

Amendment to Clause 14: Travel expenses of workers providing services through intermediaries

Summary

1. Clause 14 of the Finance Bill 2016 is amended to correct a technical error in new section 339A which meant that the original clause did not fully reflect the announced policy.
2. New section 339A amends the provisions in the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) allowing deductions from earnings made for travel and subsistence expenses. The amendments apply only where a worker is engaged through an employment intermediary.
3. Prior to this amendment, the test contained in new section 339A intended to determine whether the rules apply for personal service companies (PSCs) which are not managed service companies (MSCs) was applied to almost all employment intermediaries (including umbrella companies). The effect of this was that such intermediaries, rather than simply having to consider whether a worker is under supervision, direction or control (new section 339A(3)), instead needed to consider the wider employment status case law tests. This was not the government's intention.
4. The changes apply retrospectively and come into effect from 6 April 2016.

Details of amendment

5. Amendment 27: Subsection (6) of new section 339A originally set out modifications to section 50(1)(b) and 51 to 53 of ITEPA for the purposes of determining whether the condition in subsections 4(b) or 5(b) is met.
6. Subsection (6) of new section 339A of ITEPA is now amended to modify section 51 (by disregarding section 51(1)(b)) for the purposes of determining whether the condition in subsections (4)(b) or 5(b) is met. The amendment means that when considering the conditions in the modified section 51 in subsections (4)(b) and 5(b) of new section 339A of ITEPA a company will only meet these conditions where they are not an associated company of the client and the worker has a material interest in the employment intermediary.

Background note

7. New section 339A was introduced to ITEPA to ensure the tax system provides a focused relief for travel and subsistence expenses by preventing workers engaged through an employment intermediary, and their employers, from benefiting from relief for home-to-work travel expenses. It is an established principle in the UK tax system that people should not be able to

claim relief on their regular commute from home-to-work, therefore this relief is not generally available to other workers.

8. This amendment corrects a technical error in new section 339A. The amendment ensures that the legislation will apply as intended to all workers supplying personal services through an employment intermediary where they are working under supervision, direction or control. The legislation remains unchanged for those working through a personal service company. The new rules will apply only where the intermediaries legislation applies.
9. Prior to this amendment, due to a technical error, all employment intermediaries (except MSCs) needed to consider the wider employment status case law tests. This change does not represent a change in policy. The change will take effect retrospectively from 6 April 2016.