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## EIM65920 - Tax treatment of Local Government Councillors and civic dignitaries: allowances Councillors may receive

The following table summarises the types of payment being made to Councillors and civic dignitaries, and their tax treatment. For Authorities in England, you can find further guidance in the note that the Office of the Deputy Prime Minister issued to Local Authorities in July 2003 (see [EIM65960](#) and [EIM65970](#)).

As regards expenses deductions that may be claimed by Councillors and civic dignitaries, see [EIM65930](#) to [EIM65950](#) and (in England only) [EIM65970](#).

Type of payment	Tax treatment
Basic allowance Attendance allowance Special responsibility allowance Conference attendance allowance	These allowances are taxable as earnings from the office held by the recipient (see generally <a href="#">EIM00510</a> onwards)
Financial loss allowance	Not taxable as employment income, but may in some cases be taxable as Trading Income (see <a href="#">BIM40475</a> )
Travel and subsistence allowance Conference travel and subsistence allowance	These payments are not normally taxable because they are matched by an equivalent deduction for allowable expenditure (see <a href="#">EIM65930</a> to <a href="#">EIM65950</a> ). They will normally qualify for a dispensation (see <a href="#">EIM30051</a> onwards) However, if a day subsistence allowance is paid for a period of attendance at the place where the meetings of the authority or committee take place, this is taxable as employment income. For 2002/03 onwards, mileage allowances paid to Councillors and civic dignitaries should be dealt with under the approved mileage allowance payments scheme (see <a href="#">EIM31200</a> onwards).
Allowance paid to civic dignitaries	This allowance is taxable if <ul style="list-style-type: none"> <li>• it relates to an office of profit (see <a href="#">EIM71100</a>) and</li> <li>• it is paid in respect of expenses that are not an allowable deduction for tax purposes</li> </ul> For authorities in England, see also <a href="#">EIM65970</a> .
Incidental expenses	There is no tax liability where an authority reimburses the cost of incidental expenses such as postage or telephone calls (but not telephone rentals) and these are incurred wholly, exclusively

and necessarily in the performance of the officer's duties. Such payments will normally qualify for a dispensation.

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## EIM65970 - Local Government Councillors and civic dignitaries in England: ODPM guidance: Part two: taxation of members' allowances and expenses

**[Note:** for councils in England this guidance supplements and amplifies the basic guidance at [EIM65920](#) to EIM65950. See also:

Part one - members' allowances (see [EIM65960](#))

Part three - members' allowances and National Insurance Contributions (see NIM05640 onwards).]

### “Taxation of Members' Allowances and Expenses

#### Introduction

106. This part provides general guidance on the tax treatment of members' allowances. It covers:

- - the relevant tax rules
  - which allowances are taxable
  - the treatment of expenses incurred by a member carrying out approved duties which are reimbursed by the authority
  - what tax relief is available for expenses that the authority does not reimburse.

There is also a short section covering civic dignitaries.

For information covering National Insurance liability on members' allowances and expenses see paragraph 146 onwards. [See NIM05640 onwards]

This guidance is not binding and does not affect any member's right of appeal. Nor is it a full statement of the law as it applies to members' allowances and expenses. Members should refer to the relevant legislation where appropriate. Alternatively they can contact their tax office, who will be able to help.

#### The tax charge

107. For tax purposes council members and civic dignitaries are treated in the same way as any other individual who holds an office or is an employee. Earnings received from an office or employment are chargeable to income tax as employment income. PAYE arrangements apply to these earnings as they do to any other employment. 'Earnings' has a wide meaning - it includes salaries, fees, wages and any other profits received from an office or employment. It also includes allowances paid to cover expenses incurred in carrying out the duties of an office or employment, unless these allowances do no more than reimburse expenses actually incurred and which are deductible for tax purposes.

## Relief for expenses

108. Under the employment income expenses rules (Section 336 - 339 Income Tax (Earnings and Pensions) Act 2003, (ITEPA 2003)), local government councillors and civic dignitaries can get a tax deduction for:

- - travelling expenses necessarily incurred in the performance of the duties of their office
  - other travelling expenses which relate to their necessary attendance at a temporary workplace
  - any other expenses which are incurred wholly, exclusively and necessarily in the performance of their official duties

but note that expenses for travel in a person's own vehicle are dealt with under separate rules and that actual mileage expenses are not deductible. See paragraph 126(viii) below.

