

Mileage and Subsistence

Basic Rules

Where directors and employees necessarily incur expenses of travel and subsistence (relating to the travel) in the performance of the duties of their office or employment the reimbursement of such expenses may within certain limits be made tax free.

The following conditions must be met:

- The director or employee must be temporarily away from their normal place of work in the performance of the duties of their office or employment.
- The travel expenses must be necessarily incurred in the performance of the duties of the office or employment.
- The expenses of subsistence must attach to travelling necessarily incurred in the performance of the duties of the office or employment.

If these conditions are not met any reimbursement of expenses is liable to PAYE/PRSI as if it was a payment of wages.

Sole traders cannot claim mileage and subsistence using the civil service rates but should instead keep receipts for the business portion of motor running expenses (fuel, motor tax, motor insurance), hotels and other business expenses incurred.

Normal place of work

The basis of the tax free reimbursement of expenses is based on the premise that the director or employee is temporarily away from their normal place of work in the performance of the duties of their office or employment.

The “normal place of work” is the place where the employee normally performs the duties of his/her employment. In most cases, this should not give rise to difficulty.

The normal place of work of an employee may not necessarily be the place of business of the company. While there isn't a comprehensive definition of “normal place of work” the Revenue Commissioners have stated that the normal place of work of company directors is where the duties of the office are normally performed.

This would suggest that directors would need to spend the majority of their time at the company's premises to claim it as their normal place of work.

The employer's business premises will be regarded as the normal place of work for an employee where:

- travel is an integral part of the job involving daily appointments with customers; or
- the duties of the employment are performed at the various premises of the employer's customers but substantive duties are also performed at the employer's business premises.

If a director or an employee spends little or no time at their employer's place of business and all their time, for example, on site, the Revenue may argue that the normal place of business of the director is in fact the site and not the employer's place of business. This would mean that the journeys from home to site are not business journeys from a normal place of work to a site but rather a journey from home to work which cannot be reimbursed tax free.

An employee's home would not be regarded as the normal place of work unless there is an objective requirement that the duties of the office or employment must be performed at home.

It is not sufficient for an employee merely to carry out some of the duties at home.

Exception to the general principle Tax case law has found that a person with 'specialist' skills may be working from the time he/she receives notification to attend his/her normal place of work to deal with an emergency. The type of case to which the exception applies is one where a 'specialist', because of the grave consequences of the relevant situation, must give instruction or direction to those present at the relevant situation and also have a responsibility for the emergency whilst travelling to the normal place of work. It is not envisaged that many such cases arise in practice. The reimbursement by the employer of the expenses of travelling to and from the normal place of work in such cases may be made without deduction of tax.

Travel Overseas

Where an individual employed in the State is obliged to travel to a foreign location to temporarily perform the duties of his/her employment there, both the outward and the return journey home may be regarded as a business journey.

Travel between Work and Home

Expenses incurred in travelling from home to work and from work to home cannot be reimbursed tax free. You should note the following:

- Where an individual holds more than one office or employment the travel between those separate offices or employments is considered to be travel to and from work and therefore tax free reimbursement of expenses is not allowed.
- Where an employee works at a number of locations on a daily basis in the same employment the reimbursement of expenses of travel necessarily incurred in travelling between these separate locations may be made tax free.

•Where a director or employee begins a business journey directly from home or returns directly home then the expenses of travel and subsistence that may be reimbursed without the deduction of tax are the lesser of those incurred on the journey between:

- (i) home and the temporary work location or
- (ii) the normal place of work and the temporary work location.

Company Directors

Company directors (including non-executive directors) are officers of the company (even where they own, or part own, the companies of which they are directors) and, as such, are subject to the same tax legislation, rules and conditions as employees as regards the tax treatment of the reimbursement of expenses of travel and subsistence.

Normal place of work

The normal place of work of a company director is the place where they normally perform the duties of his/her office. This is determined having regard for the facts and circumstances of each directorship held.

As with employees, the reimbursement to a director of the cost of travelling to and from his/her normal place of work (i.e. in his/her capacity as a company director) is taxable and subject to PAYE deductions.

Individuals holding a number of directorships

Directors of unrelated companies

Where an individual holds a number of directorships, the reimbursement of expenses of travel (and subsistence relating to that travel) in respect of –

- (a) journeys from home to the normal place of work of each directorship and vice versa; and
- (b) journeys between each company,

is taxable and subject to PAYE deductions (see Paragraphs 2.3 and 2.4).

Directors of related companies

A director of two or more companies within a Group of parent and subsidiary or associated companies may be regarded as having one normal place of work within the Group. This normal place of work is where the director performs most of their duties within the Group. Travelling expenses necessarily incurred in travelling from this normal place of work to other places on the business of the Group in the performance of the duties of the office may be paid tax-free provided all such journeys are necessarily incurred in the performance of the duties of the office and the travelling expenses incurred are reasonable.

