

# **GUIDE TO TAXATION TREATMENT OF NAECI ALLOWANCES**

**DECEMBER 2010**

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## 1. INTRODUCTION

The following guidance is based wherever possible on arrangements which have been formally agreed between the National Joint Council for the Engineering Construction Industry (NJCECI) or the Engineering Construction Industry Association (ECIA) and the Personal Tax Division of the HM Revenue & Customs. The arrangements with HM Revenue & Customs relating to travelling and accommodation allowances have arisen because of the high degree of mobility required of employees in the Engineering Construction Industry.

The modified taxation procedures for travelling and accommodation allowances are negotiated nationally between the NJC and the Personal Tax Division of HM Revenue & Customs and apply only where the employer adopts the terms and conditions of the National Agreement for the Engineering Construction Industry (NAECI). Outside the framework of the NAECI, employers are required to apply the statutory rules under Section 198 of the Income and Corporation Taxes Act 1988 to these allowances, unless they have specific authority from their own local office of HM Revenue & Customs not to do so. Employers paying these allowances must do so under either the NAECI or the statutory rules, but not both at the same time, and any changeover from one to the other should be discussed with their own local office of HM Revenue & Customs.

This guide brings together in one document the information and authorities which have accumulated over time, and is published with the approval of HM Revenue & Customs. However, it is not itself an authority, and, if in any doubt about a taxation matter, in-scope employers and their employees should consult their local office of HM Revenue & Customs for a ruling on their particular circumstances. Should that local ruling appear to conflict with the information in this Guide, the NJC, the ECIA or the local office of HM Revenue & Customs will, where appropriate, take the matter up with the Personal Tax Group of HM Revenue & Customs at:

HM Revenue & Customs  
Personal Tax Group  
PAYE, SA & NICS (Employment Income)  
Royal House  
Princes Gate  
2-6 Homer Road  
Solihull  
B91 3WG

*Note: This address is NOT for use by members of the public*

2. SUMMARY OF ALLOWANCES UNDER THE NAECI AND WHETHER PRESENTLY TAXABLE OR NOT

<b>Allowance</b>	<b>Section of NAECI (2010 – 2012)</b>	<b>Taxable or Non-Taxable</b>
Radius Allowance <b>(Scale 1)</b>	9.1	Partially taxable – see para 3
Radius Allowance <b>(Scale 2)</b>	9.1	Taxable – see para 3
Accommodation Allowance	9.2	Paid tax free in certain circumstances – see para 4
Retention Fee for Accommodation	9.2	Paid tax free in certain circumstances – see para 4
Transport Expenses	9.4	Paid tax free in certain circumstances – see para 4
Travelling Time Allowances	9.4	Taxable - see para 4
Special Travel & Accommodation Arrangements within the M25 <ul style="list-style-type: none"> <li>• London Supplement</li> <li>• Travel Cards</li> </ul>	9.3 9.3	Taxable – see para 5 Taxable – see para 5
Payment for Holidays	10	Taxable – see para 6
Redundancy Payments	16.5	Paid tax free upon genuine redundancy, as defined in the Employment Rights Act 1996 -see para 7
Proficiency Pay for Welding	6.4	Taxable – see para 8
Welfare Benefits	11 & Appendix A7(b)	Weekly sickness and accident benefit taxable. Life Insurance, Fatal Accident and Disablement Benefits not normally taxable – see para 9
ECI Stakeholder Scheme	11.1	See para 10

3. RADIUS ALLOWANCE – NAECI (2010 – 2012) 9.1 AND APPENDIX A.4

**Scale 1**

Scale 1 radius allowance, payable to employees travelling to work by their own means, is made up of two elements, an allowance towards the **cost** of travelling daily to and from the site, and an allowance in respect of the **time** spent travelling.

The taxable amount has been calculated by treating 50% of the allowance as fully taxable - this 50% being deemed by HM Revenue & Customs to be a payment for time spent travelling (as distinct from a payment to cover travel costs) – together with a further £1.00 which is taken by HM Revenue & Customs as relating to the first four miles of the journey in each direction. Therefore 50% of Scale 1 plus £1.00 is taxable, and the remaining 50% minus £1.00 is tax-free.

