

Chapter 6

Other taxes

Employee taxes

Employee income taxes are generally collected under a payroll withholding system known as “pay as you earn” (PAYE). On commencing employment in Ireland each employee must obtain a Personal Public Service (PSS) number from the Department of Social and Family Affairs. On receipt of that number the employee notifies the tax authorities and is then issued with a certificate showing the amount of tax credits available to him/her, together with the rates of tax to be applied to his/her employment income. The employer receives a copy of the certificate and is obliged to calculate PAYE on the employment income in accordance with the certificate. Special rules apply where no certificate is available at the time the employee is paid. Employment income includes cash (salary, bonus, expense allowances) and non-cash remuneration (benefits provided by the employer and share awards). The obligation is on the employer to ensure that PAYE is correctly accounted for on all employment income. The income tax year starts on 1 January.

The amount of an employee’s credits and the rates of tax applicable to his/her income depend on individual circumstances. The rates of income tax and the available credits are contained in the most recent edition of our publication Tax Facts.

Expatriates

The extent to which expatriate employees seconded to Ireland fall within the charge to income tax will depend on their residence status and domicile, together with the type and source of their income. Expatriate employees may be regarded as resident but not domiciled in Ireland during their secondment.

Expatriate employees are liable to tax on all employment income arising under Irish employment contracts and the employer is obliged to operate PAYE on all such income. Where expatriate employees are engaged under a non-Irish employment contract and they are paid outside Ireland, they are liable to tax on that portion of their employment income which is attributable to the duties of employment which are performed in Ireland and such income is subject to PAYE. To the extent that any employment income is attributable to non-Irish work days, that income is taxable in Ireland only to the extent that it is remitted to Ireland. It is the responsibility of the foreign employer to account for Irish PAYE; however, it is possible to allow an Irish group company to take on this responsibility. All foreign non-employment income is taxable in Ireland only if remitted to Ireland.

Special assignment relief program

The special assignment relief program is aimed at attracting key talent from overseas and applies to certain qualifying individuals who come to Ireland to work for a period of at least three years. The relief takes the form of a repayment of taxes otherwise payable, provided certain conditions are met. It applies to expatriate employees coming to work in Ireland from countries outside of the European Economic Area.

Irish tax will continue to apply to the greater of:

- total employment earnings and benefits received in or remitted to Ireland, and
- the first €100,000 plus 50% of earnings and benefits in excess of €100,000.

Overseas employers are still required to operate PAYE and PRSI on all earnings related to Irish duties. Individuals are required to claim the relief by completing a tax return at the end of the relevant tax year.

Qualifying conditions for relief

A key feature and limitation of the relief is that assignees must be employed by a company that is incorporated and is resident in a country or jurisdiction that is not within the EEA but with which Ireland has a double tax treaty.

The relief is only available to employees who are not Irish domiciled. In addition the following conditions apply such that the individual must:

- become tax resident in Ireland and exercise the employment here for a period of at least three years
- have been employed by an associated company of the Irish entity to which they are assigned prior to their arrival in Ireland
- continue to be paid by the overseas employer
- previously have been tax resident in a relevant jurisdiction, and
- have exercised the greater part of their employment in that jurisdiction.

Provisions are in place to withdraw the relief where an individual does not satisfy the three year employment requirement. There are also further provisions to recover tax repayments where remittances are made in a subsequent tax year.

Taxation of foreign employment income

Where expatriate employees spend less than 30 work days in Ireland in a tax year, there is no liability to Irish tax and no requirement for the employer to account for PAYE. Where such employees, from a country with

which Ireland has a double taxation treaty, spend more than 60 week days but less than 183 days in Ireland in a tax year or twelve month period, then, subject to certain conditions and clearances, the employer is not required to account for PAYE and the individual is not liable for Irish tax.

As the obligation to account for PAYE is with the foreign employer, the employer may wish to put in place policies and procedures to ensure that it registers for PAYE and accounts for the PAYE to the tax authorities. The employer should also consider the implications for expatriate employees, particularly where they continue to be liable to tax (real or hypothetical) in their home country.

