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**From:**   
**Sent:** 20 August 2015 18:39  
**To:**   
**Cc:**   
**Subject:** RE: Meeting IPSA/HMRC - P11D details for October 2014

Good Afternoon ,

Thank you for forwarding the one month's sample (Oct 14) of expenses claims as currently reported on P11Ds.

As you know I offered to review this sample as part of the discussion between IPSA and HMRC as to the correct tax and NIC treatment of taxable cash expense payments.

- **Present treatment:-** These expenses are reported to HMRC on form P11D after the end of the tax year. The individual MPs then pay any tax due (after any expenses claims made) through their Self Assessment return. No NICs has been accounted for on these taxable expenses to date.
- **Correct treatment:-** As explained when we met on 12 February 15 the correct treatment is to deduct tax and Class 1 NICs through PAYE from any taxable expenses paid.

IPSA's comments at that meeting as to the problems this would cause were of course noted but as explained under current tax legislation the correct treatment of taxable expenses is as outlined above.

The "expense types" currently reported on P11D are those that have not been previously dispensed, exempted or agreed as appropriate for inclusion in IPSA's PAYE Settlement Agreement.

- Pre-approved diverted journeys
- Parliamentary Accountancy
- Contingency
- Security Assistance
- Disability Assistance
- Other - OCE
- Miscellaneous - Winding up
- Capital Expenditure

The object of this review was to look at a typical sample of these taxable expenses to check whether the expenses actually being claimed under these items/categories could be further dispensed, exempted or included in the PSA, therefore limiting as far as possible the expenses on which IPSA would be required to deduct tax and NIC through payroll. I have commented below on the various expense types;

#### **Pre-approved diverted journeys**

The P11D notes for MPs state that while the purpose of these journeys is mixed i.e. partly private in nature, it is only the parliamentary business proportion of the journey that is actually claimed. Can you clarify this for me please? Is the total amount claimed/paid by IPSA in all cases under this expense type the cost of the business journey per HMRC legislation i.e. as covered by IPSA's current Travel and Subsistence dispensation or exempt under MPs' travel exemption at S293A ITEPA 2003 or Ministers at S295 ITEPA? If so how is the proportion of the costs to be claimed/not claimed actually determined?

Alternatively, if the proportion of the journey claimed is considered as parliamentary business but would not be considered as allowable business journeys under HMRC legislation then please confirm and provide further details.

#### **Parliamentary Accountancy**

It has previously been established that accountancy costs are not eligible for tax relief per HMRC legislation. There are no exemptions and dispensation would not be appropriate. In order for IPSA to meet liability through the PSA then the expenses in respect of each MP would have to be "minor" or "irregular" in nature. This does not appear to be the case based on the Oct. claims and therefore going forward any cash reimbursement of accountancy expenses paid to MPs by IPSA will be liable to tax and Class 1A NICs through payroll.

### **Contingency**

As I understand it this category covers expenditure related to the performance of the MP's parliamentary functions but not covered by any other budget, or which exceeds the financial limits. Again, it is difficult to comment on the sample claims without further details - there are entries which appear to be covered by other categories, but given the nature of the claims allowed under this category it would seem that there will always be some claims expenses under this category that will remain taxable expenses?

### **Security Assistance**

As I understand it this category is to cover additional security measures and routine security measures are to be claimed under "Office Costs Expenditure" or "Accommodation Expenditure" The OCE dispensation agreed with HMRC includes "security services" and the accommodation expenditure, including routine security i.e. locks, alarms is covered by the exemption at S292 ITEPA 2003.

For those claims still appropriate to the "Security Assistance" category there is further HMRC legislation at S377 ITEPA 2003 that allows security expenditure where strict criteria are met (see links below)

<http://home.active.hmrci/yhb/889ddd5da89e4ef2a6783b0210873c63.html>

<http://www.hmrc.gov.uk/manuals/eimanual/EIM21810.htm>

This expenses category has not been previously dispensed as it has been presumed that the above exemption would not apply to all claims. It is difficult to comment further based on the Oct sample but assuming this is still the case then the expenses would be liable to tax and NIC and individual claims made under S377 where appropriate.

For expenses that would not meet the conditions I could consider inclusion in the PAYE Settlement agreement, but the expenses claimed by each individual would need to be either "minor" or "irregular" Again this is difficult to establish from one month's expenses i.e. it appears that "minor" would not be applicable given some of the amounts claimed but are these claims "one off" or irregular in nature or would regular claims be made by the same individual? If you could confirm the position then I could review further.

### **Disability Assistance**

There is HMRC legislation at S316, S210 ITEPA 2003 and S.I.2002 No.1596 that exempts equipment or services provided to employees with a disability (even where private use is significant)

<http://www.hmrc.gov.uk/manuals/eimanual/EIM21846.htm>

<http://home.active.hmrci/yhb/672483f9791742b0bacd0d42bd9c5063.html>

<http://home.active.hmrci/yhb/964a35812bdc41e2bb5c918efe858854.html>

<http://www.legislation.gov.uk/ukSI/2002/1596/made>

It would appear that from the October sample that the majority of claims under "Disability Assistance" relate to travel costs and presumably these are not business journeys. There is an exemption at S246 ITEPA which covers home to work travel; where the individual meets the definition of "disabled employee" as outlined by the legislation.