It is important to note that the above HM Revenue & Customs tax treatment does not apply in cases where employees have been recruited at a site (as distinct from being recruited at the company's office off site or at its head office) to work on that site. In such cases the full amount of Scale 1 radius allowance is taxable.

**Scale 2**

Scale 2 radius payments (made where the employer provides free transport to and from the place of work), are deemed by HM Revenue & Customs to be wholly a payment for time spent in travelling, and are therefore taxable.

**Other Tax Charges**

Where employees are provided with the use of a van or car, or with fuel for a company car for travel to or from home to site, taxable benefits can arise. This does not impact on PAYE. If clarification is required, employers should contact the local office of HM Revenue & Customs.

4. ACCOMMODATION ALLOWANCE – NAECI (2010 – 2012) 9.2

By long-standing agreement with HM Revenue & Customs, accommodation allowance payments made to employees strictly in accordance with the rules set out in NAECI (2010 – 2012) 9.2, and where the employee and employer have properly completed the relevant NAECI application form contained on the NJC website ([www.njceci.org.uk](http://www.njceci.org.uk)), are tax free.

It is again important to note that this dispensation does not apply in cases where employees have been recruited at a site (as distinct from being recruited at the company's office off site or at its head office) to work on that site. In such cases the full accommodation allowance is taxable.

The application form also makes it clear that it is the responsibility of employees to inform their employer about any accommodation allowance payments they received which relate to nights on which they have neither occupied nor paid for lodgings. Such payments are taxable. Part of the accommodation allowance will also be taxable where the employee does not incur expenditure on lodging because s/he stays in a caravan and does not pay commercial site fees. Local HM Revenue & Customs offices will advise.

It should also be noted that, since 6<sup>th</sup> April 1987, the HM Revenue & Customs has relaxed the rules relating to the taxation of accommodation allowance paid to single men and women. From that date onwards single men and women without dependants have been able to qualify for payment of accommodation allowance without deduction of tax in cases where they have been able properly to complete the relevant declarations contained in the application form.

### **Retention Fee for Accommodation**

NAECI (2010 – 2012) 9.2 also contains provision for the reimbursement by employers of expenses actually paid by employees by way of retention fees or retainers, for periods when accommodation is not occupied, up to a maximum stipulated in NAECI (2010 –2012) Appendix A.5 (b) & (c) . In all such cases, if the payment is to be made without deduction of tax, the employee must provide the employer with a receipted invoice or similar proof of payment.

### **Transport Expenses and Travelling Time Payments – NAECI (2010 – 2012) 9.4**

The NAECI provides for the payment, to employees in receipt of accommodation allowance:

- transport expenses at the start and finish of an ‘away’ contact comprising fares or vouchers, reimbursed at full standard class single rail fares between the main line stations nearest the site and the employee’s place of residence.
- periodic weekend leave transport expenses comprising fares or vouchers reimbursed at full standard class return rail fares between the main line stations nearest to the site and the employee’s place of residence on twelve occasions during the year and these **transport expenses** may be paid without deduction of tax.

Allowances or payments related to **travelling time** for such journeys are taxable.

5. SPECIAL TRAVEL AND ACCOMMODATION ARRANGEMENTS WITHIN THE M25 – NAECI (2010 – 2012) 9.3

**London Supplement**

A London supplement at the level in NAECI (2010 – 2012) Appendix A.6 is payable to employees in receipt of accommodation allowance and engaged on work within the M25 orbital motorway. The London supplement is taxable.

**Travel Cards**

Employees in receipt of the London supplement and in receipt of accommodation allowance are entitled to a free issue of a London travel card from the London public transport zone in which the accommodation is located to the London site at which they are employed.

Employees in receipt of radius allowance and travelling to work daily from areas beyond the London public transport zones are entitled to the free issue of a London travel card from Zone 6 to the Inner London site at which they are employed.

