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*But they are still
 M.P.'s - therefore
 as M.P.'s to spend a considerable amount
 amount of money in London.
 why can they not be followed
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 why can they not be followed*



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PRIME MINISTER

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 PRIMEMINISTER

To see. This clearly got rather tangled. Content, reluctantly, to accept the Chancellor's conclusion that nothing can be done for Ministers?

MS 4/8

TAX ALLOWANCES FOR MINISTERS AND MPs

In a meeting held in the Cabinet Room on 16 June 1979 you asked me to explore the implications of changing the present rules under which, when Members for provincial constituencies become Ministers, they cease to be able to offset the cost of living in London against tax. I asked Peter Rees to take this matter up with the Inland Revenue, who explained that, when a Member living out of London becomes a Minister, the extra costs of living in London are, in their opinion, no longer expenses incurred wholly, exclusively and necessarily in the performance of his duties as a Member, because they are in part incurred in the performance of his duties as a Minister (which could be said to require him to be in London) and do not therefore qualify for tax relief.

2. This interpretation of the law was based on an opinion given by the Solicitor of Inland Revenue in 1952 and supported by the Lawrence Report on the Remuneration of Ministers and Members of Parliament (Cmnd.2516) in 1964, which concluded that to enable Ministers to obtain tax relief on such costs, a change in the law would be necessary and that such a change could not be confined to Ministers but would apply over a fairly wide field in the world of business.

3. In view of the length of time since legal opinion had been sought on the point, Peter Rees asked the Revenue to seek Counsel's



opinion on it. Counsel duly delivered their Opinion (which was seen by the Attorney-General). This came to the rather unexpected conclusion that Members were not entitled to tax relief in respect of the extra cost of living in London, and that consequently Ministers were not so entitled either.

4. This Opinion would have very wide implications for the Revenue's current practice, not only as regards the tax treatment of Members but also that of all employees who have to be away from their home and normal place of business for more than a few days, and, by inference, for the self-employed who have to travel in the course of their business. They therefore sought their own Solicitor's advice on Counsel's Opinion.

5. The Revenue Solicitor disagreed with Counsel's Opinion, which he considered would not find favour in the Courts, and advised that the allowance of relief to Members for country constituencies for the extra cost of living away from home was within the legitimate application of the general principle, though there were probably concessionary elements in the general treatment accorded to them in practice. The Revenue have agreed therefore not to disturb their existing practice of allowing Members to claim tax relief.

6. This leaves the original question, whether Ministers are entitled to relief, unanswered. The Revenue remain of the opinion that, under the law as it stands, they do not in general qualify for relief in respect of the extra cost of living in London, save in exceptional circumstances (e.g. if they stayed in London hotels only on nights where they had Parliamentary business unconnected with their departmental duties). Ministers for Scottish, Welsh and Northern Ireland affairs are regarded as based in those areas rather than London, but are entitled to tax-free reimbursement of any reasonable expenses incurred in



staying in London, so that no problem should arise in their case.

7. I share the view expressed by the Lawrence Committee in their report that a specific change in the law to enable such expenses to be allowed, which was confined to Ministers, would not be acceptable. I have considered the possibility of a more general relief to cover expenses incurred wherever more than one office or employment is held by the same person, but have rejected the idea on two grounds. Firstly, its implementation would involve enormous administrative cost (millions of people have part-time second jobs); and secondly, it would in any event be unlikely to assist Ministers; relief would have to be limited to expenses (including those of accommodation) incurred in travelling to any job except the main one and, on any objective test, the office of Minister rather than Member would have to be regarded as the main one. (It could not be left to an individual to select his own main job for this purpose, since this would be an open invitation to manipulation.)

8. I have therefore reluctantly come to the conclusion that there is nothing we can do about this problem at present. Members for provincial constituencies who become Ministers do not lose out altogether of course; although they can no longer claim a tax allowance for the extra cost of living in London, they can in its place claim relief for extra expenses incurred in visiting their constituencies on Parliamentary business; where their homes are in the constituency these will normally include part at least of the cost of running these homes.

A handwritten signature in dark ink, appearing to be 'G.H.' with a flourish.

(G.H.)

11 August 1980



11 AUG 1980

[The following text is extremely faint and illegible, appearing to be a typed document.]