

BURSARS COMMITTEE
16/10/2023
ITEM
TO NOTE

UPDATE ON TAXATION OF ACCOMMODATION

Purpose of Report	To provide an update based on correspondence received from HMRC
Status	Confidential
Authors	Lizzy Conder, Chair of Taxation Sub-Committee
Attachments	Schedule on Rateable Values prepared by Gerald Eve June 1990

Background

HMRC wrote to Senior Bursar of Gonville & Caius stating that for the colleges where additional information and documents have been submitted that they were happy that the living accommodation provided to Heads of Houses of these colleges fall within the exemption at S99 (2) ITEPA 2003.

The colleges that submitted additional information were:

Gonville & Caius College, Cambridge
 Pembroke College, Cambridge
 Peterhouse, Cambridge
 Robinson College, Cambridge
 Magdalen College, Oxford
 Trinity College, Oxford

Update

Gemma Hall, Employer Compliance Tax Specialist at HMRC has written to a number of colleges since asking the following questions:

- *I need to check if the associated utilities costs connected to the Head of House's accommodation have been reported on form P11D from 2021/22 onwards and evidence of how the College arrived at the cash equivalent figures.*

It is worth noting that under S314 ITEPA 2003, that council tax or rates and water (even if the charge is based on a metered supply) or sewerage charges are also exempt from income tax.

S315 ITEPA 2003 applies a limit to the total taxable benefit from provision of heating, lighting and cleaning the premises, repairs to the premises, their maintenance or decoration and the provision of furniture, equipment or other items which are normal for domestic occupation. The limit is

- 10 per cent of the net amount of the earnings from the employment
- **less**
- any contribution made by the director or employee to the person incurring the

expenditure.

If the accommodation is provided for less than a year the 10 per cent limit of the net emoluments is reduced proportionately.

[EIM21724 - Particular benefits: heating, lighting, cleaning etc. expenses of job-related living accommodation: 10% limit: list of examples of calculating the net amount of the earnings - HMRC internal manual - GOV.UK \(www.gov.uk\)](#)

- *Also, if the fellows of College have been provided with accommodation. Can you confirm if the accommodation benefit and the utilities have been reported on form P11D from 2021/22 onwards. If the accommodation benefit and utilities have not been returned, can you please provide me with the amount that should have been reported.*

Experience

I have reviewed the calculations used to submit prior year P11Ds for Fellows and based on this experience, you may want to review the following if you were not involved in the original calculations:

- 1) Archival records for the actual building costs and enhancement of sets in historic courts. Most refurbishments can be excluded if doing normal repairs and maintenance rather than enhancements. Having done the archival review, I am happy that I have the data to evidence that most of the residential sets in Clare's historic courts cost below £75,000
- 2) If the cost of the living accommodation is more than £75,000 then it is the market value of the living accommodation at the **date** of the employee's **first** occupation of it. It is worth checking what date the market value calculation has been taken at. If a Fellow moved in on 1 October 2004 and has not moved since, then it is the market value at 1 October 2004 not 5 April 2020.
- 3) We have a flat service charge for cleaning and utilities that was used in the calculations. Having spoken to PEM, then either there needs to be a calculation justifying why the flat charge is a reasonable approximation of the actual costs or an actual cost calculation done.
- 4) If the property is subject to Council Tax, then this is also a taxable benefit if the Council Tax has been met by the College.
- 5) Gerald Eve helpful circulate a schedule to all Bursars in June 1990 which references and lists the 1973 rateable value of the Colleges. This is attached with thanks to Bursar and Archivist of Emmanuel.

I am in the process of recalculating of the taxable benefits of accommodation provided by Clare since 2019-20 onwards. I am happy to talk to anyone who is also looking at living accommodation.

Schedule to Compare Predicted Gerald Eve and University Rateable Values with those Proposed by the
Valuation Office and to Break Down the Revised Rateable Value