109. These rules include a series of conditions that vary for each type of expenditure. The conditions are:

- - in all cases the expenditure must actually be incurred. So, for example, if a councillor or civic dignitary is away overnight on council business but finds it more convenient to stay with friends rather than incur hotel bills, there may be no expenditure to set against any allowance received so no deduction would be due
  - travelling expenses necessarily incurred in performing the duties of the office are limited to expenses during necessary travel on members' business, for example travelling between the local authority offices and a place the member needs to visit on local government business
  - a temporary workplace is a place the member only attends occasionally to carry out duties, or attends for a limited duration (defined as not more than 40% of working time over a period not exceeding 24 months) or a temporary purpose. The travel expenses to be deducted under this heading are the expenses of travelling between the members' home and the temporary workplace
  - for expenses other than expenses of travel to a temporary workplace the expenditure must be incurred in the performance of the individual's duties. This means that, to be deductible, the expense must be incurred in actually carrying out the duties of the office. It is not sufficient that an expense is simply relevant to, or incurred in connection with, the duties of the office. In particular, no expense will be allowable which merely puts the office holder in a position to perform the duties of that office
  - also for expenses other than those of travel to a temporary workplace the expenditure must be such that any holder of the office would be necessarily obliged to incur it. The fact that an office holder is encouraged, expected or required to incur a particular expense is not conclusive evidence that it is 'necessarily' incurred. Also, the expense must stem from the requirements of the job itself, not from the personal circumstances of the office holder. Strictly, the 'necessity test' will be satisfied if (and only if) each and every person holding the office would have to incur the expenditure
  - expenditure on anything other than travel must also be incurred wholly and exclusively in the performance of the office holder's duties. For example, it may be necessary for a councillor to use a home telephone in the performance of his or her duties - but where the same facility is available to be used also for personal calls, the rental costs are not incurred exclusively in the performance of duties so no deduction is due (see paragraph 126(iii) below).

In addition, a deduction may only be given to the extent that the expense incurred does not exceed the earnings of the relevant office. If, for a particular year of assessment, there are insufficient earnings from the office to cover the expense claimed, no deduction can be given against any other income, including income from other offices or employments.

Similarly, where a councillor has renounced allowances to which he or she would otherwise be entitled, no expenses may be claimed as a deduction.

## Members' Allowances which provide Remuneration

### Councillors on main and 'secondary' authorities

110. Allowances taxable as employment income include the following:

- - Basic allowance
  - Special responsibility allowance
  - Dependants' Carers' Allowance
  - Co-Optees' Allowance

### Parish, town and community councillors

111. The Parish Basic Allowance is taxable as employment income.

### Non-councillors

112. The tax rules for Co-Optees' Allowance and Parish Basic Allowance to non-councillors are the same as for parish, town and community councillors set out in paragraphs 110 & 111 above.

### Renunciation

113. Renunciation of allowances which provide remuneration will mean that there will be no liability to income tax, but it will also mean that no expenses can be claimed as a deduction (see paragraph 125) and may affect entitlement to social security benefits.

### Travel and subsistence allowances

114. As elected representatives, councillors are accepted as normally having two places of work - at the council offices and in their electoral area. Often councillors need to use their own homes to see constituents. Where a councillor does use his or her own home to undertake representative duties on behalf of the council, an allowance paid for travel between home and the council offices or some other place on council business is included in the calculation under the rules described at paragraph 126(viii) below.
115. If it is not necessary for a councillor routinely to see constituents at home, any allowance paid for travel between home and the council offices will be taxable in the normal way. The fact that a councillor chooses to do some work at home - for example reading council papers or completing correspondence - does not make that home a distinct place of work for the purpose of claiming tax relief on travel expenses. However, an allowance paid for travel between home and any place that is a temporary workplace will also be included in the calculation at paragraph 126(viii) below.
116. For non-councillors, any allowance paid for travel between home and the council offices will be taxable unless he or she can show that home is itself a place of work in the real sense for that office - that is to say any holder of that office is necessarily obliged to perform substantive duties there.
117. For the treatment of mileage allowances paid for travel on council business generally, see paragraph 126(viii) below.
118. Day subsistence allowances are taxable unless they are paid in respect of the extra expense of subsistence incurred as a consequence of travel on council business away from the council offices.
119. Overnight subsistence allowances are not taxable provided there is no element of profit. A profit could arise, for example, if someone travelling on council business stays overnight with friends or relatives rather than in a hotel.