There are no concessionary arrangements applying to the provision of travel cards by employers and the Employer's Guide to PAYE explains that employees will be taxable on the cost of the cards. Employers are not required to deduct tax but are obliged to provide full details of the cards to HM Revenue & Customs.

6. PAYMENT FOR HOLIDAYS – NAECI (2010 – 2012) 10.3

Payment for any period of annual or public holiday taken by an employee shall comply with the relevant statutory provisions covering calculation of 'a week's pay' for employment with normal working hours contained in Sections 221 to 224 of the Employment Rights Act 1996.

For holiday pay calculation purposes:

- a) An employee's normal working hours shall be taken to be 38 hours per week.
- b) Overtime hours and overtime pay shall not be taken into account.

To provide for payment for the agreed number of days of annual holiday, weekly credits can be purchased and accumulated in the Welplan Holiday Pay Scheme. Tax should not be deducted at the time that the fund is credited, but holiday pay is fully taxable when paid to the employee at the time the holiday is taken, and on payment to the employee of any outstanding balance upon termination of employment.

7. REDUNDANCY PAYMENTS – NAECI (2010 – 2012) 16.5

HM Revenue & Customs' approval has been obtained by the NJC to the levels of redundancy payments (inc. Contractual Severance Pay) stipulated in the NAECI being payable tax-free, under Section 148 and Schedule II of the Income and Corporation Taxes Act 1988. This agreement applies only where the payments made are precisely in line with those set out in the NAECI and the employees concerned are 'dismissed as redundant' in the terms defined in the Employment Rights Act 1996.

By arrangement with HM Revenue & Customs redundancy payments made strictly in accordance with this standard scheme upon genuine redundancy, as defined in the Employment Rights Act 1996, will not be subject to income tax. Therefore employees who leave voluntarily or who are dismissed for reasons other than redundancy are not entitled to the contractual severance/statutory redundancy payment, nor to the tax concession applying to it.

This agreement with the HM Revenue & Customs does not apply to other guaranteed lump sum payments made in addition to redundancy payments. Guaranteed lump sum payments described as being 'in lieu of notice', but paid by prior agreement to employees on termination, would therefore not qualify for favourable tax treatment.

8. PROFICIENCY PAY FOR WELDING – NAECI (2010 – 2010) 6.4

All categories are taxable.

9. WELFARE BENEFITS – NAECI (2010 – 2012) 11.3 AND APPENDIX A.7(b)

The payment of weekly sickness and accident benefit by the employer under NAECI (2010-2012) Appendix A.7(b) should be treated as part of normal pay and taxed.

Employers shall provide sickness, accident and life insurance arranged by the ECIA through Welplan Limited or through mutually agreed alternative schemes. The current scale of benefits is listed in NAECI (2010 – 2012) Appendix A.7(b) and is tax-free.

10. *ECI STAKEHOLDER SCHEME – NAECI (2010 – 2012) 11.1(e) AND APPENDIX A.7(a)*

*The ECI Stakeholder Scheme is a group Personal Pension Scheme administered and invested by Scottish Widows plc for individual employees in the Engineering Construction Industry who choose to join it.*

*The scheme can be used by employees to contract-out (where appropriate) of the State Earnings Related Pension Scheme (SERPS),*

*in which case part of the National Insurance contributions paid by both employer and employee, plus tax-relief on the employee's share, are invested in Scottish Widows plc With Profits Fund and will buy a pension at state pension age.*

*Whether or not s/he decides to contract-out of SERPS an employee (and/or his/her employer) can make regular contributions to a Pensionbuilder plan, up to limits set by the Inland Revenue. Such additional contributions made by an employee are paid net of basic rate income tax, and all such additional contributions are invested in a Scottish Widows plc fund which is free of all UK taxes on investment income and capital gains, and which will therefore grow faster than some other forms of saving which do not enjoy the same tax advantages. Plan members can also choose at retirement to take part of the benefits accrued by Pensionbuilder contributions as a tax-free cash sum.*