

Entertainment v Subsistence



With regard to expenditure on travel, subsistence, meals and hospitality the rules in the UK are quite strict, and also quite complicated!



This guidance covers all sorts of costs, from travel (flights, rail fares etc.) to meals and hotel accommodation.

The first question to ask yourself is “on whose behalf is the expenditure incurred- are they an employee of the UK company or not?” If the subject of the expense is not an employee (or a contractor who in all other respects fulfils the role of an employee) of the **UK** company then the expense is classed as business entertaining. This means that expenses in connection with employees of overseas group companies visiting the UK will be classed as business entertaining.

Business entertaining is not a deductible expense for corporate income tax, and VAT recovery is also blocked. Therefore, if you have an employee visiting from an overseas group company the UK host cannot recover VAT on that individual's hotel bills etc. and the expense must be added back for tax purposes.

It is preferable for the individual traveling to recover their expenses from their employing company. This is also important from a UK income tax perspective - most overseas employees visiting the UK on a short term basis will remain on the home country payroll, and this is allowed by concession. A condition of the concession is that the UK company may not bear the cost of their employment and this includes the costs of travel and other expenses, these must be charged to the overseas employer not the UK company. If the VAT is significant, however, there may be means for the overseas company to recover this directly.

If you are incurring the expense on behalf of an employee of the UK company then the next question you must consider is “what is the purpose of the expense?” There are, broadly speaking, three possibilities:

Travel and subsistence for the employee while they are performing the duties of their employment - for example if you send an employee to work at a client's premises for the day and they have to stay overnight because of the distance. There is no formal limit on the costs, it just has to be “reasonable”, so you can set your own policy in terms of what kind of accommodation employees may use on business trips e.g. Are they allowed to travel business class? Are they allowed alcohol with subsistence meals? etc. But your policy

should be consistent across all staff. This category of expense is fully tax deductible and the VAT is recoverable. It is not a taxable benefit for the employee in question unless you provide a per diem cost in excess of HMRC's overnight allowance.

Staff entertainment - you are paying for staff to enjoy social time as a reward/team building exercise this would include Christmas parties, drinks after work and parties to mark important events, such as an employee getting married or retirement. The costs of providing staff entertainment are fully tax deductible by the company, and VAT can be recovered. There is a "cap" of £150 per employee which applies only from a benefit in kind perspective. If you spend more the £150 per employee on staff entertainment then the occasion which breaches the threshold, and subsequent events, will be taxable on the employee as a benefit in kind. Many employers will agree to settle the tax on such events by way of a PAYE settlement Agreement, rather than their staff being taxed on the cost of the entertainment.

Hosting events- a mixed event including members of staff but also non-staff (including customers/ clients but also staff on other group companies). These events are classed as business entertaining, the presumption is that staff are attending the event to act as host to the non-staff and therefore the dominant purpose of the event is business entertaining. The expenses are not split, the whole cost is treated as business entertaining with no tax deduction and no recovery of VAT, but it is not a benefit in kind for the employees and doesn't count towards the £150 cap. This category of expense would include, for example, the cost of a meal if the employee in category 1, visiting a client's premises and staying overnight, took the client out for dinner that evening. The fact that you would have been paying for a meal for that employee under the subsistence rules in category 1 does not have any relevance and the meal is classed as business entertainment.

Food provided in the office. Another common area of confusion is when food and drinks are provided in the office. The provision of basic refreshments (tea, coffee, etc.) is ignored for tax purposes. There are rules which allow for employers to provide meals in the office as a tax free benefit to staff. The rules are really designed for offices with free or subsidised canteens- the offer or

food must be open to all staff (though not all have to participate) and the food must be provided on site. There are similar rules which allow for the provision of food on site during meetings to be treated as tax free, where the food is merely provided to avoid the necessity of stopping the meeting for people to go and eat. It is important that in both cases the food must be provided on site- if you go to a restaurant to hold a meeting then the cost of the food would be classed as either business or staff entertaining, depending upon the attendees at the meeting.

**For More
Information
Contact One
of Our Partners
Today →**

Email: contact@ouryclark.com

Oury Clark London:

10 John Street, London WC1N 2EB

Tel: +44 (0) 20 7067 4300

Oury Clark Slough:

Herschel House, 58 Herschel Street
Slough SL1 1PG

Tel: +44 (0) 1753 551111

