



**TC01361**

**Appeal number: TC/10/05944**

*Workplace; whether temporary; Income Tax (Earnings & Pensions) Act 2003 s 339; Social Security Contributions (Transfer of Functions) Act 1999 s8*

**FIRST-TIER TRIBUNAL**

**TAX**

**AMERICIUM DEVELOPMENTS (EDI) LIMITED**

**Appellant**

**- and -**

**THE COMMISSIONERS FOR HER MAJESTY'S  
REVENUE AND CUSTOMS**

**Respondents**

**TRIBUNAL JUDGE: J. GORDON REID Q.C., F.C.I.Arb.  
Member(s): HELEN DUNN, LL.B.,**

**Sitting in public at George House, 126 George Street, Edinburgh on Wednesday 20 July 2011.**

**No appearance for the Appellant**

**C Vallance, HM Inspector of Taxes, for the Respondents**

## DECISION

1. This is an appeal against decisions under section 8 of the Social Security Contributions (Transfer of Functions) Act 1999 issued on 19 January 2010 for Class 1A National Insurance Contributions for the period 6 April 2005 to 5 April 2009. These contributions are in respect of *inter alia* travel, accommodation and food during that period. The underlying issue is whether certain workplaces in London were temporary or permanent workplaces.

2. A Hearing fixed to take place in April 2011 was discharged at the request of the Appellant and with the agreement of the Respondents and the approval of the Tribunal. A Hearing was thereafter fixed to take place, initially on 18 July and subsequently on 20 July 2011.

3. At the Hearing on 20 July 2011, the Respondents were represented by C Vallance, one of HM Inspector of Taxes. The Respondents had produced in advance a substantial bundle of documents and authorities. Mr Vallance informed us that the Appellant was now in liquidation but he did not have any details of who the liquidator was.

4. There was no appearance by or on behalf of the Appellant at the Hearing on 20 July. In December 2010, the Tribunal Office at Edinburgh was informed that the Appellant's accountant was no longer acting and that all correspondence should be sent to Mr Nawrot, one of the Appellant's directors. Mr Nawrot was informed of the Hearing on 20 July, by letter to him dated 6 May 2011. Mr Nawrot did not, however, attend. Attempts by the Tribunal Office to contact Mr Nawrot by telephone between 10am and 10.30am on the day of the Hearing were unsuccessful. A message was left on his answering machine. He did not respond.

5. In the foregoing circumstances, we were satisfied that the Appellant had been notified of the Hearing. We were also satisfied that it was in the interests of justice to proceed with the Hearing. As the onus was on the Appellant, there was nothing to which the Respondents could respond. Mr Vallance moved that the appeal should be dismissed. We granted that motion and dismissed the appeal.

6. We draw attention to rule 38(2) and, in particular, to rule 38(2)(d) of the Tribunal's Rules which provides that the Tribunal may set aside its decision if the Tribunal considers that it is in the interests of justice to do so and a party or a party's representative was not present at a hearing related to the proceedings.

7. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

**TRIBUNAL JUDGE**  
**RELEASE DATE: 29 JULY 2011.**