Before the expatriate employee is seconded to Ireland, the employer and employee may wish to review the terms and structure of the secondment in order to ensure that income is not taxed in Ireland unnecessarily, for example, where there may be a significant number of non-Irish workdays or a secondment may not require more than 30 or 60 work days in Ireland.

The expatriate employees should review their personal circumstances so that, if additional funds are required in Ireland, foreign capital (savings or proceeds from the sale of a principal private residence) is remitted to Ireland rather than foreign income which is taxable in Ireland.

Irish nationals who have been working overseas and who have ceased to be ordinarily resident in Ireland (not resident in Ireland for three consecutive tax years or more) may also avail of the remittance basis in certain circumstances. Such individuals who return to Ireland may avail of the remittance basis, for a period of three tax years, in respect of employment income attributable to non-Irish work days where they are engaged under a non-Irish employment contract and are paid outside Ireland.

Value added tax

In common with all EU countries, Ireland operates a consumption tax known as value added tax (VAT). VAT is charged on the supply of most goods and services. Businesses that carry on activities that are chargeable to VAT are required to register with the tax authorities and account for VAT at the appropriate rate in respect of revenues derived from the supply of goods and services. In practice, VAT is not a cost for most businesses as it may be passed on to customers. Furthermore, 'accountable persons' (ie persons who account for VAT on supplies of goods and/or services) can recover the VAT suffered on the purchase of goods and services (with exceptions as outlined below) from the tax authorities through their bi-monthly VAT returns. Thus, there is no net tax cost to a business whose activities are fully taxable. For this reason, VAT is generally described as a consumption tax since the ultimate cost rests with a non-business user or a business user whose activities are exempt from VAT. Exempt businesses (such as banking and insurance) are not required to account for VAT on exempt supplies of services but cannot recover VAT incurred on related purchases of goods and services (subject to certain exceptions).

A reclaim of VAT incurred on the following items is, however, specifically prohibited:

- the purchase, lease, hire, acquisition or importation of cars (except where cars are considered to be inventory)
- the purchase of petrol (except where the petrol is considered to be inventory)
- entertainment, food, drink, accommodation or other personal services.

Subject to certain conditions, a deduction of VAT incurred on accommodation expenses in connection with conferences in Ireland is allowed.

Also, from 1 January 2009, an 'accountable person' is entitled to deduct up to 20% of the VAT incurred in respect of the purchase, hiring, intra-Community acquisition or importation of certain cars (subject to certain conditions being met).

Sales of goods from Ireland which are dispatched to VAT registered customers in other EU Member States, or exports to persons outside of the EU, can be zero rated.

Companies predominantly involved in the export of goods will tend to be in a permanent VAT refund position (ie VAT on costs consistently exceeds VAT on their sales). To eliminate this cash flow cost, Ireland provides a unique regime for businesses where 75% of their revenues are derived from the supply of goods to VAT registered customers in other EU Member States or to customers outside the EU. Such businesses may obtain authorisation from the tax authorities to purchase most goods and services free of VAT. On receipt of the authorisation ("13B Authorisation"), the business supplies a copy of this document to its suppliers and these suppliers are then permitted to apply 0% VAT to all supplies (with some limited exceptions) irrespective of the rate that would otherwise apply. The authorisation is available only to companies whose primary business activity is the supply of goods (as defined for VAT purposes). Companies whose primary activity is the supply of services do not qualify for this facility.

A business that has accounted for VAT but has yet to receive payment from its customer and the debt is ultimately written off, is entitled to claim bad debt relief on the VAT previously paid (though not in the case of supplies of immovable goods). While certain conditions must be met before the relief is granted, there is no time limit in which a business must wait in order to claim the relief. If a business has written off a debt and previously accounted for VAT on same, it should ensure it has claimed an appropriate input credit in respect of such VAT.

A business that is not established or registered for VAT in Ireland but which incurs Irish VAT may recover that VAT by filing a claim with the Irish Revenue authorities. EU based businesses may claim under the EU Eighth Directive, while non-EU based businesses may claim under the EU Thirteenth Directive. From 1 January 2010 a simplified arrangement will be introduced for the recovery of VAT in other EU Member States. A refund of VAT on the specific non-deductible items, as outlined above, is prohibited.

