



Emily McAlister <emily@retirement.capital>

Payment of Expenses

2 messages

gavin mccloskey <gavinm@retirement.capital>

11 September 2022 at 18:00

To: Paul Hyland <paulh@expertrecruitment.com.au>

Cc: Stuart Travis <stuart@alexanderchapel.co.uk>, Emily McAlister <emily@retirement.capital>, Nick Donovan <nick@retirement.capital>

Dear Paul,

As part of the calculation of your transfer value, I am required to make a provision for the expenses you have incurred in connection with legal expenses as per the services agreement. This is the final item at our end to calculate your transfer value.

There are two approaches available and I need your confirmation on the option you wish to exercise. It is very important that you state only one option and I cannot give any further guidance beyond that contained in this email.

Option 1. A direct payment to your personal account.

There has been some email correspondence in connection with this and we have needed to check with HMRC on the tax position in connection with your expenses payment. We have received that clarification.

Ordinarily, payments to a member above certain thresholds are subject to an additional taxation charge which is a freestanding payment. This amount is 40% of the payment amount to you.

In order for this payment **not** to be subject to a withholding tax payment you will need to provide, if requested, evidence that these were costs **wholly and exclusively** to the scheme in your capacity as a trustee of the scheme.

What does wholly and exclusively mean? They cannot therefore be costs associated with any personal litigations you have with your fellow trustees during this period and for which these expenses were incurred. They may however include legal costs against the Alexander Chapel for example, if those costs were agreed by your fellow trustees. For example, legal advice given to the trustees connected to the debts owed to the scheme from loss of rent and you paid for these costs is a legitimate expense.

Scheme expenses are permitted by HMRC and as this is a trust, it is also useful to compare the guidance to that of charities which I attach a link for description.

<https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11>

If you are satisfied that the payments are trustee expenses in line with the above, then please sign and email to me the attached trustees expenses payment form with your details entered, with a description. Please provide your bank information and Emily will then issue the Metro Bank payment instruction form. Please sign and return this to Emily directly.

I cannot give you taxation advice on the treatment of this payment to Australia. You must take independent advice where necessary.

I should also add that Stuart Travis would, if HMRC were **not to be satisfied** that the trustee expenses payment falls under the wholly and exclusively test, be subject to a taxation liability of £18400. I have therefore copied him into the email thread as he also needs to be satisfied that the payment falls within the wholly and exclusively. This may seem unusual but he was the registered administrator at the time and therefore the liability for any penalties falls on him and not you.

If you are both not satisfied that the payments are wholly and exclusively a trustee expense of the scheme, then option 2 applies.

Option 2. The sum of £46,000 is allocated to your external transfer value from the scheme.

This would mean that you would write down £72896.50 (being the amount stated in the solicitors statement) and this sum would be registered as a non-recoverable trustee expense in the scheme return. It is effectively a loss to you. You would not be required to submit a trustee expense and Stuart Travis would not be subject to a prospective tax risk of £18,400.

The sum of £46000 would be added to your external transfer value.

I look forward to your confirmation on the option so we can finalise your transfer value out.

Regards

Gavin

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Paul <paulh@expertrecruitment.com.au>
To: Emily McAlister <emily@retirement.capital>

12 September 2022 at 11:41

Hi Emily

FYI

From: Paul [<mailto:paulh@expertrecruitment.com.au>]
Sent: Monday, 12 September 2022 8:04 PM
To: 'gavin mccloskey'
Subject: RE: Payment of Expenses

Hi Gavin

Despite everything that has happened I would not put Stuart in a position where he would have any Tax Liability just for the benefit of paying me my £46,000 Tax Free which leaves me with no other outcome than to formally confirm that I am choosing **OPTION 2**.

This, if I'm understanding things correctly, means that I am still receiving my costs recovery but that it will arrive through my External Transfer. Stuart's Excel spreadsheet from memory is approx. £192000 (he's getting back to me on this shortly to ensure I am referencing the correct one that he sent to you.) This spreadsheet includes MD and ST £13,000pp but not MC's agreed £20000 payment back to me. Hence the figure would effectively become £212,000

I am also aware that Stuart's figures are NOT the Final figures necessarily that you are providing rather the basis on which we, as a set of Trustees, were able to move forward together.

I'm reading your e mails today that suggest the final figures are not too far away which is potentially good news

I'd personally like to take this opportunity to say Thank You for all of the time and effort that the e mails today show you have put in to finalising the Distribution. As I always said from Day 1this will be life changing so thank you

Kind regards

Paul

[Quoted text hidden]