### Dispensations

120. A 'dispensation' is a notice given by an Officer of HMRC to an employer if the Officer is satisfied that expense allowances paid or benefits provided by the employer would be fully matched by an expenses deduction, with the result that no tax liability arises. A dispensation relieves the

employer of the need to report details of the particular expenses payments or benefits provided to HMRC or to the employee or office-holder. And the employee or office-holder need not show them in his or her tax return if they get one.

121. The dispensation does not exempt from tax items upon which the taxpayer would otherwise be taxed. The aim is to eliminate unnecessary administrative burdens where no tax will be due, not to reduce the tax paid. Dispensations are reviewed from time to time and can be revoked. More advice on dispensations and an application form can be obtained from any Tax Office.
122. Dispensations are not appropriate for 'round sum' expenses allowances. But where an allowance is clearly intended to do no more than reimburse expenses actually incurred in carrying out the employee's or office-holder's duties, and the expense was incurred only because of the office or employment, the Officer may be prepared to authorise payment of the allowance without deducting PAYE. Before doing this, the Officer will need to be satisfied, however, that the allowance is at a reasonable scale and is clearly intended to do no more than reimburse expenses actually incurred.
123. Mileage expenses payments cannot be included in a dispensation.
124. Whenever there is no dispensation in operation authorities should consider whether or not PAYE should be applied to the allowances they pay. The Officer will give guidance on this point.

### Relief for expenses

125. Where an authority does not reimburse all expenditure incurred, members may claim the excess as a deduction from the earnings that they receive from the authority, provided the expenses satisfy the rules in paragraphs 108 and 109 above. No deduction can be claimed:

- - where entitlement to all allowances has been renounced (see paragraph 113) [because there are no earnings from which to make a deduction - see [EIM31655](#)]
  - where a member could use services provided by the authority, for example, postage or stationery but incurs expenses because he or she chooses not to do so
  - for expenses incurred for political purposes, for example electioneering
  - for expenses incurred on the cost of newspapers, books and periodicals of general interest. (Where however a magazine or journal is obtained by a member because he or she subscribes to a professional body or learned society which is approved under Section 344 ITEPA 2003 and the activities of this body are relevant to his or her work as a member a deduction may be given for the subscription)
  - for donations to charity (unless these are made under a payroll giving scheme or by way of gift aid).

126. Typical deductible expenses which may be claimed include:

#### (i) Travelling expenses

(a) By public transport - Where the expenditure incurred is not covered by an allowance for which the authority has a dispensation.

(b) By car - Members who use their own cars in the performance of their duties are normally paid an allowance to cover their costs. There are special rules covering these at paragraph (vii) below.

#### (ii) Postage and stationery

The actual costs wholly, exclusively and necessarily incurred in the performance of the duties as a councillor for which no allowance can be obtained from the authority.

#### (iii) Telephone

The cost of calls made wholly, exclusively and necessarily in the performance of duties as a member. No deduction can be given for any part of the rental of the telephone unless no private use is made of it. Any claim should be reduced by any non-taxable reimbursement made by the authority. Where that reimbursement covers the cost of the official calls no claim should be made.

#### (iv) Secretarial assistance

The costs of secretarial assistance incurred wholly, exclusively and necessarily in the performance of council duties, where such assistance is not provided by the authority.

Any amounts claimed must be reasonable in relation to the member's allowances and to the assistance given. The Inspector may want to see supporting evidence for the claim.

(v) Hire of rooms

Where money is spent on the hire of rooms for 'surgeries' or public meetings, e.g. objections to planning applications. A claim cannot be allowed in respect of the hire of rooms for party political purposes.

(vi) Household expenses

Where additional household expenses are incurred (light, fuel etc.) relating to those parts of members' homes that are set aside solely for use for duties as members, HMRC will accept a standard deduction of £135 per year (an amount agreed between the Association of Councillors and HMRC Head Office) to cover this. Members claiming more than this amount will have to show the additional amount is fully justified by reference to the expenses deduction rules explained in paragraphs 108 and 109.