An administrative arrangement known as a “VAT 60A” exists to enable Irish service providers to charge Irish VAT at 0% on services supplied to foreign customers. The VAT 60A is sent to the foreign customer and in effect the supplier charges VAT at 0% on the particular service identified on the VAT 60A. This facility is of cash-flow benefit to the foreign customer who would otherwise have to make a VAT Eighth/Thirteenth Directive reclaim.

Details of the current VAT rates are available in the most recent edition of our publication *Tax Facts*.

Customs duties

Customs duties are an EU tax collected and administered by the Irish tax authorities on behalf of the EU Commission. The duties are payable on importation into Ireland. Once customs duties are paid in Ireland or in any other EU member state, the goods are then considered to be in “free circulation” and can move freely within the EU. This is one of the significant benefits of the EU ie a single market for trade in goods with no customs duties being levied on the movement of goods between the Member States and with no intra-EU border customs controls (provided the goods are in “free circulation”).

The majority of goods imported into Ireland are cleared through customs using dedicated customs clearance agents. For most goods, customs duties are charged as a percentage of the value of the goods. For customs purposes, the appropriate value is the “customs value” or “transaction value” of the goods. This is normally the

price paid for the goods, together with insurance costs and costs of freight to the point of entry into the EU. The standard rates of duty vary between 0% and 7% depending on their tariff classification but higher rates can apply to some products especially in the agricultural and textile areas. Reduced rates of duty, or in some cases total elimination of duty, are available where the goods are imported from a country with which the EU has a trading agreement providing for reduced or zero duty rates to goods from that country.

Duties are due at the time goods are imported but payment can be deferred for up to 45 days through a special deferred payment scheme. Payment can be further deferred by storing goods in a customs (“bonded”) warehouse or in premises based in a Customs Free Zone. Relief from duties is also available where a business imports goods into Ireland for the purposes of further manufacture or processing and subsequently exports these goods out of the EU. A manufacturer can also opt to pay duties at the rate applying to the manufactured product where the amount of duty is lower than the duty on the imported raw materials. This duty relief was formerly only available to products in the high tech sector.

Goods received from and sent to other EU Member States are not normally subject to formal border controls (though Customs retain the right to exercise preventative checks for anti-smuggling purposes). However, the statistical information relating to intra-EU trade has to be provided on a periodic basis by traders in compliance with statistical reporting requirements closely associated with the intra-EU VAT system.

Customs duties, in contrast with VAT, represent a real cost to business and careful planning is required in order to minimise potential costs. As mentioned above, the EU has a number of preferential trade agreements and some of these allow for products manufactured or assembled in Ireland to qualify for reduced or duty free access to a large number of countries including most African and Middle Eastern countries. This is a significant benefit to exporters operating in these

market places. Certain agricultural commodities and processed agricultural products may qualify for “export refunds” or bounty” payments on export from Ireland to non-EU markets. The payments are made under the EU’s Common Agricultural Policy (CAP) and are aimed at compensating exporters for lower world market prices of agricultural goods. This is a significant benefit to exporters operating in these markets.

Excise

Separate to customs import duty, there also exists a regime of excise duties in Ireland and the EU. Excise duty is payable in the country of “consumption” ie usage of the product. Excise duties apply to a limited range of goods including hydrocarbon oils (such as gasoline and diesel), alcoholic drinks, and tobacco products. In addition, an excise duty on certain supplies of electricity has recently been introduced. Unlike customs duties, which generally apply only to goods imported from non-EU countries, excise duties apply regardless of whether the goods are:

- i. manufactured in Ireland
- ii. imported from other EU Member States, or
- iii. imported from non-EU countries.

Thus, if excisable goods are imported into Ireland, payment of this duty is required in addition to any customs duty or import VAT applicable.