Schedule attached to Gerald Eve's
letter dated 22 June 1990

College	1973 Rateable Value @ 10%	Main College Buildings Only					Additions to Rateable Value							Total 1990 Rateable Value including Main College and all additions.
		Gerald Eve Predicted Rateable Value on Multiplier Basis	Originally Proposed Rateable Value 1990	John King's Provisional Valuation 1990	Valuation Officer's Revised Rateable Value 1990	Factor Increase 1973/1990 (6)/(2)	Sportsgrounds	Boathouses	Tennis Courts & Squash Courts	Fellows Gardens	Car Park	Offices/ Stores	Bednights	
(1) £	(2) £	(3) £	(4) £	(5) £	(6) £	(7) £	(8) £	(9) £	(10) £	(11) £	(12) £	(13) £	(14) £	(15) £
Christ's	3,247	35,658	32,750	30,217	29,964	9.23		6,075					6,386	42,425
Churchill	8,489	93,165	96,650	87,953	89,674	10.56							19,926	109,600
Clare	2,421	26,597	35,500	25,483	25,679	10.61	14,300	7,550	3,825				13,271	64,625
Clare Hall	1,160	12,767	9,550	9,830	10,100	8.71								10,100
Corpus Christi	803	8,846	20,800	17,155	15,440	19.23	13,200			140		3,725	3,260	35,765
Darwin	664	7,314	7,525	8,012	7,775	11.71								7,775
Downing	2,874	30,583	31,550	29,309	26,932	9.37	6,600	6,125					9,718	49,375
Emmanuel	2,747	30,172	55,750	32,026	30,673	11.17	11,650	7,250				3,025	14,477	67,075
Fitzwilliam	3,456	37,943	30,600	29,562	31,858	9.22		6,150					8,992	47,000
Girton	2,501	41,508	53,250	39,137	31,091	12.43		3,150					10,559	44,800
Gonville & Caius	1,092	12,015	26,050	20,647	18,271	16.73	15,450	11,950		1,700			6,929	54,300
Hughes	439	4,845	4,650	5,053	5,407	12.32							3,293	8,700
Jesus	2,622	28,800	38,600	39,289	36,080	13.76		11,550				2,700	6,520	56,850
Kings	3,097	34,012	47,800	42,659	36,930	11.92	7,475		2,625	4,600			12,870	64,500
Lucy Cavendish	660			5,007	4,833	7.32							1,917	6,750
Magdalene	2,092	22,986	34,150	25,835	23,746	11.35							2,504	26,250
New Hall	2,539	27,885	30,450	22,089	21,772	8.58							9,528	31,300
Newnham	3,547	38,949	45,350	32,174	33,333	9.40	1,100						8,717	43,150
Pembroke	1,560	17,143	29,100	20,738	21,319	13.67	13,600	7,450					7,681	50,050
Peterhouse	1,201	13,211	19,050	19,684	17,621	14.67		5,250					1,279	24,150
Queens	4,497	49,371	69,400	53,969	54,182	12.05	10,550	21,600					16,968	103,300
Ridley Hall	672	7,406	11,250	7,819	7,850	11.68								7,850
Robinson	4,643	50,971	50,300	54,086	54,423	11.72			4,225				20,877	79,525
St Catherine's	2,567	26,971	32,250	26,412	26,880	10.47	13,650	5,625					15,020	61,175
St Edmunds House	914	10,057	7,050	5,847	6,075	6.65								6,075
St Johns	5,106	56,046	83,650	77,051	70,431	13.79	23,600	7,225					10,419	111,675
Selwyn	1,397	15,360	45,350	13,835	17,082	12.23		17,250					18,118	52,450
Sidney Sussex	1,885	20,709	26,100	19,740	20,218	10.73							5,882	26,100
Trinity	4,180	45,889	91,900	60,750	63,103	15.10	32,975	12,250	3,975	3,600			13,897	129,800
Trinity Hall	1,235	13,578	18,250	16,379	13,158	10.65	14,750	9,825			450		11,442	49,625
Wesley House	1,022	11,246	13,650	10,545	10,025	9.81							2,375	12,400
Westcott House	664	7,314	9,350	6,800	6,650	10.02								6,650
Westminster	587	6,468	11,750	7,464	7,450	12.69								7,450
Wolfson	1,860	20,435	11,600	14,833	12,458	6.70							3,242	15,700

Tax Sub-Committee of Bursar's Committee

14.00 on Thursday 21st March 2024 - held on MS Teams

Minutes

Attendees

Lizzy Conder (Chair), Sue Ainger-Brown (Murray Edwards), Matthew Russell (OIS), Jeremy Boyd (Peterhouse), Sally Clayson (Selwyn), Catherine Rawlings (Pembroke), Karen Wall (St Catherine's), Matthew Hodgson (UoC), Graham Gustard (UoC)

1. Apologies

Andrew Enticknap (Girton), Matthew Hodgson (UoC),

2. New Members

Welcome to Karen Wall and Andrew Enticknap who have joined the Committee. Thank you to Mike Haddock (Downing) who has retired from Committee for all of his contributions.

3. Declaration of interests

None

4. Minutes of the meeting held on 21st June 2023

Approved

5. Action list

Lizzy to share hold the date for PEM next session when this has been confirmed.