From 6 April 2003 members working at home under homeworking arrangements with the local authority can be paid a tax-free allowance to reimburse the additional household expenses incurred while working at home. Up to £2 per week can be paid without any evidence of the actual amount of additional expense. Larger amounts can be paid if evidence can be provided to show that the amounts paid are a reasonable estimate of additional costs. Members who do not receive an allowance are not entitled to deduct an equivalent amount except for those who are entitled to the standard deduction of £135. In these cases members should restrict the deduction by any amount received from the local authority, so that a member receiving £2 per week is entitled to deduct a further £31 from earnings.

(vii) Mileage expenses for members using their own vehicles for business travel

The following rules apply from 6 April 2002 and cater for all kinds of mileage expenses. The previous rules, including the Fixed Profit Car Scheme, no longer apply.

Actual expenses (including loan interest and capital allowances) can no longer be claimed. 'Business travel' is travel of the type described in paragraph 108 (fuller details can be found in HMRC booklet 490, Employee Travel).

Members who use their own vehicles for business travel are normally paid an allowance to cover their costs. Normally, these payments are based on an amount per mile for the mileage travelled on council business but they can also be in the form of a lump sum or periodic payment. However they are paid, all Mileage

Allowance Payments (amounts paid to an employee or office holder for expenses related to the use by that person for business travel of their own vehicle) are treated in the same way. Members can receive up to a tax-free "approved amount" when using their own vehicles for business travel. These payments are known as Approved Mileage Allowance Payments, or AMAPs.

The AMAPs amount is calculated by multiplying the number of business miles in each kind of vehicle by a statutory rate in pence per mile. The rates are:

Kind of vehicle Rate per mile to 2010-11

Car or van	40p for the first 10,000 miles
	25p after that
Motor cycle	24p (all miles)
Cycle	20p (all miles)

Kind of vehicle Rate per mile from 2011-12

Car or van	45p for the first 10,000 miles
	25p after that
Motor cycle	24p (all miles)
Cycle	20p (all miles)

These rates apply until changed by law as part of the Budget process. Any changes will also be announced on the HMRC web site [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

Employers do not need to send HMRC details of tax-free AMAPs, though they need to keep sufficient records to show that the payments qualified for exemption. Any amount in excess

of the AMAPs amount is taxable and should be reported on form P9D or P11D; if members receive less than that amount, they are entitled to Mileage Allowance Relief. Further details about AMAPs and the taxation of motor mileage allowances generally can be found in CWG2 'Employer's Further Guide to PAYE and NICs'.

For NICs, a new statutory scheme for dealing with NICs liability on motoring expenses was also introduced on 6 April 2002. See paragraph 152 for more information. [See NIM05640 onwards.]

(viii) Other expenses

Members with other expenses not covered by the above should itemise them on their Tax Return. HMRC may require evidence and details of the expenditure.

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## Other points concerning a member's tax affairs

### Provision of benefits in kind

127. If a member receives payments (including all allowances whether or not tax is paid on them) and benefits together totalling £8,500 a year or more (before any deduction for expenses) details must be reported to the Inspector on Form P11D. A copy of the details should be given to the member. (Any member who is in this position and who receives facilities from the council other than in cash should contact the local Inspector for advice.)
128. No tax charge arises on the provision of office accommodation, secretarial assistance, stationery or other facilities of a similar nature at an authority's premises. If the authority provides supplies or services for use at the member's home, no tax charge arises if the sole reason for providing them is to enable a member to perform their duties and any use for private purposes is not significant. If these conditions are not met, full details need to be provided to HMRC on forms P11D, with a copy provided to members, because a tax liability may arise.
129. Where an authority provides computer equipment for the member to perform his duties at home, before 6 April 2006 the first £500 of the benefit charge was exempt from tax. See [EIM21699](#) for further information regarding the abolition of this exemption and transitional arrangements for computers provided before abolition.
130. If an authority paid for a member to have a telephone installed at home any cash reimbursement for installation or any subsequent rental payments should be subjected to PAYE. If it is impossible to apply PAYE, for example because the authority pays British Telecom directly, the authority must give details to HMRC after the end of each tax year. The member will then have to pay tax on the amount paid by the authority. Where an authority pays for broadband Internet connection to a member's home solely for work purposes, under a package where there is no separate billing or record of access calls, and
  - no breakdown is possible between authority and private calls, and
  - where private use is not significant

the connection costs are exempt from tax.