Associated company means a company on whose board the Group is represented because of the Group's shareholding or other financial interest.

Individual who, because of the duties of his/her office or employment, holds directorships in other companies.

This is probably best explained by way of example. Person A is employed by ABC Ltd. As part of the duties of their employment with ABC Ltd, they are nominated as a director of DEF Ltd, which is not a subsidiary of or otherwise associated with ABC Ltd. Part of the duties of the employment with ABC Ltd is to travel to DEF Ltd to oversee certain operations.

The reimbursement of expenses to Person A, relating to their travel from their normal place of work at ABC Ltd to DEF Ltd and return to ABC bank Ltd may be made without deduction of tax.

Basis of Reimbursement

If the abovementioned conditions are met the director or employee can be reimbursed tax free on the basis of:

- (i) vouched receipts or
- (ii) round sum allowance.

If the vouched receipts method is used then the director or employee presents the receipts of the expenses incurred together with details of the travel and subsistence and he is reimbursed accordingly.

If the round sum expenses method is used the director or employee must present a detailed mileage and subsistence sheet to the employer and can be reimbursed in accordance with the current approved civil service rates.

Example

Person A normal place of employment is Dublin city. They use their own car to drive and pay for the fuel personally and hotel personally. They meet the client again the following day and arrive back at the main office in Dublin city by 5.30 p.m.

Total mileage one way is 150 kms so

- (a) Mileage can be claimed at appropriate rate
- (b) Overnight allowance (A class normal rate) = €133.73.
- (c) Additional day allowance (of between 5 & 10 hours) of €13.71 for the following day.

Please note that subsistence expenses may be claimed in respect of journeys which take you more than 5kms away from your from your main place of work for 5 hours or longer but not those which are already reimbursed by the client. Civil service rates will apply. The automated expense sheet provided will assist in keeping these records. A night allowance applies for an absence away from home overnight at a place more than 48.27 km (30 miles) from the employee's normal place of work and home. However, in exceptional circumstances and where an employer is satisfied that an operational need exists, a night allowance may apply for an absence away from home overnight at a place more than 24.14 km (15 miles) from the employee's normal place of work and home.

Books and Records

When the reimbursement is based on vouched receipts the employer must retain the receipts together with details of the travel and subsistence.

When expenses are based on an acceptable flat rate allowance the employer must retain a record of all the following:

- Name and address of the director or employee.
- The date of the journey.
- The reason for the journey.
- The kilometres involved.

- The starting point, destination and finishing point of the journey.
- The basis for the reimbursement of travel and subsistence expenses (e.g. an overnight stay away from an individual's normal place of work).

We would also suggest including the normal place of employment and the time of departure and date and time of return.

The employer must retain the records for 6 years after the end of the tax year to which the records refer.

Site Based Employees

A site based employee generally does not have a fixed base and in the course of their employment performs substantive duties on behalf of the employer at different locations. Therefore such an employee cannot claim that the normal place of employment is at the employer's business premises.

A site based employee can receive "country money" tax free from an employer where the employee is working at a site which is 32km (20 miles) or more from the employer's base under agreement between Construction Industry Federation and the Construction and Electrical Workers Unions.

The tax free payment of country money will not apply where:

- The employee does not incur the expense of travelling to and from the site.
- The employee is provided with board and lodgings by the employer.
- The employee is recruited to work at one site only.

Employers will sometimes simply provide accommodation and meals at the temporary location where the employee is working. A taxable benefit will not arise where the following conditions are satisfied:

- The accommodation is not the principal private residence of the employee.
- The rent paid by the employer is reasonable for the location.
- The reimbursement for the meals represents no more than a reasonable reimbursement of the cost.

Motorcycles and Bicycles

Civil service rates are available for motorcycles (maximum 28.59 cent) and bicycles (8 cent).

Rates for absences outside the State

Short term absence

These rates can be used for a temporary absence of up to six months where your employee is working abroad.

Subsistence rates for short term absences

Period of assignment abroad	% of subsistence rate
First month	100%
Second and third month	75%
Fourth, fifth and sixth month	50%

Long term absence

A long term absence will be more than six months.

- For the first month of the absence you can allow subsistence for the overnight rate. This is to facilitate the employee to find self-catering accommodation.
- For the remainder of the absence you can allow subsistence costs and a portion of the ten hour day rate. The subsistence cost can cover the cost of reasonable accommodation. You can allow 50% of the day rate (ten hours) for the location.

Further Information

If you require further information in relation to any of these topics please contact Joe Cunnane on 0035318944594 or joe@tra-professional.ie

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Director: Joe Cunnane (FAC AITI) Company Secretary: Lisa Connolly
Registered No.: 523190

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