

A.W.G

WARREN  
& Son.



NEWSLETTER

October 2020

## Coronavirus – Update

As you are aware our office has been closed since 23rd March, other than for pre arranged visits to deliver or collect records. We had hoped to return to normal working towards the end of September but the latest edict from the Government has delayed this.



So for the time being we will be open from:

**9.30 until 12.30 on each Wednesday morning**, but please phone in advance to book a time. Our front door is now locked and on arrival you will have to use our new intercom system. If this day is not convenient it may be possible to arrange an appointment on another day.

You should all have received various emails from us over the last six months.

On 24th September (the following day after delaying the main Budget until 2021) the Chancellor set out his future plans -

- 1.** The new Jobs support grant – Employees must work, and be paid for, at least one third of their normal working hours. The Government will then pay for one third of the remaining hours not worked, capped at £697.92 pm. The employer must also pay one third of the hours not worked. All small and medium sized businesses are eligible; and larger businesses if they have been adversely affected by the pandemic. This scheme will run from November until the end of April 2021, and is in conjunction with the Job retention bonus.
- 2.** The Self-employed Grant extension – a grant of 20% of profits will be paid for an additional three months, with the monthly payment capped at £1,875.
- 3.** A new Pay as you Grow scheme will allow Bounce-back loans and Coronavirus Business Interruption loans applications to be extended until the end of December. In addition the length of these loans can be extended from six to ten years. For businesses in difficulty these loans can be interest free and if necessary a six month repayment moratorium is available.
- 4.** Value Added Tax – the 5% rate for hospitality and tourism is to be extended to 31st March 2021.
- 5.** VAT that has been deferred until 31st March 2021 can be deferred further, and paid in eleven instalments during 2021/22
- 6.** The second instalment of Self Assessment tax for 2019/20 which has been deferred until January 2021 can be further deferred until January 2022.

To remind you, there have been no changes to the criteria for the grant for the self employed.

No grant is payable if the -

1. average profits shown by their last three tax returns are over £50k, even though their business might have been temporarily closed down due to the virus
2. self employment started after April 2019
3. business is traded through a personal service company where their main source of income was from dividends
4. self employment is not their main source of income (their self employed income had to be more than the total of all their other income) – a grant would be denied to someone with a basic pension of under £7,000 with a small business with profits of just £6,000
5. 2018/19 tax return was submitted after 23rd April 2020
6. business has not been adversely affected by the coronavirus
7. business made a loss (although reduced income due to childbirth will be taken into account)
8. business had effectively ended with no resumption expected during 2020/21

The second tranche of grants for the self employed started on 17th August, and as with the first tranche individuals are being contacted by HMRC. If a person is of the opinion that they should, but haven't, received the grant then they should contact HMRC direct. The latest date that a claim can be made is 19th October. Both grants are taxable, but are not liable for VAT.

### *Making Tax Digital – Update*

HMRC announced last month that Making Tax Digital will be extended to all VAT registered traders with effect from April 2022. Then from April 2023 it will be introduced for income tax for those unincorporated taxpayers with businesses or rental income in excess of £10,000 per annum.



## *Replenishing the Country's finances*

The financial cost to the Country as a result of the pandemic has been enormous. Undated Government stock issued during the first world war was only fully repaid in 2015. However I think that this Chancellor in his Budget, now delayed until next year, has plans for a much shorter time scale. Most people are suggesting that the headline rates for Income tax, VAT and National Insurance will not change and it is more likely that additional tax will be raised by not increasing allowances, or even reducing them. Furthermore many reliefs and claims will be significantly reduced. In my opinion the biggest targets will be Capital Gains Tax, Pensions, Dividends and National Insurance. You will therefore have to decide whether or not to act now.



## *Working from home*

### **Commercial Aspects**

Until this year over 4 million people worked from home, which represents approximately 14% of the 30+ million total workforce. However as a result of the coronavirus crisis this rose to almost 50%, but it will probably settle down to a lower figure by the end of the year, although still significantly higher than in the past. Two thirds of the 14% were self-employed, although if one includes directors of their own Company then this figure is even higher. Working from home suits some people better than others. Some of the perceived advantageous and disadvantages are –



### **From an employer's perspective -**

- a) Lack of management over employee, and ability to monitor their working hours
- b) Damage to team working culture and reduced ability to discuss with colleagues
- c) Reduced access to head office data and information
- d) Duplication of equipment
- e) Location may not be suitable for meetings with customers/clients
- f) Confidentiality of documents and information harder to maintain
- g) Health & Safety issues harder to monitor

However the advantages include reduced office space / cost, greater likelihood of retaining staff, and being less susceptible to travel problems.