<http://www.hmrc.gov.uk/manuals/eimanual/EIM10080.htm>

<http://home.active.hmrci/yhb/51b5a03c7fd247f6983994e65d8a64dd.html>

HMRC would expect an employer to decide whether these exemptions apply in respect of expense claims made and then deduct tax and NIC under PAYE on any expenses paid outside of the exemptions.

### **Other - OCE**

This is the "catch all" non specific category that we discussed at some length when we met in February. Although there may be many items which individual MPs are able to claim back through their own Self Assessment, HMRC has been unable to dispense a non specific category of this nature where it cannot be established that all claims in the category would be allowable as a deduction.

The October sample appears to show some expenses that could have been claimed under other specific, dispensed OCE categories? e.g. stationary supplies, waste disposal, photocopying, postage, computer software etc. If MPs were to claim under dispensed categories where applicable then this would obviously reduce the taxable expenses to be payrolled.

There are also other common expenses that crop up regularly and that could potentially be included in the OCE dispensation as allowable costs of setting up/ongoing running of the MPS' Constituency office(s) e.g. Banner/Other Office supplies ( if this item could be further clarified and agreed as being allowable in all cases) e.g. Data Protection Registration e.g. Purchase of Cleaning/Hygiene/refuse products.

As this is only one month's sample then if IPSA could confirm/list all the types of expenses that are regularly/commonly claimed under "Other- OCE" (and which IPSA would be able to categorise/identify separately on payment) then I could review further on receipt of details for each expense type.

Presumably, given the general nature of this category, this would then leave a smaller core under "Other- OCE" of non-allowable expenses or claims still made under "Other" in error that would be liable to tax and Class 1 NIC through payroll.

#### **Miscellaneous - Winding up**

No claims sampled in October.

#### **Capital Expenditure**

As explained this information is included on the P11Ds at the request of HMRC and these amounts are not declared on the tax returns of the MPs (and do not therefore result in a tax/NIC charge) It follows that these entries would not need to be put through payroll or have tax and Class 1 NIC deducted.

In summary it would appear that based on the October sample there may be some expenses; currently declared on P11Ds; that may be appropriate to current dispensations, HMRC exemptions or could (with further information supplied) be reviewed for possible inclusion on the existing dispensation or PSA agreement. However, this would obviously not apply to all expenses met by IPSA and there would still be expenses remaining that IPSA would need to include as PAYE income through payroll. Having noted IPSA's previous comments regarding the problems this would cause I am not sure if a smaller core of taxable expenses remaining, after further reviews as above, would alleviate these issues?

Could you confirm IPSA's position going forward please? Once the comments in respect of the current P11D categories have been considered, and any further reviews completed, will IPSA be in a position to pay any remaining taxable expenses through payroll and deduct the correct tax and Class 1 NIC going forward?

As you will be aware your previous Customer Relationship Manager; Rajesh Mistry; confirmed in our meeting in February that no retrospective action would be required by IPSA and no previous years' NIC liability would be sought. He also that IPSA would be allowed a reasonable period of time in which to normalise the tax treatment of these taxable expenses. Can I ask for IPSA's proposals as to what would constitute a reasonable timescale in which to introduce any necessary changes to systems and processes?

Finally, the above comments are in respect of taxable reimbursed expenses, previously reported on P11D but which should be included as PAYE income through payroll with tax and Class 1 NICs deducted. There was another issue raised regarding P11Ds at our meeting in February i.e. any taxable costs directly paid to the supplier by IPSA on behalf of the individual would give rise to a taxable benefit in kind, which should be reported on the form P11D (statutory form P11D attached for information) Class 1A NICs, paid by the employer via form P11D (B) (also attached) is due on most taxable benefits, although there are some where Class 1 NICs is due through payroll (the statutory form P11D gives guidance on the appropriate Class of NICs due)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/429586/P11D\\_2015\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/429586/P11D_2015_2_.pdf)  
<https://public->

[online.hmrc.gov.uk/lc/content/xtaforms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTaxiForms/1.0/P11DB&template=P11DB.xdp](https://public-online.hmrc.gov.uk/lc/content/xtaforms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTaxiForms/1.0/P11DB&template=P11DB.xdp)

Can you confirm that IPSA will be reporting/paying Class 1A NICs via form P11D (b) on any taxable non-cash benefits going forward? Will the necessary changes to procedures be in place in time to submit form P11D (b) and Class 1A NICs after the end of the 2015-16 tax year i.e. by the July 2016 due dates?

I appreciate there is a lot to consider but would be grateful for a response by 18 September 15. If more time is required please let me know when IPSA will be in a position to provide the information required to move forward on these points. If I can be of any assistance in the meantime or further clarify anything please let me know.

Kind regards

Tel

Fax

**From:**

**Sent:** 03 July 2015 14:35

**To:**

**Subject:** Meeting IPSA/HMRC - P11D details for October 2014

Once more apologies for the delay please find attached a copy of one month's sample claims as currently reported on P11D - October 2014 for review as requested.

Could you let me know if this contains enough detail or whether you require any further information?

Regards

[www.parliamentarystandards.org.uk](http://www.parliamentarystandards.org.uk)

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