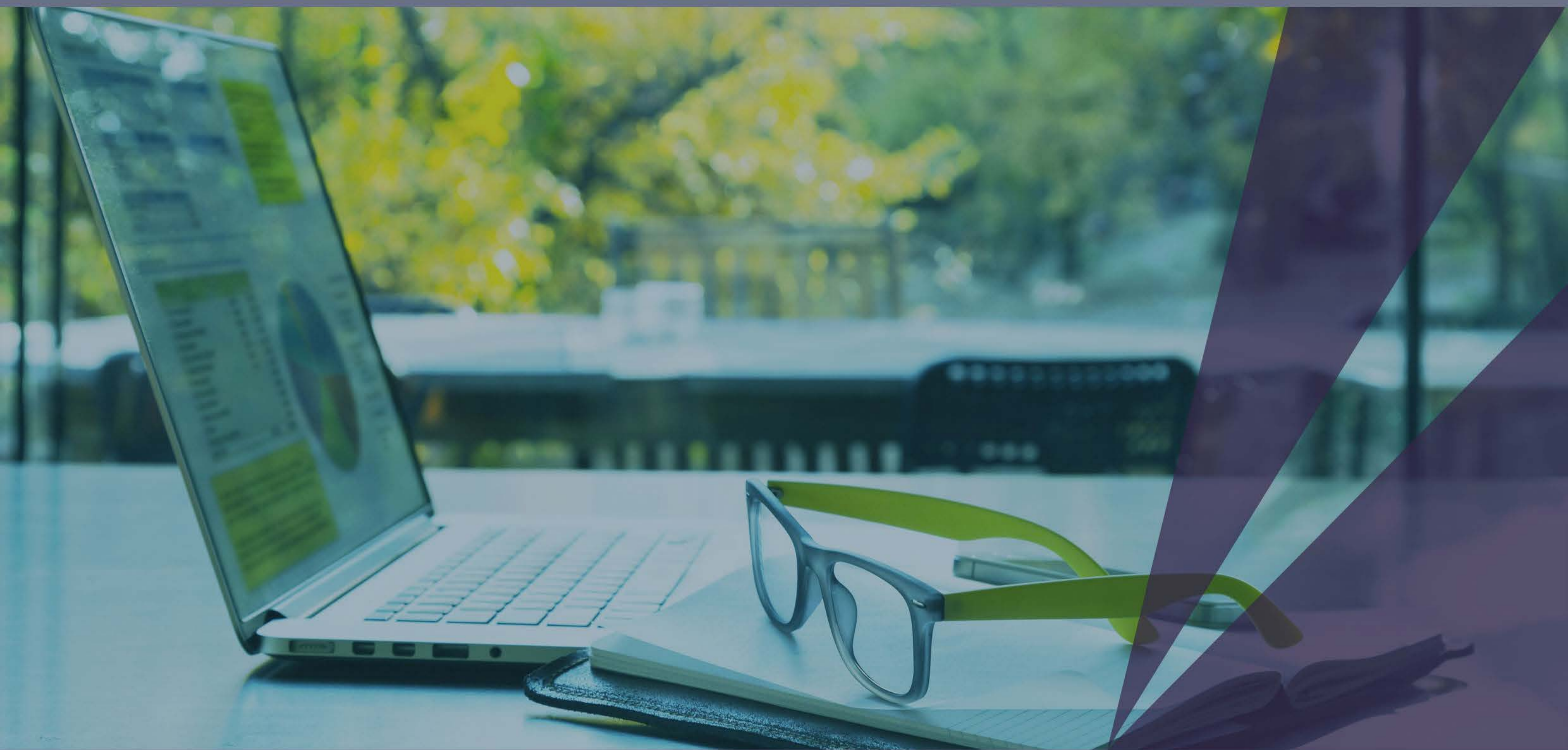


TAX IN THE AGE OF HOMEWORRING

Hybrid and remote working have become the 'new normal' since the pandemic, but what are the potential tax implications of allowing staff to work from home?

Tax director **Jon Miles** examines how the landscape has changed since the withdrawal of emergency COVID-19 rules in April this year.



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“Since April we have gone back to the pre-COVID rules, but with more employees working from home and no current definition of homeworking, avoiding taxation issues has become more challenging.”
Jon Miles, RS Tax Director

Let's start with a recap...

At the start of the pandemic – in March, 2020 - a temporary exemption was put in place to enable employees, forced to work from home as a result of COVID restrictions, to buy home office equipment and have the cost reimbursed by employers, without risk of incurring income tax or NI.

Despite the, globally acknowledged, fact that working from home for some or all of the week is now normal practice, this temporary exemption was brought to an end by the UK Government from 6th April this year.

So, as an employer, what do you need to do to make sure you won't fall foul of HMRC, while still reaping the benefits of a flexible workforce?

2022/2023 Onwards...

Employers are able to make tax-free payments to help employees cover reasonable additional expenses - essentially light, heat and electricity - incurred while working from home. Eligible payments are not subject to either income tax or national insurance.

Which employees are eligible?

To be eligible, the employee must be carrying out the duties of their employment under homeworking arrangements. This is not clearly defined but basically means that the employee is regularly performing some or all of their duties at home for an indefinite or limited period.

HMRC guidance notes that they will accept an employee is working at home regularly where it is frequent, or follows a pattern, such as working at home for two days of every week. In the example of an employee working two days a week at home, HMRC will still consider it to be regular even if the employee varies the days which they work at home each week.

Informal working at home that is not by arrangement does not count as homeworking. For example taking work home in the evenings will not qualify the employee for tax-free reimbursement of costs. There must be an arrangement to work at home and not at the employer's premises, and it is good practice for this to be in writing.