### **From an individual's perspective –**

- a) Ability to motivate themselves
- b) Too many distractions at home



- c) Interruptions because of family activities or commitments
- d) Reduced travel time and cost

Commercial considerations include -

1. **Planning permission & Council tax & Licences** – The rating valuation office is part of HMRC and as a result business activities at home cannot be concealed. To be classified as a business the building must have been adapted (eg. garage converted), equipment installed not normally found in a house, non householder members working on premises, signs outside or a significant number of visitors to the premises. Also unsocial hours, noise or smell emitted or any other aspect that would cause a disturbance to neighbours will be taken into account. Garages < 25sq. metres used to store commercial vehicles and bed & breakfast activities are specifically excluded from business rates. Certain business, such as food preparation & taxi operators, always requires a local authority licence. Other business use, such as a typical office or workshop, would not be liable to business rates unless the business had exclusive use of a part of the premises or failed on one of the aspects mentioned above.

2. **Contents & Buildings Insurance** - It is vital that the Insurance company is notified as the whole policy may be invalidated if a claim is made, even though the claim does not relate to the business activity. It may be necessary to have a separate policy for the business risks, including theft of computers etc. A household policy will also not extend to third party liability for business related visitors to the home. It is a condition of all Insurance policies that all unspent convictions of all occupiers are notified. The landlord must be notified if it is a rented property and the landlord pays the insurance.

3. **Mortgage** - The Mortgagor must be notified and may change the terms of the mortgage.

4. **Restrictive covenants in Deeds or Lease** - Some deeds prohibit any business activity at the property, particularly if the property is rented or on a long lease.

All the four points above will normally only require notification (keep evidence) if the work is clerical, not more than one room is used for work, the property has no advert, there are no frequent visitors and the individual has no employee working at the property.

5. **Health & Safety** – If any employee works at home with the knowledge & acceptance of their employer those premises then become a place of work and are covered by all H & S regulations & they require a full risk assessment. Home workers must be given the information concerning all the dangers and hazards that they are exposed to.

6. **Employment legislation** – The Contract of employment should stipulate the designated place of work. Also if an employee is permitted to request to work flexible hours then this includes the right to request to work at home. Indeed there should be a procedure for dealing with requests from any employee to work at home.

7. **Security and confidentiality** – Data security becomes more of a problem when working from home, and in particular the travel aspects, which should be specifically addressed.

### *Self employed working at home - Tax aspects*

As a genuine self-employed person there is little difference between having ones work-place at home or in another location, other than perhaps cost savings, including the non tax allowable home to work travel. There are two relevant factors to be taken into account (both of which can affect whether HMRC have the right to enter your 'business' premises).

1. There is a difference between using ones home as the business address and just the base one operates out of, and actually carrying out ones trade or profession exclusively from home. The former involves only occasional work at home (such as telephone calls, tenders, invoicing, bookkeeping, cleaning clothes, parking van & storing tools) and the latter where a person actually carries out their work at the home address. The latter can have a beneficial effect on travelling expenses, because if one travels from one business premises to another, this is allowable.
2. Whether part of the home is used exclusively for the business, or whether part of the home is shared between home and business use.

Where an area of the premises is exclusively used for business, or if the business is run entirely from home, all expenses, assuming them to be wholly and exclusively incurred for the business, are allowable subject to the normal rules of apportionment where a precise private element can be ascertained Council tax, insurance, mortgage interest/ rent & repairs can be apportioned on an area basis. Additional running costs as a result of the business (eg. cleaning, power, heating, water, phone & Internet) are best calculated on an estimated time/usage basis.

If the business does not occupy an exclusive area, or where the home is just used as the base for the business, the only claim that can be made is for the additional cost of cleaning, power, heating, water, phone & Internet. This therefore excludes any standing charges for utilities, or rates, rent, mortgage interest and insurance. Alternatively a fixed rate can be used (see below).

There is a potential disadvantage for claiming a percentage of the property, if that area is being used exclusively for business, in that HMRC could use the same percentage (or even more) claimed for running expenses in determining the amount of any Capital Gains Tax payable on the sale of the property. There could however be a 'roll over' relief claim for the new home.

From April 2013, with the introduction of cash accounting for tax, a self-employed person can opt to have a fixed rate allowance for using their home for business purposes. To claim the fixed rate deduction the taxpayer (together with any employee, such as a spouse) must, on average, work for at least 25 hours at home each month.

The allowance, which is deemed to cover the additional cost of heat, light & power, is -

25 to 50 hours pm. = £10 pm.

51 to 100 -- " -- = £18 pm.

Over 100 -- " -- = £26 pm.

These figures do not include mortgage interest, rent, council tax or insurance, but these are generally not claimable as there is no increased marginal cost. However these figures also do not include telephone or Internet, which can be claimed separately.

