

For this relief, much thanks



Penny Bates welcomes the new guidance on the relief a self-employed person working at home may claim

For the self-employed there is usually some use of their home for business purposes. This could be as little as writing up the books and records of the business to substantial usage of a particular room, for example by a conveyancing solicitor. In all cases the individual concerned is entitled to a deduction for that part of the household expenditure relevant to their usage as a self-employed person.

For many years I have seen a blanket approach being adopted to claiming this deduction of £x per week, with little evidence as to how the deduction has been arrived at. This in the main appeared to be an acceptable practice as far as the Revenue was concerned, or at least little resistance was put up – although I have experience of the Revenue arguing quite vociferously that no deduction is possible unless expended wholly and exclusively for the purpose of the business. This is an argument I find difficult to swallow, since the Revenue has always accepted that motor expenses, for example, can be split between business and private use. Indeed the new guidance at BIM47810 states specifically that 'wholly and exclusively does not mean that business expenditure must be

separately billed or part of the home must be permanently used for business purposes and not used for any other purpose at any other time'.

I believe that the Revenue has issued guidance in an attempt to clarify calculation of deductions. The change summarised in this guidance was one of emphasis and interpretation. BIM47815 quotes Templeman J in *Caillebotte v Quinn* 1975: 'It is possible to apportion the use and cost of a room on a time basis, and to allow the expense of the room during the hours in which it is used exclusively for business purposes.'

The Revenue guidance suggests that the cost should be apportioned on the bases of:

- area of the total property used in the business;
- usage;
- time the area is used for business use as opposed to any other use.

This probably works quite well for many household costs, but some are more specific to the individual's business. However, Revenue officers have been instructed to accept claims on any reasonable basis, and for

those cases where the use of the home is minor, they have been advised to accept a reasonable estimate without detailed enquiry. How one determines the quantum of the claim is a matter of debate, but perhaps for the simplest of cases the £2 a week deduction allowed for the employed working from home would be reasonable.

How to apportion home costs

Much depends on the particular facts of the individual case concerned, and the Revenue gives several examples of the approach it recommends.

Interestingly, specific guidance is given for a number of different household costs, some of which are worthy of particular note, because they have clarified the position:

Mortgage interest: Confirmation that the interest may be split where no exclusive use but substantial use of part of the property for business purposes.

Insurance: An apportionment of the total premium is allowable calculated as appropriate to usage and area, etc.

Repairs and maintenance: General household repairs are allowable in line with the

proportion of the house used solely for business. General redecorating of the exterior or roof would be allowed on a proportionate basis, but decorating a room never used for business would not be allowed. Equally, if a room were used solely for business, redecoration costs would be allowed in full. *Cleaning:* Costs can be skewed depending on the circumstances, and cleaning is an example of this – it may be that the cleaner is not allowed to clean the business area and hence no deduction, or possibly that he or she specifically cleans that area and the time taken is disproportionately higher than a ‘normal’ clean of another area of the house would be!

Telecoms/internet broadband etc: The Revenue’s previous view that line rental was not allowable has now changed, and a proportion of rental and calls is allowed on a reasonable basis; this includes giving consideration to the number of incoming calls, which should be supported by itemised bills. The Revenue’s manual suggests that a ‘flexible approach’ be adopted when considering the level of deduction in respect of all inclusive telephone/broadband packages.

Use of the home

The guidance includes a number of specific examples, which can be found at BIM47825.

A look at a couple of examples gives a good indication of the Revenue’s approach. The first is pragmatic in that the claim is relatively small, even if not completed on the (strictly) correct basis.

Example 1

Bill runs a small business. He uses one small room at home as an office, exclusively for the purposes of his trade (CG64660). The room represents 5% of the house’s floor area.

His council tax, insurance and mortgage interest bills total £4,500. He claims 5%, £225. His electricity bill for heating & lighting is £300. He claims £15, which is 5% of the total. His total claim is £240 (plus the business proportion of his phone bill).

Although Bill has apportioned his electricity bill by floor area rather than usage, the amount claimed is small and there is nothing to suggest that his business use is significantly greater or lesser than his private use. It can be accepted as a reasonable estimate.

The second example is more complex in that fixed and variable costs are apportioned on a different basis.

Example 2

Gordon, an architect, dedicates a room solely for use as his office between 9am and 5pm daily. The room contains a

workstation, office furniture and storage for his drawings. He uses the room for an average of four hours each day, though often this is spread over his working eight-hour day, since he has a number of regular site visits to make. In addition, it is not uncommon for Gordon to accommodate clients in his office to discuss plans, outside of normal hours.

The room is available for domestic use outside of business hours, and his family regularly make use of the room for around two hours each evening.

After apportioning costs by reference to the number of rooms in the house, Gordon calculates that the room uses £300 of variable costs (electric and oil) and £600 of fixed costs (council tax, mortgage interest, insurance). In apportioning these costs by time, Gordon claims £680 in total, made up of 4/6 of variable costs (£200) and 8/10 of fixed costs (£480).

The claim equates to 75% of the total costs attributable to the room (£680/£900), which Gordon views as a more straightforward but equally reasonable basis for future claims, should his circumstances remain unchanged.

Explanation: 4/6 = The room is used for six hours a day, and four of these are business use.

8/10 = The room is available for business use for eight hours a day and private use for two hours a day.

This example suggests that once a basis has been settled on, a simpler way of apportioning the cost can be adopted going forward, provided circumstances don’t change

These and the other examples do, I believe, offer some useful guidance to practitioners as to the process to go through in arriving at a claim that will stand the Revenue’s scrutiny. After years of considerable doubt and indeed differing practice, from one adviser to another in my experience, this is to be accepted as very useful, and I would recommend that a reading of the relevant parts of the BIM and examples would be time well spent.

Capital gains tax

A individual’s only or main residence is exempt on disposal from capital gains tax provided it has been used as his only or main residence throughout ownership – subject to the various reliefs for absences/last 36 months, etc (TCGA 1992, s. 222 et seq).

So how do the income tax claims that clients make, as discussed above, affect this relief? Provided that no room is used exclusively for business purposes, there

should be no restriction on the availability of the main residence exemption from CGT.

TCGA 1992, s.224 (1) states that relief shall not apply to any part of the dwelling house that is used exclusively for the purpose of a trade, business, profession or vocation.

How much of any gain attributable to business use must be decided on the facts of each case. For example, I have a client who is a medical consultant with a room at home where he sees private patients, but only for a few hours a week, probably no more than four. In addition, the room is used to display his private collection of antique medical equipment – this is a long-term hobby of his, and an extensive collection has been accumulated over time. He spends a considerable amount of time in maintaining this equipment and showing it to fellow collectors in that same room. How would the Revenue see this from a CGT point of view?

The CG manual – CG64666, ‘Private residence relief: part of house used exclusively for business’ – contains guidance on such an issue. The exclusive use test is a stringent one, and you should not usually seek any restriction to relief for a room that has some measure of regular residential use. But occasional and very minor residential use should be disregarded. For example, if a doctor keeps private possessions in a room used as her surgery, the surgery should still be regarded as exclusively in business use.

I would argue strongly in my client’s case that the business use is minor, particularly since his retirement from regular practice, and no apportionment should be made! The argument has yet to arise.

Summary

I believe the new guidance on relief for the self-employed working at home is very welcome and useful in simplifying at least one area the busy practitioner has to deal with day-to-day. It will continue to be important to keep in mind the possible impact on CGT when the property is eventually sold, and it is therefore important that the practitioner is aware of the exact circumstances of the house usage and that he advises accordingly to maximise reliefs without jeopardising CGT exemption.

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