



KPMG Centre
18 Viaduct Harbour Ave
PO Box 1584
Auckland 1140
New Zealand
T: +64 9 367 5800

Our ref: ED0246 KPMG Submission

Technical Standards, Legal Services
Inland Revenue
Wellington
Public.Consultation@ird.govt.nz

29 March 2023

KPMG submission – ED0246: Determination EE004 – Tax treatment of reimbursing payments made to employees that work from home and/or payments made for an employee’s use of their personal telecommunications tools and/or usage plans in their employment

Thank you for the opportunity to make a submission on the draft determination *ED0246: Determination EE004 – Tax treatment of reimbursing payments made to employees that work from home and/or payments made for an employee’s use of their personal telecommunications tools and/or usage plans in their employment* (the “Determination”). We apologise for the delay in making a submission.

General comment

KPMG supports the Commissioner’s decision to issue the Determination to extend the previous determination EE003, which has an end date of 31 March 2023. We also support the Determination being issued without a stipulated end date (but with a review to occur from time to time).

This Determination provides useful guidance for employers in an area of tax law that can be complex to navigate and difficult (and costly) to administer. The proposed “safe harbours” for amounts that may be paid to employees as exempt allowances provide welcome practical guidance for employers. We also support the proposed increases to the weekly safe harbour thresholds, which we are particularly pleased to see in the current inflationary economic climate.

Our detailed comments are outlined below.

Clarification of “more than minor” standard required

Paragraph 13 of the Determination states, “*[w]here an employee is partly working from home and partly outside of their home, the home-based work must be more than minor.*”

We consider that clarification of when home-based work will be “more than minor” is required. It is unclear how Inland Revenue would apply this test, and it is possible that inconsistent views could be taken without further guidance on this point.

Paragraph 13 provides the example of an employee who works at the employer’s premises on alternate days as meeting the “more than minor” test. In our view, we would consider the “more than minor” test to also be met for an employee who regularly works one or two day per week from home and the remaining days in the office. We would consider the “more than minor” test would not be met, however, for an employee who works from the office full time,



but occasionally spends a day working from home due to medical appointments, tradesmen, etc.

With the proliferation of flexible working arrangements in recent years, further guidance is required on the "more than minor" test.

\$400 reimbursement thresholds should be increased

Paragraph 33 of the Determination provides that an employer can reimburse an employee up to \$400 to acquire personal home office furniture or equipment, as well as up to \$400 to acquire new telecommunications equipment. Alternatively, employers can use the reimbursement option, described from paragraph 36.

The \$400 thresholds have not been increased from prior determinations, whereas the weekly exempt allowance amounts (noted above) have been increased, presumably due to inflation and the general cost of living. This appears inconsistent and consideration should be given to increasing the thresholds for reimbursements.

One-off nature of permitted allowances should be reconsidered

Paragraph 35 of the Determination provides that if an employer uses the \$400 safe harbour option, they cannot use the reimbursement option in the future and the \$400 allowance is not an amount that refreshes on a regular basis.

The \$400 allowance includes expenditure on "*personal home office furniture or equipment or telecommunications equipment*" that will include equipment like mobile phones that will become obsolete over time. Therefore, a 'one off' allowance does not seem appropriate as these items will need to be replaced. In addition, employers may have paid the \$400 allowance when first introduced to ensure their employees were able to set up at home when required to do so.

The Commissioner should consider including reasonable "reset" periods for providing the \$400 allowances, given the nature of items purchased and the requirement for employers to provide assistance at relatively short notice. For example, the estimated useful lives of mobile phones or other telecommunication equipment could be used to determine the appropriate "reset" period.

Further information

We would be happy to discuss our submission with Technical Standards. Please contact us – Darshana on 09 367 5940 or Rebecca on 09 367 5926 – if you require any further information on our submission.

Yours sincerely

Darshana Elwela
Partner

Rebecca Armour
Partner