Provision of Home Office Equipment & Connectivity

It is generally accepted that working solely on a laptop for long periods is poor practice, and can lead to discomfort and back pain. Many homeworkers will need additional equipment including monitors, keyboards and even desks and chairs in order to make a functional office space. Employers and employees need to be aware though, that the tax position is significantly affected depending on how it is paid for. While a welcome concession applied in 2020/21 and 2021/22, to allow employees to purchase and employers to reimburse costs, this ended from 6th April, 2022.

Employer purchases

Where the employer has purchased and 'provided' any necessary equipment to an employee, as long as there is no significant private use, no taxable benefit in kind arises on the employee.

If there is significant private use, then a benefit in kind will arise and so employers should ensure that their employment policies make clear that significant private use is not permitted.

When or if the employee returns to the workplace and ceases to use the asset at home, consideration will need to be given to what happens to the employer's property. If the property is returned to the employer, there will be no tax consequences. But if the employee keeps the asset and ownership of the asset is transferred from the employer to the employee then a benefit in kind could arise based on the market value of the asset at the time. If the employer does not wish the employee to suffer a tax charge, one option might be to include the asset transferred on a PAYE Settlement Agreement which would mean the employer would cover the tax costs of transfer but there are time limits for applying for a PSA. Otherwise a P11D and benefit in kind charge for the employee will result, which will need to be managed between the employer and employee.

Employee purchases

Where an employee purchases their own equipment personally and the employer reimburses them, this can cause tax issues as the reimbursement will be viewed as taxable income, subject to income tax and national insurance. Following the concession for 2020/21 and 2021/22, this should generally now be avoided.

Staying connected

For costs such as a broadband internet connection, HMRC says that if the employee is already paying for a connection before starting working from home then this is an existing expense and cannot be reimbursed tax-free. If, however, the employee is not connected to broadband and needs a connection to work from home, then this would qualify as an additional cost which the employer could reimburse tax-free. The same principles apply to the cost of a domestic landline rental. Only additional costs incurred by the employee as a result of homeworking can be reimbursed by their employer tax-free.



Exemption for household expenses

Reimbursements can only cover reasonable additional costs incurred by the homeworking employee. There are two main approaches.

Firstly, the employer can pay the following fixed amounts:

- *£6/week for weekly paid employees; or
- *£26/month for monthly paid employees.

The advantage of paying at these rates is that there is no need for the employer to justify the expenditure and the employee does not need to keep records of their additional costs.

The weekly flat-rate amount applies equally to part-time or hybrid workers and it is not necessary to pro rata it because the employee does not work at home full-time.

If the flat-rate is not appropriate, then a larger tax-free amount can be paid subject to provision of evidence for the additional costs.

Allowable costs include:

- *additional heating and lighting costs
- *additional insurance
- *metered water
- *telephone or internet access charges
- *business rates (if applicable)

Only the increase in costs incurred by the employee can be reimbursed. Costs that would be the same whether or not you work at home cannot be included. Such costs might include:

- *mortgage interest or rent
- *council tax
- *water rates

The employer is also not permitted to reimburse, tax-free, any costs that enable the employee to work from home, such as building alterations.



In July the Office for Tax Simplification - an independent adviser to government on simplifying the UK tax system to make it easier for taxpayers - launched its review of the emerging trends and tax implications of hybrid and distance working. Its findings were due to be published later this year but this now seems unlikely given that it was disbanded by the Chancellor Kwasi Kwarteng in his recent 'mini-budget' (Sept 23, 2022).

Tax relief for homeworking employees

If an employer does not wish to reimburse some or all of a homeworking employee's extra expenses, then the employee is not automatically allowed tax relief on their extra costs. Tax relief for extra costs under s336 ITEPA 2003 is only available if such costs are incurred wholly, exclusively and necessarily for the employee's work.

As a guide this means:

- *The employee performs substantive duties at home. Substantive duties are the tasks that employees must carry out which form all or part of the central duties of their employment.
- *The duties require the use of appropriate facilities.
- *Such facilities are not available to the employee on the employer's premises. (Or the nature of the job means that the employee lives so far away from the premises it is unreasonable to expect them to travel there on a daily basis.)
- *At no time before or after the employment contract is drawn up is the employee able to choose between working at the employer's premises or elsewhere.
- *HMRC provide a number of examples of how these conditions are applied in EIM32790. (HMRC emphasise in their online claim service that where an employee is able to *choose* to work from home, relief for additional costs is not available, so the element of choice, if there is one, is very important.)

However, where an employee is *required* to work from home - even for just one day in the tax year - then they can claim this relief for the whole year using the online Government Gateway portal.

An employee who meets these HMRC conditions can claim relief for the following expenses:

- *additional heating and lighting
- *metered water

The below, however, cannot be claimed:

- *mortgage interest or rent
- *council tax
- water rates
- *insurance

Where, as is often the case, it is not practical to calculate the allowable extra costs, then a claim for £26 per month for monthly paid employees or £6 a week can be made without having to justify the figure. This does not cover the cost of business calls, for which an additional claim can be made based on actual costs, as confirmed in HMRC's manuals at EIM32815.

Where the employee works from home some, but not all of the time - for example they work at home three days a week and in the office two days a week - they can still claim the full £6 a week deduction. There is no need to scale it back just because the employee is not working at home on a full time basis for the entire year. And if the employer pays some contribution towards homeworking expenses, but not the full £6 a week or £26 a month, then the employee can seek tax relief for the difference.



The Legal Bit

We hope you've found this ebook helpful, but please note that though based on the most up-to-date legislation it is for guidance only and cannot be construed as advice.

We would always recommend that you consult a qualified accountant or tax adviser before taking any action based up on the contents.

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