



Aidan Callan
Freedom of Information Team
HM Revenue & Customs
100 Parliament St
London SW1A 2BQ

Mr James Martin

(sent by email to:
request-12840-a76aca3x@xxxxxxxxxxxxxxxxxxx.xxx)

Tel

Fax

Email aidan.callan@hmrc.gsi.gov.uk

Date 2 July 2009
Our Ref FOI 1652/09
Your Ref

www.hmrc.gov.uk

Dear Mr Martin

Freedom of Information (FOI) request

I refer to your Freedom of Information (FOI) request on 4 June 2009 for the following information:

“(1) Please tell me what are the current HM Revenue & Custom's regulations in relation to individuals claiming a tax allowance for the cost of an accountant (or other such suitably recognised person) and how such a claim could reduce such a persons tax liability (if at all) when such a person is:

a) a self employed person

OR

b) an employed person (On a PAYE scheme)

(2) Further please confirm if a Member of Parliament is defined as an employed person or a self employed person?

(3) And finally confirm to what special tax dispensations or allowances (if any) do Members of Parliament enjoy or receive compared to either a self employed person or an employed person?”

1. Tax treatment of costs incurred for accountancy fees

Self employed persons

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001



INVESTOR IN PEOPLE



A self employed person can claim expenses in computing the profits of their trade, profession or vocation provided the expense is incurred wholly and exclusively for the purposes of the trade, profession or vocation and is not specifically excluded from deduction by legislation (e.g. capital expenditure). The relevant legislation is at sections 33 and 34 of the Income Tax (Trading and Other Income) Act 2005.

Fees incurred for preparing accounts for commercial reasons and for many other accountancy services will meet the wholly and exclusively requirements of ITTOIA 2005 s34. Also allowable are the normal recurring legal and accountancy fees incurred in preparing accounts and agreeing the tax liability in respect of the trade profits. This includes the preparation of a tax computation. This adjusts the profit in commercial accounts to give a figure of profit for tax purposes which does not include any expenditure disallowed by the tax legislation.

The costs of completing an individual's tax return would not be allowable costs in computing trading profits as such costs would not be incurred wholly and exclusively for the purposes of the trade.

Employed persons

The tax rules governing allowable employment expenses are well established and tightly drawn. It is a basic principle of the UK tax system that only expenses incurred in actually earning income from a particular source are deductible in calculating the tax payable on that income. Relief is available only if the expenses are incurred "wholly, exclusively and necessarily in the performance of" the duties of the job. The relevant legislation is at section 336 Income Tax (Earnings and Pensions) Act 2003.

This rule applies to employees across the board. To qualify for relief a very direct connection between expenses incurred and the actual execution of the duties has to be demonstrated. Accountancy fees for the preparation of an individual's tax return enable the individual to meet their personal obligations as a taxpayer and tax relief is therefore not available.

2. Employment status of MPs

Members of Parliament are office-holders in relation to their position as an MP and are therefore taxed as employed persons.

3. Special exemptions/dispensations applying to MPs

MPs are taxable on the earnings from their position as MP. Certain expenses that they claim, in particular the expense allowance for the costs of overnight accommodation away from their home to enable them to carry out their Parliamentary duties, are specifically exempt from tax. But other expenses, including accountancy fees, are taxed according to the usual rules on the taxation of employment income. A deduction can then be claimed, again according to the usual tax rules, for general expenses which MPs incur wholly, exclusively and necessarily whilst performing their duties as an MP, or for travel expenses which they have to incur on travelling whilst performing those duties.

If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 4/52, 100 Parliament Street London SW1A 2BQ. You must request a review within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of an internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner will not usually consider a case unless you have exhausted the internal review procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

Aidan Callan