying for their staff who support vulnerable residents with high support needs to travel by taxis rather than use public transport. This has been done to minimise the risk of infection to both staff and residents, as well as reducing pressure on public transport when capacity is constrained. HMRC's aforementioned *guidance* states that these transport costs should be reported on a PAYE settlement agreement, and tax and NIC paid on a grossed-up basis. This will be expensive for these businesses who are trying to protect vulnerable residents with high support needs.
4. We believe that tax liabilities should not arise in either of these circumstances, and that there should be a temporary exemption for such costs incurred as a result of COVID-19, taking effect from March 2020. If this cannot be achieved by way of amended guidance, one way would be to extend the relief in *s245 ITEPA 2003* to cover global pandemics.
5. We included this point in our pre-Summer Statement representations to the FST (published as *ICAEW REP 43/20*) who replied that he has passed it to HMT and HMRC for consideration.
6. We are copying this correspondence to fellow representatives of EPG.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).