### Operation of PAYE

131. Tax is collected under the PAYE system. The amount of tax deducted by the authority depends on the code number issued by each member's own tax office. It is open to any councillor to ask to have the PAYE code number adjusted to take into account expenses which are deductible for tax purposes. If the Inspector is satisfied with the estimate provided, the code number for the year will be revised and the matter finalised after the end of the tax year when the accurate information will be available. How this works depends on whether or not the member receives a tax return (see paragraphs 127 and 128).

These arrangements apply, for example to:

- the basic allowance
- special responsibility allowance
- dependants' Carers' Allowance



- Co-Optees' Allowance
- any allowances payable to councillors in their capacity as civic dignitaries.

### Procedure at the end of the tax year

132. Members who receive tax returns should include figures for all their income on their Self-Assessment tax return. They will also include all claims they wish to make.
133. They should send their completed tax return back to their tax office by 30 September after the end of the tax year if:
  - - they want HMRC to calculate their tax bill for them and/or
    - they wish tax (below £2000) to be collected through next year's PAYE code where practicable.
134. The deadline for sending back their tax return is 31 January after the end of the tax year.
135. HMRC will make any repayment due. If there is tax to pay, the member should pay it by 31 January after the end of the tax year.
136. Members who do not receive tax returns will have their tax checked by HMRC in the traditional way. They should send any claims to their tax office after the end of the tax year as now.

### Further information

137. If members have any questions about the taxation treatment of their allowances they should contact their Tax Office. Council Treasurers' Departments are usually in a position to answer routine questions and to seek advice on a member's behalf.

### Civic dignitaries

138. Like councillors, civic dignitaries are office-holders and the same tax principles apply to their allowances and expenses. In particular, to qualify for relief expenditure must meet the conditions of Sections 336 to 339 ITEPA 2003 - explained in paragraphs 108 and 109 above. The following paragraphs set out how the rules apply to particular circumstances affecting civic dignitaries.

### Clothing

139. Expenditure on ordinary clothing worn at work is not incurred wholly and exclusively in the performance of the duties. Consequently no deduction can be given for expenditure by civic dignitaries on ordinary clothing.
140. Exceptionally, a deduction can be given for expenditure on clothing which is recognisably a uniform or part of a uniform and the office holder is required, as part of the duties of that office to wear it. A useful test is whether someone wearing the clothing would be recognisable in the street as wearing the uniform of that particular office - just as a uniform identifies, say, nurses or policemen. Expenditure on, for example, maintenance of a mayor's regalia would normally, therefore, qualify for a deduction.

### Donations

141. If a civic dignitary is given an allowance and the freedom to spend that allowance largely as he or she sees fit, it is extremely unlikely that any such expenditure would be deductible.

There would be an element of personal choice - and so expenditure would not be 'necessarily' incurred. This would apply to charitable donations as much as to any other use to which the money was put.

142. The tax position may, however, be different if there is a special fund set on one side, out of which agreed charitable donations are made. In these circumstances, when the funds are dealt with by the civic dignitary in a fiduciary capacity, there may be no tax consequences.

Each case will, however, depend on the precise arrangements in force.

## Entertainment

143. If a civic dignitary is given an entertainment allowance which he or she has freedom to spend in any way he or she sees fit, the allowance is assessable to tax as part of the earnings of the office - except to the extent that the expenditure met out of the allowance qualifies for a deduction. Only entertaining expenses which are incurred wholly, exclusively and necessarily in the performance of the office holder's civic duties will qualify. No deduction is due for the cost of entertaining which is incurred primarily for personal or political reasons even if some civic business happens to be discussed.
144. As with donations, the tax position may be different if there is a special fund set on one side out of which entertainment is paid for in accordance with the council's wishes as to the amounts spent and persons to be entertained.

## Conclusion

145. Local authorities sometimes ask how their systems can be structured so that no tax liability arises for their civic dignitaries in respect of expenses payments made to them. The paragraphs above should indicate that a system which in practice pays within the AMAPs amount for travelling expenses and provides for reimbursement only of those expenses deductible under the rules described in paragraphs 108 and 109 is unlikely to give rise to tax consequences. In addition, it is likely that a dispensation (see paragraphs 120-124 above) could be agreed with respect to such a system - eliminating reporting requirements."

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