6. Relationship with HMRC

Murray Edwards have received clearance for HoH and also agreed calculations for utilities for fellows. Selwyn have also agreed calculations for utilities for fellows. [Action – Sue and Sally, if you are happy to share the calculations then much appreciated]

GG – HMRC are consulting on reporting hours through payroll. RTI is to including anything for the calculation of tax. GG is feeding into consultation through ICAEW. [Draft legislation: Improving the data HMRC collects from its customers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/draft-legislation-improving-the-data-hmrc-collects-from-its-customers)

CR – draft legislation does mention officers being excluding from reporting hours but currently no mechanism for not reporting hours.

JB – question on how to register that a post is an officeholder

7. National Minimum Wage – what to watch

Need to watch when accommodation is provided to anyone who is on payroll with an hourly rate (OIS paper circulated).

Deduction – anything out of payroll needs to be considered in calculating whether NMW is reached or not including AVCs to pensions, salary sacrifice scheme including cycles.

Also need to consider reductions – forced uniform (specific colour of trousers); deposits for lockers; fellows' gift to staff?

Specific payroll period. Suggestion whether need a policy in place requiring individuals under £35K to tell employer if having to work in excess of normal working hours.

Cycle scheme needs to be open to all employees and this can cause an issue with NMW.

HMRC has to investigate within 14 days of receiving a complaint about NMW.

8. Specific Taxes

a. Employment Tax Issues

"Oxford University Employment Tribunal – Update from BUFDG

Two self-employed lecturers have won their Employment Tribunal against the University of Oxford, claiming that they should be treated as employees given their personal service and overall integration within the university (e.g. held out to be full members of staff with biographies in the student handbook).

We recommend a triage assessment of your 'self-employed' population and if you see the same names coming up regularly, make sure a complete review of their employment status has been carried out recently."

OIS in 2022 had undertaken a review identifying high-volume and long-serving supervisors to enable Bursars to look into individual cases.

a. (i) Question raised on treatment of admissions interviewers and exam invigilators with a request for the Tax Sub-Committee to look at and provide guidance.

Committee thought that it would help to have questionnaire on how common roles are classified for employment status across the Colleges to understand current practice. Second step would be to create a Cambridge standard roles taxonomy as guidance to colleges, define the role, and include student roles (May Ball helpers) with recommendations from the Committee on treatment.

Action – Committee to draft questionnaire before next meeting

b. National Insurance

Budget reduction to Class 1 employee contributions to 8%

c. Rates

Rates - Gerald Eve spreadsheet circulated.

If doing refurbishment work on non-residential buildings, then may be worth talking to Gerald Eve about possibility of rates rebates.

d. Council Tax

Air BnB residential accommodation – need to tell Council for both Council Tax and also licencing to be able to do this.

[Council tax exemptions - Cambridge City Council](#)

e. Overseas tax

Discussion highlighted the need to know where people are based and how long they are working in the overseas country. Committee would find it helpful to have a workshop on managing overseas tax risks – start of next session in person.

Several colleges have had good experience of advice from Tim Kelsey – invite to the workshop?

All to think about what would be key countries and types of activities ahead of next meeting:

Research / Conferences / working from home with home being their summer home overseas / Master / Development Directors / Agency arrangements

f. Corporation tax

Nothing to report

g. VAT

Flagging the extension of the relief from 1 February 2024 for zero rating of air source heat pumps to

buildings use solely for a relevant charitable purpose (paragraph 2.22).

<https://www.gov.uk/guidance/vat-on-energy-saving-materials-and-heating-equipment-notice-7086>

Committee thought that it would be helpful to have a workshop on refurbishments – JTK or PEM
(*Chair to raise with PEM as their next workshop covers VAT*)

Meals to staff is a vatable activity.

h. Customs/import VAT

Nothing to report

i. Construction industry scheme

Nothing to report

9. AOB

Home working in employee's contract – HMRC have stated that the office is still the main place of work.

[“Ordinary commuting and private travel \(490: Chapter 3\) - GOV.UK \(www.gov.uk\)”](#)

Whether or not an employee's home is a workplace does not affect the availability of tax relief for travel expenses. Travel expenses from home to a permanent workplace will only qualify for tax relief if the journey qualifies as travel in the performance of the duties of the employment.

Even though it may have been accepted that the employee's home is a workplace, it does not necessarily follow that they'll be entitled to tax relief for the cost of travel between their home and a permanent workplace.

This is because the place where an employee lives will ordinarily be down to their personal choice. The expense of travelling from their home to any other place is a consequence of that personal choice; not an objective requirement of the job.”

10. Dates of Meetings Change to Date of Next Meeting Friday 14th June at 3pm in person at Clare College

Lizzy Conder 21 March 2024