As excise duties can have an impact on cash-flow, special “bonding” arrangements are available to store excise goods duty free. The duty is payable when goods are released from the bond for consumption in Ireland. Actual payment of the excise duty can be further deferred for up to 60 days for most excisable products but the deferred payment facility is not available for excise duty on hydrocarbon oils or electricity. (In the case of electricity, excise duty is collected on an annual basis). Provided that excisable goods are to be sent out of Ireland, excise duties will not be payable on them. Special control arrangements apply to excise goods moving between EU countries which ensure that the

duty is collected in the country of consumption at the appropriate rates applying in that country.

Vehicle registration tax

Vehicle registration tax (VRT) is payable on the first time registration of road vehicles in Ireland, regardless of the origin of the vehicle. In respect of cars, the tax is charged on the open market selling price (OMSP) of the car in Ireland, which equates to the normal retail price of the car. The applicable VRT rate is based on a CO2 emissions rating system. The current VRT rates on passenger cars can be found in the most recent edition of our publication Tax Facts.

It should be noted that if no documentation providing the level of CO2 is produced, the highest rate will apply.

Other vehicles are liable to VRT at varying rates depending on the vehicle.

For hybrid electric and flexible fuel vehicles, a VRT relief based on the age of the vehicle is available, up to a maximum of €2,500.

Electric cars are exempt from VRT.

There are various reliefs from VRT and all are subject to qualifying conditions. The main reliefs apply to:

- individuals who bring a car to Ireland when they transfer their residence here
- non-Irish residents who are in Ireland for a temporary period, usually less than one year, and
- overseas students who bring a car to Ireland for the duration of their certified study course.

Capital gains tax

Capital gains tax may apply to gains on the realisation of any forms of property, stocks and shares, land and buildings, goodwill, some debts, options and currency other than euro.

Persons (companies and individuals) resident in Ireland are generally liable to capital gains tax on their world-wide capital gains. However, if an individual is not domiciled in Ireland the exposure to Irish capital gains tax is limited to Irish and UK gains and any other gains to the extent that the sales proceeds are remitted to Ireland.

Non-residents, both companies and individuals, are subject to Irish capital gains tax only in relation to gains arising on specified Irish assets. These assets include Irish land, buildings, mineral rights and exploration rights in the Irish continental shelf, together with unquoted shares the greater part of whose value is derived from these assets.

Gains on the realisation of assets used at any time in a business by an Irish branch of a non-resident company are also subject to capital gains tax.

Capital gains are computed by deducting the cost of the asset (as adjusted to reflect inflation only up to 31 December 2002) from sales proceeds. If the asset was acquired before 6 April 1974, the deductible cost is the market value of the asset at 6 April 1974, as indexed for inflation (up to 31 December 2002). Special rules apply in the case of disposals of land with development value. The standard rate of capital gains tax is 25% with the exception of some foreign life assurance products.

Irish capital gains tax legislation facilitates corporate reorganisations on a tax free basis in situations where there is a share for share exchange.

Stamp duty on transfers of property

Stamp duty is payable on the transfer of most forms of property where such transfer is effected by way of a written document; in the absence of a written document no charge will generally arise.

Duty of 1% applies on the transfer of common stock or marketable securities of an Irish company. Transfers of most other forms of property, including intangibles but excluding residential property, attract duty at 6%, where the consideration exceeds €80,000. Reduced rates are available where the consideration does not exceed €80,000.

Special provisions and progressive rates apply to transfers of residential property, where rates of up to 9% apply.

Stamp duty relief is available for transfers arising from corporate reorganisations and reconstructions effected for bona fide commercial reasons. In addition, no duty arises on transfers between associated companies (90% direct or indirect relationships) subject to conditions. Other exemptions are available, including for transfers of intellectual property, a wide range of financial instruments, foreign land and foreign shares.

Taxes on business property

Property taxes, known as rates, are imposed by local authorities (city corporations, urban and county councils) on the owners or occupiers of land and buildings used for business purposes. The rates are based on the rateable valuation (determined by the net annual letting value) of the building and the level of the rates is fixed annually by reference to the budgetary requirements of the relevant local authority for facilities such as sanitation, public lighting, road maintenance etc.

All commercial enterprises are charged water rates. Water usage is normally metered for larger companies and a charge made per 1,000 litres of water used. The charge varies from local authority to local authority. Some smaller companies may be charged on a fixed basis rather than a metered basis.