

Overview:

An employee of an overseas company who attends a temporary workplace in the UK for a period of up to 24 months may be able to obtain relief for the cost of travel to and from that workplace, accommodation and subsistence attributable to attendance at that workplace. This is known as “Detached Duty Relief”. Namely as their duties have been detached from their normal location of their employment. This guide helps explain the rules and measures in place to deal with this situation.

Continuation of employment:

In order to claim relief the secondment must be part of the duties of continuing employment rather than the commencement of a new employment. So the relief is ideal for existing staff of an overseas company who can be seconded to the UK operation for a period which is not expected to exceed 24 months. The existing contract of employment with the overseas employer is still maintained and the expectation is that the employee will return to the overseas employer after the period of secondment.

Timeframe of secondment:

Once it has been established that the secondment constitutes continuing employment, relief can only be obtained if it is expected that the employees’ duties in the UK will last no longer than 24 months. If at any point during this 24 month period the expectation changes, such that the duration of stay is likely to exceed 24 months, the tax relief is lost from the date of the change in expectation- not from the end of the 24 month period.

Business travel relief:

If the above conditions are satisfied then the costs of all business travel associated with the secondment including reasonable subsistence and accommodation costs are allowable expenses, in full, against the employees income, or if paid for by the employer, are not taxable as earnings or benefits of the employee.

What constitutes “reasonable cost” is likely to reflect the seniority of the employee. The relief given is sometimes restricted if the accommodation is also provided to other family members.

Round sum allowances:

In some situations round sum allowances for employees’ accommodation and subsistence are granted by employers. These can be possible to be paid without tax, but permission may need to be sought from HMRC and a different type of payroll scheme maybe required. It is preferable, if somewhat more administratively burdensome, to pay or to refund specific receipted expenses.

Scale Rate Payments:

HMRC do allow flat rate payments to cover an employee’s subsistence while on temporary relocation to a different office. These have been subject to various changes over the last few years, and given the secondment to the UK is not exactly what these benchmark rates are supposed to cover, there is limited clear guidance as to exactly what would apply to an overseas employee sent to the UK under this relief. However, it would appear in the absence of further guidance from HMRC that you are able to apply the provisions as laid out in HMRC manual **EIM05231** - <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim05231>

The employee must keep all records of expenditure to support the tax relief claim.

This is a complex and grey area, and there are detailed restrictions and further conditions – it is important to seek advice on a case by case basis to ensure the relief is used correctly.