

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (EXEMPTION FOR CORONAVIRUS RELATED HOME
OFFICE EXPENSES) (AMENDMENT) REGULATIONS 2021

2021 No. 225

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) on behalf of HM Treasury, and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument provides for a temporary exemption for the tax year 2021-22. The exemption will ensure that employees who continue to be encouraged to work from home as a result of the coronavirus outbreak, and who are reimbursed during that tax year by their employer for expenses incurred in obtaining home office equipment to enable them to do so, will not be liable to a tax charge. This instrument has the effect of extending an exemption for the tax year 2020-21 which was created by the Income Tax (Exemption for Coronavirus Related Home Office Expenses) Regulations 2020 (S.I. 2020/524).

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments on Statutory instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 An existing tax exemption under section 316 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) applies where an employer provides home office equipment directly and retains ownership of that equipment, and the employee's private use of the equipment is not significant.

- 6.2 Tax relief is also available under section 336 ITEPA where an employee incurs a cost that is “wholly, exclusively and necessarily in the performance of the duties of their employment”.
- 6.3 However, neither section 316 or 336 ITEPA provide a tax exemption where an employee buys their own home office equipment and is reimbursed by their employer for it. This is because the expense incurred puts the employee in a position to perform their duties, and is therefore not incurred in the performance of their duties; and because section 316 ITEPA only applies to the provision of equipment and not to payments or reimbursements.
- 6.4 To provide effective support for employees over the duration of the coronavirus lockdown period, the Income Tax (Exemption for Coronavirus Related Home Office Expenses) Regulations 2020 created a new income tax exemption from a charge to tax under Chapter 10 Part 3 of ITEPA (power to exempt minor benefits) to ensure employer reimbursed home office equipment expenses are exempt from tax. For the expenditure to be eligible for relief, it must meet the following two conditions:
- (i). that equipment is obtained for the sole purpose of enabling the employee to work from home as a result of the coronavirus outbreak, and
 - (ii). the provision of the equipment would have been exempt from income tax under section 316 ITEPA if it had been provided directly to the employee by or on behalf of the employer.
- 6.5 As specified by section 210(2) ITEPA the exemption provided for in this instrument will be conditional on the benefit of any reimbursement in respect of home office equipment expenses being made available to the employer’s employees generally on similar terms.
- 6.6 Corresponding provision was introduced in the Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2020 (S.I. 2020/525) to ensure that in 2020-21 employer reimbursements for the cost of home office equipment expenses were also disregarded from the calculation of a person’s earnings for the purposes of calculating liability to Class 1 employer and employee National Insurance contributions (NICs).
- 6.7 The exemption is a temporary measure and will have effect for amounts reimbursed during the tax year 2021-22 (between 6 April 2021 and 5 April 2022).

7. Policy background

What is being done and why?

- 7.1 The coronavirus outbreak means a very high number of employees are working from home and for many employers and employees, the most efficient way in the current situation of ensuring employees have equipment at home is for the employee to buy it and be reimbursed by the employer. Under the current rules, this means payments would be subject to tax and NICs.
- 7.2 Where an employee incurs an expense wholly, exclusively and necessarily in the performance of the duties of their employment, tax relief is usually available. However, an employee putting themselves into a position to be able to carry out their duties, such as buying furniture or computer equipment, does not normally qualify.

7.3 Given the pressing nature of the coronavirus outbreak, and to minimise risk and burdens on employers during this period, the current temporary exemption for 2020-21 will be extended into 2021-22 to provide for an income tax exemption for reimbursed expenses that cover the cost of employee funded home office equipment for a limited time, through regulations. This will ensure that employees receive the reimbursement free from tax and make it easier for them to gain access to equipment and remain productive as they work from home. The corresponding Class 1 NICs disregard will also be extended into 2021-22 in the Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2021 (S.I. 2021/242).

7.4 Home office equipment is any equipment deemed necessary for the employee to work from home and can for example include a desk, laptop or other necessary computer accessories.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans to consolidate, as this is a stand-alone instrument with temporary effect.

10. Consultation outcome

10.1 No consultation has been held as this is a minor change which is wholly relieving to the taxpayer.

11. Guidance

11.1 Guidance can be found on the following gov.uk website:

<https://www.gov.uk/guidance/check-which-expenses-are-taxable-if-your-employee-works-from-home-due-to-coronavirus-covid-19>.

12. Impact

12.1 The impact on business, charities or voluntary bodies is expected to be positive, as employees who purchase home office equipment and are reimbursed by the employer, will no longer have to pay tax and NICs on the reimbursed expense for the 2021-22 tax year. The administrative burden on these businesses and civil society organisations is expected to be negligible. There will be a one-off cost in the form of familiarisation with the change. There are not expected to be any continuing costs. There will be one-off savings from not having to report information on reimbursed expenses for this year. Customer experience is expected to stay broadly the same as there is no significant change to business processes.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses where staff are expected to work from home.
- 13.2 No specific mitigating action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required, as it is a wholly relieving measure.

14. Monitoring & review

- 14.1 This instrument will be monitored and reviewed as appropriate through communication with affected taxpayer groups.
- 14.2 This regulation does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Ben Williams, policy lead at HMRC Telephone: 03000 595435 or email: employmentincome.policy@hmrc.gov.uk which be contacted with any queries regarding the instrument.
- 15.2 Jackie McGeehan, Deputy Director, Income Tax Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, the Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.