See [BIM47800](#) et seq. and [BIM47825](#)

## *Employees working from home*

### **Contractual aspects**

The principle reasons why employees work from home are –

1. Required to work at home under their initial contract
2. Employer gave the choice of working at home
3. Accepted request by employee for flexible working
4. Short term situation whilst -
  - a) unable to get to normal workplace
  - b) normal workplace unavailable
  - c) part of a return to work arrangement after sickness

### **Possible additional clauses in contract**

1. Requiring the employee to attend at the firm's premises when required by the employer eg. for training, dealing with customers, team meetings etc.)
2. Methods of measuring the quality & quantity of work undertaken at home
3. Monitoring hours actually worked – complying with minimum wages regs.
4. Reimbursement of cost of travelling and marginal costs of the property
5. Provision of IT and communication equipment, including audio/visual communication, such as [Skype](#) and [Zoom](#) and [Microsoft Teams](#) and [Google Meet](#) and [Facetime](#) and [HiHi](#)
6. Insurance for property and equipment
7. Security of equipment & data (inc in transit) & compliance with the Data Protection Act
8. Health & safety implications, including other individuals who may be entering the property as a result of the employee working at home
9. Provision for risk assessments to be carried out

## *Tax aspects*

Tax regulations state that employees must incur expenses wholly, exclusively and necessarily in the performance of their duties to be able to claim tax relief personally (see [EIM32760](#) and [EIM32815](#)). 'Necessarily' has been held to be an objective test and that the expense must be incurred because their employment (contract) demands it, and not because the employee chooses to work at home, or is given the option to work at home, or they take work home to work on in the evening.

See the HMRC manual [EIM01472](#) for what HMRC defines as 'home working arrangements'. It is where it is not a condition of the employment (and does not meet the criteria in the previous paragraph) but it is for the convenience of both the employer and the employee. In such circumstances the employer may reimburse any additional expenses incurred because of working at home. However if these expenses are not reimbursed, the employee cannot claim tax relief on them.

Section 336 ITEPA 2003 introduced several conditions which all have to be met before HMRC will accept that a claim for expenses for working at home is allowable, by an employee. These conditions must be those that actually exist 'de facto', in addition to being in the terms of the Contract of Employment.

1. The duties performed at home must be substantive, ie. duties that have to be done and also form the central part of the employment (it is the reason for having to work at home that is substantive or significant, not necessarily the number of hours)
2. The duties cannot be performed without the use of 'appropriate facilities'. These 'appropriate facilities' are either not available on the Employers premises, or the work location is too far distant to make daily travelling a reasonable option.
3. The employee has no choice as to where their work is performed.  
(see *Kirkwood v. Evans* 2002)
4. Any person holding that position in the firm would have the same requirement to work at home

These rules are very strict and in most cases prohibit an employee from claiming expenses for working at home voluntarily. Even if the above rules were achieved, HMRC would challenge any claim for council tax, water rates, mortgage interest or insurance on the basis that they were not incurred wholly and exclusively in the performance of the employee's duties, and there are no additional cost because of working at home (it would only be the marginal costs that could possibly be allowable). There are however some alternatives:

- a) A licence, akin to a rental agreement, is created between employee and employer (with the right to use the room, but only in office hours), and then utilise the more generous tax provisions to claim expenses against the rent. HMRC will scrutinise any such agreement very carefully to ascertain whether this agreement in reality is actually income related to the employment (which would then be taxed as net income). Provided that the rent charged is a commercial rent there will still be a saving of National Insurance, as the rental income is only liable to income tax.
- b) The Employer incurs, and is directly invoiced for, all costs that relate to the workplace at the employees home. However there will normally then be a taxable benefit in kind for the employee.
- c) Limit ones claim to £6.00 per week (was £4 pw prior to April 2020). This amount can be paid (annually if desired) to employees for homeworking, or such larger amount that is agreed with HMRC, depending on the circumstances.



The requirement to work at home must be in the contract. However if it is not paid then no tax claim can be made instead. The £6.00 excludes business telephone calls.

- d) Make a claim for the costs of the proportion of the house which is used **exclusively** for business purposes, or if not exclusively, at least an area that is dedicated to work, with only an occasional private occupation.
- e) Claim for only the additional marginal costs of working from home
- f) Adopt the fixed rate deduction, which is dependent on the number of hours worked at home (minimum 25 hours per month)

See –

[EIM31630](#) and [EIM32775](#) and [BIM37600](#) and [BIM46840](#)

<https://www.gov.uk/simpler-income-tax-simplified-expenses/working-from-home>

## Limited Companies

The rules that apply to Limited Companies are similar to the self-employed; except that if an expense for the Company created a benefit for a Director it would be taxable upon them as a benefit in kind (rather than being apportioned as for self employed persons). Also there is no 'allowance' that the Company can claim. In many cases the Company creates a licence agreement (limited to say 35 hours per week) with the Director and then pays an appropriate rent to them for non-exclusive use of an office in the Director's home. The Director is then chargeable to tax on this rent but can then offset the proportion of the costs that relate to the business. The rules for deductibility of expenses from rental income are more generous than claiming an expense as an employee. It must be remembered that a Capital Gain may arise on the sale of the property, regarding the business use area.

## Value Added Tax

Generally all VAT can be reclaimed on a percentage basis. For example if one room out of a six roomed house is used exclusively for business then one sixth of any VAT relating to the whole building can be reclaimed. Expenditure that is wholly used for business, such as a computer, desks or decorating the business room, can be reclaimed in full. To obtain this full relief the expense must have been incurred by the business, as a business expense, with any private element only being incidental. Any asset must be owned by the business.

## Finally a Cure for Insomnia ?

I have written a 9,000+ word article on the Coronavirus crisis (so far). If you would like a copy please email anyone in the office and they will send it to you.





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This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.

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