

## TAX

# COVID-19 Practical Considerations: Income Tax

25 March 2020

On 23 March 2020 Revenue released "Covid19 Information and advice for taxpayers and agents" which deals with a number of tax issues arising as a result of the current COVID-19 outbreak.

## INCOME TAX

Irish tax residence for income tax purposes is based on the number of days spent in Ireland in a tax year (and cumulatively over two tax years). Due to travel restrictions resulting from COVID-19 measures it is possible that individuals may spend longer than intended in Ireland in 2020 and thereby may unintentionally become tax resident. Similarly certain reliefs/exclusions from payroll taxes ("PAYE") rely on an employee performing duties for his or her employment outside Ireland and the ability to qualify for such reliefs/exclusions may be affected by travel restrictions resulting from COVID-19 measures.

Irish Revenue have issued the following guidance in this regard :

### Residence rules

Where a departure from the State is prevented due to COVID-19, Revenue will consider this 'force majeure' for the purpose of establishing an individual's tax residence position. Existing Revenue guidance on 'force majeure' states that where an individual is prevented from leaving the State on his or her intended day of departure due to extraordinary natural occurrences or an exceptional third party failure or action – none of which could reasonably have been foreseen and avoided – the individual will not be regarded as being present in the State for tax residence purposes for a

day after the intended day of departure provided the individual is unavoidably present in the State on that day due only to 'force majeure' circumstances.

### Foreign Employments - Operation of PAYE

Revenue will not seek to enforce Irish payroll obligations for foreign employers in genuine cases where an employee was working abroad for a foreign entity prior to COVID-19 but relocates temporarily to Ireland during the COVID-19 period and performs duties for his or her foreign employer while in Ireland.

### PAYE Exclusion Order - Irish Contract of Employment

Where employees are working abroad for a foreign employer under an Irish contract of employment and a PAYE exclusion order is in place, the position will not be adversely impacted where the employee works more than 30 days in Ireland due to COVID-19.

### Trans-Border Workers Relief

If employees are required to work from home in Ireland due to COVID-19, such days spent working at home in Ireland will not preclude an individual from being entitled to claim this relief, provided all other conditions of the relief are met.

*These Revenue confirmations are welcome so that an unintended presence in Ireland due to the COVID-19 outbreak does not have a detrimental effect on an individual's personal tax position. It should be noted that Irish Revenue's statement deals only with the Irish tax aspects of these situations and (where relevant) the foreign tax implications of any changes to travel/working arrangements should be considered also.*

## BENEFIT IN KIND (BIK)

The COVID-19 measures have in some cases resulted in changes to employment arrangements. Irish Revenue have issued the following guidance in relation to related benefit-in-kind issues arising :

### Travel costs of return to Ireland

Where an employee is integral to the business and was required to return to Ireland to deal with issues related to the COVID-19 crisis by his or her employer, the costs incurred are reasonable and the employee is not otherwise compensated (i.e. via an insurance policy or direct claim to the service provider), a BIK will not arise on reimbursements by an employer to an employee in respect of holiday/flight cancellations or in relation to costs of assisting employees returning to Ireland. This may include costs related to family members who were on holiday or due to go on holidays with the employee.

**Employer provided equipment**

A BIK will not arise where employers provide equipment such as laptops, printers, scanners and office furniture in order for employees to set up a working space in their homes.

**e-Working and Tax**

Revenue have confirmed that where the Government recommends that employers allow employees to work from home to support national public health objectives, as in the case of COVID-19, the employer may pay the employee up to €3.20 per day to cover the additional costs of working from home. If the employer does not make this payment, the employee may be entitled to make a claim in respect of vouched expenses incurred wholly, exclusively and necessarily in the performance of the duties of the employment. These vouched expenses

may include an apportionment of heating and electricity bills.

**Payment of taxi fares**

Where an employer pays for a taxi to transport an employee to or from work due to health and safety concerns, BIK will not apply for the duration of the COVID-19 period only.

**EXTENDED FILING OBLIGATIONS**

Irish Revenue announced that the following filing deadlines have been extended due to the Covid-19 outbreak :

- Share schemes filing obligations - The filing deadline for all 2019 share scheme returns is being extended from 31 March 2020 to 30 June 2020.
- Special Assignee Relief Programme (SARP) - The 90 day employer filing

obligation, which is a requirement for an employee to be eligible to benefit from SARP relief, is extended for a further 60 days.

- PAYE Dispensation Applications - Revenue will not strictly enforce the 30 day notification requirements applicable to short term business travellers from countries with which Ireland has a double taxation treaty who are going to spend in excess of 60 workdays in the State in a tax year.
- Real-time foreign tax credit (FTC) for Restricted Stock Unit (RSU) cases - the 31 March 2020 filling deadline is extended to the standard income tax filing date (31 October 2020).

For further information on this topic, please contact a member of the Arthur Cox tax team.

**KEY CONTACTS**

**TAX**



**Fintan Clancy**  
Partner  
+353 1 920 1190  
fintan.clancy@arthurcox.com



**Ailish Finnerty**  
Partner  
+353 1 920 1207  
ailish.finnerty@arthurcox.com



**Caroline Devlin**  
Partner  
+353 1 920 1224  
caroline.devlin@arthurcox.com



**David Kilty**  
Partner  
+353 1 920 1036  
david.kilty@arthurcox.com